

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. **Prior to submitting this notification form, please read the following information in its entirety.**

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 Attendance for Success Act 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 generally 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 student 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 student 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:

NMSA §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;

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

Any person operating or intending to operate a home school shall:

- 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.

NMSA §22-12-4. 22-12A-4. School attendance; responsibility; private school attendance policies. (2019)

- A. Except as otherwise provided in the Public School Code, 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 school-age person has graduated from high school, received a high school equivalency credential or withdrawn from school on a hardship waiver. A parent may give written, signed permission for the school-age person to leave school between the ages of sixteen and eighteen in case of hardship approved by the local superintendent or private school.
- B. A school-age person subject to the provisions of the Attendance for Success Act shall attend school for at least the length of time of the school year that is established in that school-age person's school district, charter school or private school. The school district or private school shall not excuse a school-age person from attending school except as provided in that act.
- C. The parent of a school-age person subject to the provisions of the Attendance for Success Act is responsible for the school attendance of that school-age person.
- D. Local school boards and private schools shall enforce the provisions of the Attendance for Success Act for students enrolled in their respective schools.
- E. A private school in this state shall have an attendance policy that as closely as practicable follows the law for public schools. A school-age person attending a private school and the school-age person's parent shall be given a copy of the private school's attendance policy each year.

6.10.8.11 NMAC 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]