



NMPED HOME SCHOOL SYSTEM

Statutes Pertaining to Home School

In order to ensure all home school families – whether long-time homeschooling families, families considering homeschooling for the first time, or families feeling that they have no other option – understand the legal requirements of homeschooling in New Mexico as established in current statutes, NM Public Education Department (“department”) has compiled the following informational pages.

Please read the following information in its entirety and check the box at the end.

Responsibilities of parents and families engaged in home schooling:

- A home study program of instruction must include instruction in reading, language arts, mathematics, social studies and science. *(Section 22-1-2(E) NMSA 1978)*
- All instruction in the student's home study program of instruction must be provided by a person possessing at least a high school diploma or its equivalent. *(Section 22-1-2.1(C) NMSA 1978)*
- A home school parent is required to either maintain records of student disease immunization or a waiver of that requirement for my home school student. *(Section 22-1-.12(B) NMSA 1978)*
- A parent must notify the department within thirty days of the establishment of the home school using the form provided by the department. *(Section 22-1-2.1(A) NMSA 1978)*
- A parent must notify the department on or before August 1 of each subsequent year of operation of the home school. *(Section 22-1-2.1(A) NMSA 1978)*
- Every home school student is subject to the provisions of the Compulsory School Attendance Law and is required to attend home school for at least the length of time of the school year that is established in the local school district, which is based on a 180 day school year. *(Section 22-12-2 (B)NMSA 1978)*
- Students must attend school until the student is at least eighteen years of age, has graduated from high school, **OR** has received a high school equivalency credential. *(Section 22-12-2(A) NMSA 1978 and Section 6.10.8.8(A) NMAC)*

Responsibilities of the Public Education Department (“department”):

- The department must provide a home school registration form and post it on the department's website. (*Section 22-1-2.1(A) NMSA 1978*)
- It is the responsibility of the department to enforce requirements for home schools and that upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school. (*Section 22-2-2(H) NMSA 1978*)
- Upon receipt of verified information that a school age child whose parent (s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. (*Section 6.10.8.11 NMAC*)
- Upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school truant attend a public school, or at the election of his parent/guardian, a private school. (*Sections 6.10.8.7(E) and 6.10.8.11 NMAC*)
- Prior to pursuing remedies that include ordering that a home school truant attend a public school or a private school, the department shall make a reasonable effort to accommodate the parents'/guardians' preference for maintaining their child in a home school. (*Section 6.10.8.11 NMAC*)

Statutory and Administrative Code Citations:

22-1-2. Definitions. (2015)

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

22-1-2.1. Home school; requirements. (2014)

A. submit a home school registration form made available by the department and posted on the department's web site to notify the department within thirty days of the establishment of the home school and to notify the department on or before August 1 of each subsequent year of operation of the home school;

B. maintain records of student disease immunization or a waiver of that requirement; and

C. provide instruction by a person possessing at least a high school diploma or its equivalent.

22-12-2. Compulsory school attendance; responsibility. (2015)

A. Except as otherwise provided, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a high school equivalency

credential. A parent may give written, signed permission for the school-age person to leave school in case of hardship approved by the local superintendent.

B. A school-age person subject to the provisions of the Compulsory School Attendance Law shall attend school for at least the length of time of the school year that is established in the school district in which the person is a resident or the state-chartered charter school in which the person is enrolled and the school district or state-chartered charter school shall not excuse a student from attending school except as provided in that law or for parent-authorized medical reasons.

C. Any parent of a school-age person subject to the provisions of the Compulsory School Attendance Law is responsible for the school attendance of that person.

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 10 PUBLIC SCHOOL ADMINISTRATION - PROCEDURAL REQUIREMENTS
PART 8 COMPULSORY SCHOOL ATTENDANCE

6.10.8.1 ISSUING AGENCY: Public Education Department
 [6.10.8.1 NMAC - N, 12-30-04]

6.10.8.2 SCOPE: All New Mexico school districts, public schools including charter schools, and home schools.
 [6.10.8.2 NMAC - N, 12-30-04]

6.10.8.3 STATUTORY AUTHORITY: Sections 22-1-2, 22-1-2.1, 22-2-1, 22-2-2, 22-2-14, 22-5-4, 22-5-14, 22-10A-31, 22-12-1 to 22-12-9, NMSA 1978, and 20 U.S.C. Sections 7111, 7112.
 [6.10.8.3 NMAC - N, 12-30-04]

6.10.8.4 DURATION: Permanent
 [6.10.8.4 NMAC - N, 12-30-04]

6.10.8.5 EFFECTIVE DATE: December 30, 2004, unless a later date is specified at the end of a section
 [6.10.8.5 NMAC - N, 12-30-04]

6.10.8.6 OBJECTIVE: To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools, including charter schools. In addressing truancy, the goal is to keep children in school until age eighteen and not to suspend, expel or outright punish them for being truant.
 [6.10.8.6 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.7 DEFINITIONS:

A. "Attendance" means students who are in class or in a school-approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended

one-half of a school day. If the student attends school for more than one-half of the total instructional time, the student will be counted as having attended for the full day.

B. "Early identification" means the process by which school districts including charter schools promptly determine and identify students who have excessive absences and tardiness from an instructional day. Early identification includes the school district's, individual school's or charter school's defined system for recording, reporting, and summarizing daily attendance of its students and then providing that data to the district's or charter school's central administration.

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

D. "Home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science.

E. "Home school truant" means a school age child whose parent (s)/guardian(s) have filed a home school notification about that child with the department but the child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction.

F. "Intervention" means the partnering that schools engage in with other agencies to implement administrative remedies, provide services and provide support programs that aggressively reduce if not eliminate truancy in a school district or charter school.

G. "Prevention" means school-based innovative or proven successful programs, including alternative programs whether school-based or non-school based, that encourage regular and on-time attendance for students.

H. "School-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution.

I. "Student in need of early intervention" means a student who has accumulated five unexcused absences within a school year.

J. "Tribe" means an Indian nation, tribe or pueblo located within New Mexico.

K. "Unexcused absence" means an absence from school or a class for which the student does not have an allowable excuse pursuant to the compulsory school attendance law or rules of the local school board, governing authority of a private school, or governing board of a charter school.

[6.10.8.7 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.8 REQUIREMENTS:

A. It is the policy of this state that school age persons receive an education and do not dropout or otherwise withdraw prematurely prior to completing an educational program. To that end, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of a documented hardship approved by the local superintendent.

B.

C. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

D. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the district attorney's office to determine what action will be taken.

E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's health education coordinator or designated staff for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

F. The public education department's truancy prevention coordinator shall be permitted access to any records and information related to students in need of early intervention or habitual truancy in any school district, any particular school within a district, or any charter school.

[6.10.8.8 NMAC - N, 12-30-04; A, 09-30-09; A, 05-15-14]

6.10.8.11 HOME SCHOOLS: Upon receipt of verified information that a school age child whose parent(s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. In addition to any other remedies permitted by the compulsory school attendance law or the children's code, upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school habitual truant attend a public school, or at the election of his parent/guardian, a private school. Prior to pursuing these other remedies, the public education department shall make a reasonable

effort to accommodate the parents'/guardians' preference for maintaining their child in a home school.

[6.10.8.11 NMAC - N, 12-30-04; A, 09-30-09]

By checking the confirmation check box below, I affirm that I possess at least a high school diploma or its equivalent and that the information provided on the following screens is true and correct to the best of my knowledge. I have read the above responsibilities and statutes pertaining to home schooling in New Mexico.

I agree to the terms and conditions

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