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Bureau of Special Education FY'15 Memo #14

DATE: February 23, 2015

TO: Superintendents of Schools  
Special Education Directors

FROM: Office of the Commissioner of Education  
Division of Educational Improvement  
Bureau of Special Education

RE: Ed 1111.05 Home Instruction for School-Aged Children

The New Hampshire Department of Education (NHDOE), Bureau of Special Education issues guidance to describe important principles to school districts, school staff and parents that must be followed when submitting a home instruction request for approval. The Home Instruction shall not include parent-designed home education programs as authorized in Ed 315.

When a child is physical or mentally unable to attend school the IEP team can recommend that a school week of less than the required hours and the following must be provided:

- (1) The superintendent shall provide written consent prior to implementation of the shortened school week;
- (2) The parent shall provide written consent prior to implementation of the shortened school week;
- (3) The LEA shall send a copy of the written consent to the state director of special education;
- (4) The LEA shall send a copy of the written consent to the child's parent;
- (5) The LEA shall place a copy of the consent in the child's school records;

Please note that temporary home based programs shall not exceed 45 days in a school year. Consent shall not be granted by the superintendent if it would cause a serious adverse effect upon the child's educational progress pursuant to RSA 193:1, I(c).

When the IEP team determines that an IEP for a child with a disability should be implemented at home for more than 45 days the LEA shall:

- (1) Describe, in writing, the specific circumstances resulting in the need for the home instruction;
- (2) Develop an IEP which includes all the elements in 34 CFR 300.320; and

- (3) Develop a written plan for the transition of the child into a less restrictive environment which shall include the following:
  - a. Objective criteria for determining when the student will no longer require a home-based program and will receive special education services in a school-based program;
  - b. Specific activities for each phase of the transition; and
  - c. The specific time frame for each phase of the transition process.

For an IEP to be implemented at home for more than 45 days, at least 10 days prior to the 46th day of the home instruction the LEA shall submit the following to the state director of special education:

- (1) The agreed upon IEP developed pursuant to 34 CFR 300.320
- (2) The name, title, employer, and a copy of the certification, license, or other appropriate statement of qualifications for each of the individuals implementing the home instruction, including all teachers, therapists, aides, consultants and supervisors;
- (3) Home instruction decision to implement was made (example: Written Prior Notice (WPN)) including:
  - a. The basis for the decision, and
  - b. A list of the specific documentation reviewed by the team such as physician's reports, test results, reports of professionals knowledgeable about the child's disability, pertinent information from any other relevant source; and
- (4) The written plan for the transition of the child into a less restrictive environment.

The State Director of Special Education of the NHDOE or designee shall review all the documentation and, if the proposal complies with Ed 1111.05(h) (1-4), inform the LEA in writing that the proposal complies with Ed 1111.05(h) (1-4) and is approved.

If the Director does not approve the proposal the Director shall:

- (1) Require additional information in writing to determine whether or not the proposal complies with Ed 1111.05(h); request additional information in writing;
- (2) Inform the LEA in writing if there are alternatives to the proposed home instruction that are less restrictive; or
- (3) Inform the LEA in writing that, based on the submitted documentation, because the proposed home instruction in excess of 45 days is not the least restrictive environment for the child as required by Ed 1111.01, the proposal is not approved.

The Home Instruction Request for Approval form can be found at:

[http://www.education.nh.gov/instruction/special\\_ed/forms.htm](http://www.education.nh.gov/instruction/special_ed/forms.htm)

Please note the state director of special education of the department or designee shall review all the documentation and, if the proposal complies with Ed 1111.05(h), inform the LEA in writing that the proposal complies with Ed 1111.05(h) and is approved. The Bureau will then notify the LEA via email once the Home Instruction program approval information has been entered into the NHSEIS reference site. The program will then be available for the LEA to enter the student's Home Instruction placement into NHSEIS.

For further assistance regarding Ed 1111.05 Home Instruction Request for Approval Application, please contact Janelle Cornoir at: [Janelle.Cornoir@doe.nh.gov](mailto:Janelle.Cornoir@doe.nh.gov) or 603-271-3737.