

From: [www.state.nj.us/education/](http://www.state.nj.us/education/)

## Homeschooling Frequently Asked Questions

In New Jersey, the Legislature under the compulsory education law ([N.J.S.A. 18A:38-25](#)) has permitted children to receive "**equivalent instruction elsewhere than at school**," including the home. The following homeschooling questions and answers are intended to assist parent(s)/guardian(s) and public school districts in dealing with issues that frequently arise in this context.

### 1. **What are the New Jersey statutes regarding compulsory education?**

The following New Jersey statutes apply to compulsory education:

- [N.J.S.A. 18A:38-25](#) requires compulsory education in New Jersey: "Every parent, guardian or other person having custody and control of a child between six and 16 shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school."
- [N.J.S.A. 18A:38-31](#): "a parent or guardian or other person having charge and control of a child between the ages of 6 and 16 years, who shall fail to comply with any of the provisions of this article relating to his duties, shall be deemed to be a disorderly person and shall be subject to a fine of not more than \$25.00 for the first offense and not more than \$100.00 for each subsequent offense, in the discretion of the court."

The provision, "to receive equivalent instruction elsewhere than at school," in [N.J.S.A. 18A:38-25](#) permits parent(s)/guardian(s) to educate the child at home.

### • **What are the New Jersey court decisions regarding homeschooling?**

There are two major court decisions in New Jersey regarding homeschooling:

- [State v. Vaughn](#) 44 [N.J.](#) 142 (1965): This case deals with the procedures to be employed when parent(s)/guardian(s) are charged with failing to cause the child to attend school under the compulsory education law. During the prosecution of a case against parent(s)/guardian(s) for a violation of the compulsory education law, the State need only allege a violation of the statute. It is then incumbent upon the parent(s)/guardian(s) to introduce evidence showing that they are relying on one of the two statutory exceptions (day school or equivalent instruction elsewhere than at school). Once there is such evidence in the case, the burden of persuasion with respect to whether the education comes within the exception is with the State.
- [State v. Massa](#) 95 [N.J. Super](#) 382 (1967): In court, the parents were charged with failing to cause the child to attend school under the compulsory education law. The only issue before the court was whether the parents were providing equivalent instruction. The court held that the language under the compulsory education law, providing for equivalent instruction elsewhere than at school, required showing only academic equivalency and not equivalency of social development derived from group education. In educating the child at home, the parents were required to show only that "the instruction was academically equivalent to that provided in the local public school."

- **What is the responsibility of the local board of education regarding compulsory education?**

The compulsory education law (N.J.S.A. 18A:38-25) is enforced by the local board of education. If there is credible evidence that the parent, guardian or other person having custody and control of a school-age child is not causing the child either to attend school (public or nonpublic) or to receive equivalent instruction elsewhere than at school, the board may request documentation, such as a letter of intent from the parent(s)/guardian(s) showing that the child is either in nonpublic school or receiving equivalent instruction elsewhere than at school. The mere fact that a child has been withdrawn to be homeschooled is not, in itself, credible evidence of a legal violation. If it appears that the child is not receiving an education in accord with N.J.S.A. 18A:38-25, the board may wish to consult with its attorney regarding possible charges against the parent(s)/guardian(s) for failure to have the child educated.

- **What information should parents/guardians of a child educated elsewhere than at school submit to the local board of education when removing a child from school for homeschooling?**

Parent(s)/guardian(s) are not required by law to notify their public school district of their intention to educate the child elsewhere than at school. However, they are encouraged to do so in order that questions need not arise with respect to their compliance with the compulsory education law.

- **Is it the responsibility of the local board of education to review and approve the curriculum for a child educated elsewhere than at school?**

No. The law does not require or authorize the local board of education to review and approve the curriculum or program of a child educated elsewhere than at school. When parent(s)/guardian(s) educate a child elsewhere than at school, they are responsible for the educational outcomes of the child. The local board of education is not required or authorized to monitor the outcomes of the child.

- **May the parent(s)/guardian(s) of a child educated elsewhere than at school request information regarding a curriculum from the local board of education?**

Yes. Parents may seek information about the school curriculum from the local board of education. If the parent(s)/guardian(s) request such information, the board must provide it since a district's curriculum is a matter of public record. The parent(s)/guardian(s) may be charged for the cost of copying documents in accordance with the rates established by law.

- **Should the local board of education establish a file for the child educated elsewhere than at school?**

A board of education is not required to keep a file on a child who is educated elsewhere than at school. If the board of education receives information from the parent(s)/guardian(s) of a child educated elsewhere than at school, the board may establish a file for a child for the sole purpose of documenting that the child is receiving an education as required by law.

- **Who is responsible for a child educated elsewhere than at school when the child is taught by a person other than the parent or when the child takes a correspondence course or network program?**

The parent(s)/guardian(s) of the child educated elsewhere than at school are solely responsible for any program selected. The state or local board of education is not required or authorized to approve the

selected program. The parent(s)/guardian(s) may work directly with any teacher or person or correspondence school or network regarding the program; but they are not required to do so.

- **Are the parent(s)/guardian(s) or persons teaching the child elsewhere than at school required to have a teaching license?**

No. The parent(s)/guardian(s) or persons teaching a child elsewhere than at school are not required by law to have a teaching license.

- **May a child educated elsewhere than at school participate in certain activities of the regular school curriculum or in extracurricular or sports activities?**

The local board of education is not required by law to allow a child educated elsewhere than at school to participate in the regular school curriculum or in extracurricular or sports activities. Such participation is at the sole discretion of the board once the child is identified as educated elsewhere than at school:

- Curricular And Extracurricular---A board of education may, but is not required by law to, allow a child educated elsewhere than at school to participate in curricular and extracurricular activities or sports activities. Before deciding to do so, however, a board of education may wish to consult with its attorney to consider the full implications of such participation.
- Textbooks---A board of education may, but is under no obligation to, loan books or materials to a child educated elsewhere than at school.
- County Shared-Time Vocational Schools---A vocational board of education should adopt a non-discriminatory policy regarding homeschoolers. If the parent(s)/guardian(s) are residents of the county, the child educated at home may apply on an annual basis to the county vocational school. The county vocational school may permit the child being educated elsewhere than at school to attend a shared-time county vocational school. N.J.A.C. 6:43-3.11(b) states the following: "to the extent that space is available, each type of program of vocational instruction offered by the State Board shall be made available to all pupils residing in the State, ...." Once a child educated elsewhere than at school is enrolled in a shared-time vocational school program, the child then becomes a public school student and is entitled to the payment of tuition through the resident district.
- Special Education Services---In accordance with the federal special education law, Individuals with Disabilities Education Act (20 U.S.C.1400 et seq.), the board of education must ensure that "all children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of the disability, and who are in need of special education and related services, are identified, located and evaluated..."

When the public school district receives a written request for special education evaluation, the district must review the request in a meeting of the child study team, the parent(s)/guardian(s) and the regular education teacher. This procedure applies to children who are educated at home. At the meeting, current information about the child is reviewed to determine whether an evaluation is warranted. If an evaluation is warranted, another determination will be made regarding the assessment procedures. Written notice of the determinations is given to parent(s)/guardian(s). Once the assessments are completed, a meeting according to N.J.A.C. 6A:14-2.3(i)1 is held to determine whether the child is eligible for special education and related services.

If the child is eligible for special education and related services, the public school district must make a free, appropriate public education available only if the child enrolls in the district. If the child does not enroll in the public school district, but the district chooses to provide services, the district would develop a plan for the services to be provided.

- **Is a child educated elsewhere than at school eligible for transportation to a shared time vocational school program?**

Once a child educated elsewhere than at school is enrolled in a shared-time vocational school program, the child then becomes a public school student and is entitled to the payment of tuition and transportation services. Transportation services are provided in accordance with N.J.S.A. 18A:39-1 and the rules and policies of the board of education.

- **Is a child educated elsewhere than at school eligible to participate in district/state testing?**

No. The local board of education is not required or authorized to test a child educated elsewhere than at school. The local board of education does not have to ensure through testing or another mechanism that instruction is being appropriately delivered or achieving its desired effect, to review the quality of instruction, or to monitor the results. A child educated elsewhere than at school is not required to sit for a state or district standardized test.

- **How will grade placement be determined for a child educated elsewhere than at school who returns to school?**

When a child returns to school following a period of homeschooling, the local board of education treats the child as any other new or returning child (i.e. assessed as to the acceptance of credits and the appropriate grade level for purposes of placement). There are no special provisions made for the child who was educated at home. Placement should be based on an objective assessment that is given to all students for that subject or grade. In assessing the child educated elsewhere than at school, the child may not be held to a higher standard than similarly situated students within the district or transferring from other public or nonpublic schools. Also, if a child educated elsewhere than at school re-enrolls in public school in order to obtain a high school diploma, an assessment is made as to the child's compliance with state and local requirements, as the board of education would with any new or returning student, since no diploma can be issued when such requirements are not met. Their assessment may include one of the following applicable to grade of entry: the fourth grade Elementary School Proficiency Assessment (ESPA), the Grade Eight Proficiency Assessment (GEPA) and High School Proficiency Test (HSPT) or the Special Review Assessment (SRA).

- **Does a child educated elsewhere than at school receive a high school diploma from the local board of education?**

No. A child educated elsewhere than at school does not receive a state-endorsed high school diploma from the board of education. If a child educated elsewhere than at school re-enrolls in public school in order to obtain a high school diploma, an assessment is made as to the child's compliance with state and local requirements and eligibility for a diploma.

Please note that the **Homeschooling Questions and Answers** document is intended to promote general guidance for parent(s)/guardian(s) and school administrators, and does not constitute legal advice or state directives. A board of education may wish to consult with its attorney regarding specific situations or questions.