

Readopt with amendments Part Ed 315, effective 1-22-05, (Document #8262) to read as follows:

PART Ed 315 PROCEDURES FOR THE OPERATION OF HOME EDUCATION PROGRAMS

Ed 315.01 Statement of Purpose. The purpose of these rules is to provide standards applicable to home education programs. These rules take into account ~~[the fact]~~ that home education is an alternative to attendance at a public or private school and is an individualized form of instruction in accordance with chapter 279:2, laws of 1990.

Ed 315.02 Definitions.

(a) ***“Certificate” means a letter signed by the parent of a home schooled child as defined below in Ed315.02(b) that meets the requirements of 193:1 I(e)(2)***

(b~~a~~) “Child” means “child” as defined in RSA 193-A:1, I.

(c~~b~~) “Commissioner” means commissioner of education.

(d~~e~~) “Composite results,” as referred to in RSA 193:A-6 II(b), means one score that is provided by the publisher of the standardized test, or the average of all such scores that have been provided by the publisher of the standardized test.

~~[(d) “Correspondence school” means a distance learning, web-based, or other similar program of instruction.]~~

(e) “Department” means the New Hampshire department of education.

(f) “Educational progress” means growth in learning commensurate with age and ability within the child’s individual home education program that is described in Ed 315.04.

(g) “Nonpublic school” means “nonpublic school” as defined in RSA 193-A:1, II.

(h) “Parent” means “parent” as defined in RSA 193-A:1, III.

(i) ***“Private Participating agent” means a non public school principal.***

(j~~i~~) [~~“Participating agency”~~] ***“Public Participating Agent” means the resident district superintendent or the commissioner. [or a nonpublic school principal]***

(k~~j~~) “Resident district” means “resident district” as defined in RSA 193-A:1, IV.

(l~~k~~) “Teacher” means a teacher who holds N.H. certification, is certified in another state which is a party to the interstate contract, or is currently teaching in a nonpublic school.

Ed 315.03 Eligibility.

(a) A parent shall be eligible under these rules to establish a home education program for a child ~~between 6 and~~ **at least 6 and under 18 years of age including an “educationally disabled child” as defined under RSA 186-C:2, I, provided that the definition of “educationally disabled child” as defined under RSA 186-C:2, I, for the purposes of Ed 315, shall be applicable only to children between 6 and 18 years of age.**

(b) **A participating agent may acknowledge the establishment of a home education program for a student less than 6 years of age or 18 or more years of age.**

(c) **A participating agent shall acknowledge receipt of an evaluation that meets the requirements of RSA 193-A:6 and Ed 315.07(a)-(f) after the 18<sup>th</sup> birthday of a student who was 17 years of age when the home education program was established.**

Ed 315.04 Notification.

(a) ~~[On or before the date a home education program will begin, a parent desiring to initiate a home education program shall so advise the participating agency with which the program shall be established by providing only the information listed below:] Pursuant to RSA 193:1, home education shall be an alternative to compulsory attendance at a public school. Dates and hours of instruction shall not be required to coincide with the resident district calendar.~~

(b) **Any parent commencing a home education program for the first time shall notify the participating agent of such within 5 business days of commencing the program. In the case where a parent is continuing a home education program, the notification of the decision to continue the program shall be August 1<sup>st</sup>, but in no case later than the first school day according to the school calendar in the child’s resident district. The commencement date of the continuation of a home education program shall be on or before the first day of school in the resident district.**

(c) Only the following information shall be ~~[required by]~~ **provided to** the participating ~~[agency]~~ **agent:**

- (1) ~~[The date on which the program will begin;]~~ **The commencement date of the home education program shall be on or before the date that home education will replace public school attendance;**
- (2) ~~[The name and full address, including street and town, of the child;]~~ **The child’s name and address, including street and town;**
- (3) The child's date of birth;
- (4) The name and address of the parent(s); and
- (5) A phone number at which the parent(s) may be reached during normal business hours **if available.**

(d) [(6)] With respect to assessments, if the parent intends to use the state or local assessment provided by the resident district as provided in Ed 315.07(b), the parent shall notify the resident district of his or her intent to do so at the time the information above in Ed 315.04[(b)] (c) is provided to the participating [agency] *agent*.

~~(b) A participating agency or school district shall not require information in addition to the information required under (a) above.~~

~~(c) No later than 30 calendar days after the date on which a program begins a parent shall provide the following information to the participating agency in compliance with RSA 193-A:5, I:~~

~~(1) A list of the subjects to be taught each child in accordance with RSA 193-A:4, I;~~

~~(2) The name of an established correspondence school used, if any;~~

~~(3) The name of an established commercial curriculum provider used, if any;~~

~~(4) A table of contents or other material which outlines the scope and instructional sequence for each subject, or both; and~~

~~(5) A list of textbooks or other instructional materials used.~~

~~(d) When a parent supplies information to a participating agency under (c)(1) above, the participating agency shall not require:~~

~~(1) Assignment to a grade level for a child; or~~

~~(2) That the hours and dates of operation of a home education program coincide with the resident district calendar.~~

~~(e) The participating agency shall not require notification of method or date of evaluation at this time. However, if the parent intends to use the state or local assessment provided by the resident district, the parent shall notify the resident district of his or her intent to do so at the time the information above is provided to the participating agency.~~

~~(f) The parent of a child currently enrolled in a public school in the resident district shall advise the resident district superintendent of the child's withdrawal from attendance in public school on or before the date the home education program shall begin and shall follow all notification procedures set forth in this section.]~~

(e)[(g)] A home education program established in accordance with this section shall remain in effect until August 1 of each year unless *voluntarily terminated by the parent or* terminated in accordance with *the*

*provisions of* Ed 315.08~~[(i) below or Ed 315.17. ]~~ If a program is transferred because of a change in resident district for the child or by choice of the parent, the program shall continue until August 1 under the new participating agent~~[ey]~~.

(f) ~~[(h)]~~The following shall apply to transfer of home education programs:

(1) ~~[If the child moves and the parent wishes to continue a program which was established with the former resident district superintendent as the participating agency and selects the new resident district superintendent as the new participating agency, the parent shall so inform both superintendents in writing;]~~ **When a change in participating agent occurs, the parent shall notify both the existing agent and the new agent of such change.**

(2) ~~[In any other case, both the participating agency with which the program was established and the new participating agency shall be informed in writing by the parent; and (3) In either (1) or (2) above, u ]~~ Upon notification in writing by the parent of a change in participating ~~[agencies]~~**agent**, the former participating ~~[agency]~~**agent** shall transfer all pertinent records for the current year to the new participating ~~[agency]~~**agent**.

(g) ~~[(i)]~~A parent wishing to voluntarily terminate an established home education program shall notify **the participant agent** in writing within 15 ~~[calendar]~~ **business days of enrolling the student in either a public or private school** ~~termination the appropriate agencies as listed below:~~

(1) ~~If a program was established with the resident district superintendent, the parent shall notify the resident district superintendent and the commissioner;~~

(2) ~~If a program was established with the commissioner, the parent shall notify the commissioner and the resident district superintendent; or and~~

(3) ~~If a program was established with a nonpublic school principal, the parent shall notify the nonpublic school principal, the commissioner and the resident district superintendent.~~

#### Ed 315.05 Duties of Participating Agencies and Parents.

(a) A ~~[resident district superintendent]~~ **public participating agent** on receipt of a notification as described in Ed 315.04(a), (b), and (c) shall comply with paragraph **Ed 315.05(d)** [(e)], below. The resident district superintendent shall assist the parent making such notification in complying with RSA 193-A:6. The~~[resident district superintendent]~~ **public participating agent** may not charge a fee for this service.

~~[(b) The commissioner on receipt of a notification as described in Ed 315.04(a), (b), and (c) shall comply with paragraph Ed 315.05(e), below. The commissioner shall assist the parent making such notification in complying with RSA 193-A:6. The commissioner may not charge a fee for this service.]~~

~~(b ) [(c)]~~ Participation in home education programs shall be optional for nonpublic schools. A ~~nonpublic school principal~~ **private participating agent** who agrees to participate in an individual

home education program shall, on receipt of a notification as described in Ed 315.04 ~~[(a),(b) and (e)]~~ **shall** comply with paragraph **Ed 315.05(d)** [(e)], below. The nonpublic school principal shall assist the parent making such notification in complying with RSA 193-A:6. ***A non-public school principal may charge a fee for this service.***

(c) ~~[(d) Resident district superintendents or nonpublic school principals as [p]Participating agencies~~ shall maintain a list of all home education programs for which they have received notification. This list shall contain the name, date of birth and address of each child for whom a home education program is established. On October 1 of each year, the participating agent~~[y]~~ shall notify the commissioner of the number of children for whom programs were established.

(d) ~~[(e)]~~ Once the notification is filed, the following shall apply:

(1) The ~~[resident district superintendent, commissioner or nonpublic school principal]~~ **participating agent** shall review the notification for compliance with Ed 315.04 ~~[(a),(b) and (e)]~~;

(2) If the notification complies with Ed 315.04 ~~[(a),(b) and (e)]~~ the ~~[resident district superintendent, commissioner, or nonpublic school principal]~~ **participating agent** shall send a letter acknowledging the establishment of the home education program within ~~[21 calendar]~~ **14 business** days of receipt of such notification;

(3) If any of the requirements of Ed 315.04 ~~[(a),(b) and (e)]~~ are not met by the notification, the ~~[resident district superintendent, commissioner, or nonpublic school principal]~~ **participating agent** shall return by certified mail with return receipt the notification to the parent within 5 business days along with a letter describing the information required to comply with Ed 315.04 ~~[(a),(b) and (e)]~~;

(4) The parent shall ~~[have 10 calendar days]~~ **within 5 business days** from receipt of the returned letter ~~[to]~~ send an amended notification to the **participating agent** ~~[resident district superintendent, commissioner, or nonpublic school principal]~~;

(5) If an amended notification meets the requirements of Ed 315.04 ~~[(a),(b) and (e)]~~ the **participating agent** ~~[resident district superintendent, commissioner, or nonpublic school principal]~~ shall immediately ~~[send a letter]~~ acknowledge~~[ing]~~ the establishment of the home education program;

(6) If an amended notification does not meet the requirements of Ed 315.04(a), (b), and (e), the **participating agent** ~~[resident district superintendent, commissioner, or nonpublic school principal]~~ shall immediately send **another** letter explaining the deficiencies;

(7) The resident district superintendent or nonpublic school principal shall forward a copy of the original notification, the amended notification, and the letter explaining the deficiencies to the commissioner;

(8) If the commissioner determines that the amended notification meets the requirements of ~~[RSA 193-A:4, I and]~~ RSA 193-A:5, II, the commissioner shall acknowledge the establishment of the home education program;

(9) If the commissioner determines that the amended notification does not meet the requirements of RSA 193-A:5, II, the commissioner shall notify the parent that she *or* he is considering withholding acknowledgment;

(10) The commissioner shall then notify the parent that the parent may request the initiation of a grievance conference with the grievance committee of the home education advisory council under the provisions of Ed 315.~~[40]~~**I7**;

(11) The parent shall ~~[have 10 calendar]~~**within 10 business** days ~~[to]~~ request the grievance conference and shall do so in writing to the commissioner;

(12) After considering the findings of the grievance committee the commissioner shall:

a. Acknowledge the establishment of the home education program if it meets the requirements of ~~[RSA 193-A:4, I and]~~ RSA 193-A:5, II; or

b. ~~[Withhold acknowledgment if the program does not meet the requirements of RSA 193-A:4, I and RSA 193-A:5, II, thereby d]~~**Deny[ing]** the establishment of a home education program ***if the program does not meet the requirements of RSA 193-A:5, II***, and immediately ~~[schedule]~~ ***notify the parent that they are entitled to*** a due process hearing pursuant to the provisions of RSA 193-A:7, ~~[III]~~ **I** and of Ed 315.~~[47]~~**I8**.

(13) If the parent does not request a grievance conference in writing within 10 business days, the commissioner shall immediately notify the parent that she *or* he is entitled to a due process hearing pursuant to the provisions of RSA 193-A:7, ~~[III]~~ **I** and of Ed 315.~~[47]~~**I8**.

***(14) The child or children shall be enrolled or remain enrolled in either a public or private school until a home education program is established.***

~~[(f) Prior to acknowledgment of notification, if the commissioner has written and substantiated information which strongly implies that a home education program will not meet the requirements of RSA 193-A:4, I and RSA 193-A:5, II and intends to withhold acknowledgement, the commissioner shall immediately schedule a due process hearing as provided in RSA 193-A:7, III.~~

~~(g) If, after acknowledgment of notification has been made, the commissioner has written and substantiated information which would justify an order of termination as pursuant to RSA 193-A:5, I, the commissioner shall immediately schedule a due process hearing pursuant to the provisions of RSA 193-A:7, III and Ed 315.17.]~~

Ed 315.06 Records.

- (a) In accordance with RSA 193-A:6, the parent shall keep a portfolio each year the child is being home educated. The portfolio shall contain the child's work pursuant to RSA 193-A:6 ,I.
- (b) The portfolio shall be the property of the parent. Access to the portfolio shall be at the parent's discretion, except as provided in RSA 193-A:6, II(a).
- (c) Participating [~~agencies~~] **agents** shall maintain documents concerning home education programs in a manner consistent with other educational records.

Ed 315.07 Annual Evaluation.

(a) The parent shall provide ***to the participating agent a written and signed statement, which shall describe the method used to provide*** for an annual evaluation for a child ***pursuant to the requirements of RSA 193-A:6, II . No evaluation shall be used by the participating agent as an annual evaluation unless approved by the parent.***

(b) The parent may:

(1) Choose a teacher who ***shall*** agree[s] to perform ***the following*** evaluation services:

***a. Sign the evaluation;***

***b. Submit the evaluation to the participating agent; and***

***c. Give a copy to the parent; or***

(2) ~~{the parent may}~~ **Request** the evaluation to be performed through the resident district superintendent; ~~{when the resident district superintendent is acting as the participating [agency]}.~~

***a.*** The resident district superintendent, when acting as the participating [~~agency~~] ***agent***, shall provide evaluation services, upon request of the parent.

***b.*** If the resident district superintendent is not acting as the participating [~~agency~~] ***agent***, the resident district superintendent shall provide evaluation services at the resident district superintendent's discretion.

(c) The written evaluation shall include the following:

(1) The name and address of the teacher, including state recognized documentation of certification or the name and address of the nonpublic school in which the teacher is currently teaching;

(2) The date(s) on which the evaluation(s) took place;

(3) A description of the work reviewed including quantitative data if available;

(4) A summary of the child's educational progress in the home education program [~~as presented in the notification~~], concluding with a statement that the child has or has not made educational progress, **and the facts the teacher relied on to develop the concluding statement;** and

(5) The signature[s] of the teacher. [~~and the parent~~]

(d) A copy of the evaluation may be retained by the teacher.

(e) The parent may choose a standardized test which may be a nationally recognized test, a state assessment instrument, or a test used in the child's resident district. The parent shall report the results of the test to the participating [~~agency~~] **agent** and shall include the name of the test and the name and address of the test administrator. A composite result at or above the 40th percentile on such tests shall be deemed reasonable academic proficiency.

(f) The parent may choose any other valid measurement tool mutually agreed upon by the parent and the participating [~~agency~~] **agent** provided that:

(1) The agreement shall be made in writing and signed by the parent and the participating [~~agency~~] **agent**; and

(2) A valid measurement tool as provided for in RSA 193-A:6, II(d), may include but shall not be limited to the following:

~~a. Interview;~~

~~b. Educational progress in a particular curriculum as measured by the parent;~~

**a** [~~e-~~] Educational progress in a particular curriculum as measured by the provider **of the curriculum;**

**b** [~~d-~~] Review of the child's portfolio by a participating [~~agency~~] **agent**;

**c** [~~e-~~] Evaluation by a teacher in a program recognized by any state department of education; or

**d** [~~f-~~] Specially prepared tests or evaluations measuring educational progress in a particular subject or curriculum.

(g) The evaluation shall be submitted annually on or before July 1 for the ~~current~~ **recently completed** school year and shall meet the requirements of RSA 193-A:6, II. [~~Any evaluation submitted to~~

a participating agency shall be signed by the parent acknowledging acceptance of its use to meet the requirements of RSA 193-A:6, II and this section.]

(h) If the evaluation has not been received by the participating [agency] **agent** ~~(on or before)~~ **by** July 1, the participating [agency] **agent** shall notify the parent in writing that, unless the evaluation is received by July 15, the program shall be placed on probation for the following year in accordance with Ed 315.10.

Ed 315.08 Review of Evaluation Results.

(a) The participating [agency] **agent** shall review the evaluation to establish that:

(1) The evaluation meets the requirements of ~~Ed 315.07(a)-(h)~~ **RSA 193-A:6, III**; and

(2) ~~The results state [t]~~That educational progress has ~~or has not been~~ demonstrated **in all areas of instruction required by RSA 193-A:4**.

(b) If any of the requirements of Ed 315.08~~(7(a)-(h))~~ are not met by the evaluation, the participating [agency] **agent** shall return by certified mail with return receipt the evaluation to the ~~parent~~ **teacher** within 10 business days along with a letter describing the **deficiencies**. ~~information required to comply with the Ed 315.07(a)-(h).~~

(c) If the home education program had been operating under probation pursuant to Ed 315.10 [09], the participating [agency] **agent** shall proceed pursuant to Ed 315.10 [09](e)-(g) below.

(d) If educational progress has been demonstrated the participating [agency] **agent** shall so notify the parent in writing within ~~[21-calendar]~~ **10 business** days. A program which has been placed on probation pursuant to Ed 315.10 [09] shall be released from probation.

(e) If educational progress has not been demonstrated, the participating [agency] **agent** shall comply with Ed 315.10 [09].

(f) If no evaluation has been received by the participating [agency] **agent** by July 15, the participating [agency] **agent** shall comply with Ed 315.10 09 unless:

(1) The participating [agency] **agent** receives, by July 15, an explanation in writing from the parent that the evaluation has been performed, there is a delay in the transmission of evaluation results, and **an estimated date when** the results will be transmitted to the ~~department-~~ **participating agent** as soon as they are available; or

(2) The parent and the participating [agency] **agent** reach an agreement in writing explaining how the parent will arrange for an evaluation that meets the requirements of **RSA 193-A:4 and** RSA 193-A:6 ~~and Ed 315.07(a)-(f)~~ that will be completed by August 15, with its results transmitted to the department as soon as they are available.

***Ed 315.09 Certificate of Completion***

***(a) The student meets the requirements for successful completion of a home school program for a child under 18 years of age when, pursuant to RSA 193:1, I(f)(2), the parent submits a letter to the department of education certifying that the child has completed the home school program at the high school level. The letter containing the statement above shall also include the following information:***

- (1) Name and address of the child;***
- (2) Name and address of the parents;***
- (3) Date of completion of the home school program;***
- (4) A phone number at which the parent may be reached during normal business hours; and***
- (5) Signature of the parent***

***(b) A letter that meets all the requirements of Ed 315.09 (a) shall be conclusive evidence of:***

- (1) completion of the parent's duty of compulsory attendance, as set forth in RSA 193:1; and,***
- (2) acknowledgment of the responsibilities outlined in RSA 193-A:9.***

***(c) The parent is responsible to maintain a record of proof of delivery of such certification.***

***Ed 315.[09]10 Probation.***

***(a) If pursuant to Ed 315.07 educational progress has not been demonstrated, the participating [agency] agent shall so notify the parent in writing.***

***(b) The participating [agency] agent shall state the reasons for which the program has been placed on probation in accordance with RSA 193-A:6, III. It shall also state **and** what conditions, if any, shall be met to release the program from probation in less than a year.***

***(c) The parent may choose to comply with the conditions for release of the program from probation. If these conditions are met, the program shall be released from probation.***

***(d) If the parent chooses not to comply or the conditions for release of the program ~~for~~ from probation are not met, the probational status shall continue **for the duration of next school year**.***

***(e) The parent shall provide for the annual evaluation pursuant to Ed 315.07 while the program is under probation. After the parent has provided such evaluation, and if educational progress has been demonstrated, the participating [agency] agent shall so notify the parent in writing within [21-calendar]10***

**business** days. A program which had been placed on probation pursuant to Ed 315.[09]10 shall be released from probation.

(f) If the evaluation does not **demonstrate educational progress for a second consecutive year** [~~meet the requirements of Ed 315.07 and those outlined in RSA 193-A:6, ] the participating [agency] **agent** shall notify the commissioner, and the commissioner shall notify the parent that **she or he is entitled to request a due process** [~~schedule a~~] hearing pursuant to Ed 315.[47]18 and RSA 193-A:7, [~~III and IV~~] **I and II** unless the home education program is voluntarily terminated by the parent pursuant to Ed 315.04[~~(i)~~](g).~~

(g) If no evaluation has taken place by July 15 of the probationary year, the participating [agency] **agent** shall notify the commissioner, and the commissioner shall **notify the parent that she or he is entitled to request a due process** [~~schedule a~~] hearing pursuant to Ed 315.[47]18 and RSA 193-A:7, [~~III and IV~~] **I and II**, unless the home education is voluntarily terminated by the parent pursuant to Ed 315.04[~~(i)~~](g). The program shall be terminated if the child has not demonstrated educational progress based on age and ability as provided in RSA 193-A:6, III.

Ed 315.[40]11 The Home Education Advisory Council.

(a) The home education advisory council shall carry out those duties assigned to it by the commissioner. The council shall work with home educators and representatives of private and public education to encourage an understanding of home education.

(b) Assigned areas of responsibility for the council shall include the following:

- (1) Developing and maintaining effective communications between home educators and those public, and nonpublic schools and state and local agencies involved in home education;
- (2) Recommending to the commissioner and state board of education desired changes in rules pertaining to home education;
- (3) Establishing a grievance committee to hear grievances referred to it by the commissioner; and
- (4) Providing an annual report to the state board on its activities.

Ed 315.[44]12 Membership Selection and Term of Appointment.

(a) Membership selection shall be as specified in RSA 193-A:10, I [~~and all members shall be appointed by the commissioner.~~] **All non-legislative members shall be appointed by the commissioner to 3-year terms. Legislative members from the house of representatives and senate shall be appointed by the speaker of the house of representatives and president of the senate respectively.**

(b) The commissioner shall appoint all **non-legislative** members to 3-year terms.

(c) Terms of appointment as provided in (a) above shall end on June 30 of the year in which the term is completed. The conduct of business shall not depend on the maintenance of full council membership. ***Legislative members of the council shall serve a term which is coterminous with their elected office.***

(d) In the event of vacancies, replacement members shall be appointed as required under RSA 193-A:10 to fill the unexpired term.

Ed 315.[42]**13 Records of the Advisory Council.** The records and minutes of the home education advisory council shall be filed and maintained in the department.

Ed 315.[43]**14 Funding and Support of Council Activities.** The members of the home education advisory council shall serve without compensation. Subject to available funds, the department shall financially support the activities of the council, including but not limited to such expenses as mileage, secretarial assistance, and meeting facilities.

Ed 315.[44]**15 Grievance Committee.**

(a) The grievance committee shall be a subcommittee of the home education advisory council appointed by the chairperson, consisting of no more than 5 members, a majority of whom shall be representatives of home education associations ***pursuant to RSA 193-A:10(a)***. One member of the grievance committee shall be appointed by the chairperson to preside at grievance conferences.

(b) The grievance committee shall hear all grievances referred to it by the commissioner.

(c) The grievance committee shall call upon consultants and conduct interviews for the purpose of gathering relevant facts if the committee lacks relevant expertise. The grievance committee shall keep a written account of its investigations and shall submit such an account, together with its findings, to the commissioner within 30 [~~calendar~~] ***business*** days of the commissioner's referral.

Ed 315.[45]**16 Request for Grievance Conference.**

(a) Any party to a home education program may request a grievance conference as follows:

(1) Such request shall be in writing to the commissioner;

(2) The request shall state in detail the reasons for the request for a grievance conference and name the parties involved;

(3) [~~The commissioner shall notify the requestor within 5 business days in writing that [he/she has scheduled] a grievance conference in accordance with Ed 315.16 or that [he/she requires] additional information to clarify the issues;~~] ***The commissioner shall notify the requestor within 5 business days in writing that either a grievance conference has been requested is scheduled in accordance with Ed 315.17 or that additional information is needed to clarify the issues;***

(4) The requestor shall have 10 [~~calendar~~] **business** days from receipt of the commissioner's request for additional information to respond with the requested information; and

(5) The commissioner [~~shall~~], upon receipt of the requested information, **shall** forward the request to the chairperson of the home education advisory committee who shall schedule a grievance conference in accordance with Ed 315.[~~16~~]**17**(b).

Ed 315.[~~16~~]**17** Grievance Conference.

(a)[~~Upon receipt of a request pursuant to Ed 315.05(e)(10) or concerning an action taken under these rules,~~] **Other than termination of a home education program, parents or participating agents in a home education program may request a grievance conference to resolve disputes. Either party may initiate the process by sending a letter to the commissioner and the other party detailing the issue under dispute. Upon receipt of the letter,** the commissioner shall notify the chairperson of the home education advisory council of the request for a grievance conference, and the grievance conference shall then proceed in accordance with this section.

(b) Within 5 business days of the commissioner's notification of a request for a grievance conference, the chairperson shall schedule the conference with the parties to the grievance.

(c) At the conference, each party shall be prepared to consider:

- (1) The simplification of the issues and an [~~agreement~~] **agreed statement** of facts;
- (2) Possibility of settlement; and
- (3) Such other matters as may aid in disposition of the action.

(d) Parties to a grievance may be represented, **at their own expense**, [~~at the conference~~] by counsel.

(e) At the grievance conference the grievance committee shall interview the parties to [~~the grievance to reach a proposed settlement on the facts of the grievance~~]:

- (1) **Ascertain the facts;**
- (2) **Work with the parties towards a mutual agreement as to unresolved grievances; and**
- (3) **Reach a mutually agreeable settlement.**

(f) The grievance committee shall present its **report** [~~findings on unresolved grievances or report on the proposed settlement, reached by the parties,~~] to the commissioner within 10 [~~calendar~~]**business** days of the conference.

(g) **The report shall include the committee's findings of fact, report on proposed settlement, if any, identification of unresolved issues and the committee's recommendation.**

~~(h)~~~~(g)~~ Any settlement reached at a grievance conference shall be subject to review by the commissioner and shall not be implemented unless it is consistent with these rules and with applicable statutes.

~~(i)~~~~(h)~~ The findings shall list the pertinent facts found by the committee.

~~(j)~~~~(i)~~ If the parties do not reach a settlement prior to, or during, the grievance conference, the commissioner shall notify the parties of her~~(/)~~or his decision on *the grievance committee's report* ~~[unresolved grievances]~~ within 10 ~~[calendar]~~*business* days of receipt of the committee's findings.

Ed 315.~~[47]~~*18* Due Process Hearing Procedure.

~~(a) If a due process hearing is required under these rules and pursuant to RSA 193-A:7, III the commissioner shall immediately schedule a due process hearing with an impartial hearing officer in accordance with RSA 193-A:7-8 and Ed 200, unless otherwise provided in this section.] A party requesting a due process hearing shall notify in writing the office of legislation and hearings. The office of legislation and hearings shall schedule a due process hearing with an impartial hearing officer in accordance with RSA 193-A:7.~~

~~(b) All communication with the department of education's office of legislation and hearings shall be in writing and mailed to the office at:~~

~~*The New Hampshire Department of Education  
Office of Legislation and Hearings  
101 Pleasant Street  
Concord, NH 03301*~~

~~(c)~~~~(b)~~ ~~[As provided in RSA 193-A:7, I, the hearing officer shall begin the hearing process by issuing an order of notice within 10 business days of the request for a hearing.]~~ The parties to the hearing shall include, at a minimum, the~~(child or)~~ parent, ~~(or both)~~ and ~~[as applicable, the resident district superintendent, nonpublic school principal, or the commissioner]~~ *the participating agent*.

~~(d)~~~~(e)~~ The order of notice shall be sent to the parties to the hearing by certified mail, return receipt requested, no later than 20 business days prior to the first day of oral hearings.

~~(e)~~~~(d)~~ Upon good cause shown, including but not limited to illness, accident or death of a family member, the hearing officer shall continue the hearing and reschedule it for a date later than that shown in the order of notice but in no case shall the continuance be granted for more than 15 ~~[calendar]~~ *business* days. Notice of the continuance shall be made in writing to all parties except that, if the continuance is granted less than 3 business days before the scheduled hearing date, notice shall be made by telephone followed by notice in writing.

~~(f)~~~~(e)~~ Any party, who has been served notice in accordance with this chapter, who fails to appear and who fails to obtain a continuance from the hearing officer prior to the scheduled time of the hearing,

shall have a decision rendered against her *or* [A] him if the interests of justice will be served by such action.

(g) [(f)] Within a reasonable time, but in any event no less than 5 business days before the hearing, the parties shall give notice to the hearing officer and [each other of] ***all opposing parties regarding*** the character of the evidence to be presented at the hearing. [Such notice shall state whether the evidence is or not new evidence, the same evidence, or a legal argument. will be presented at the hearing.]

(h) [(g) In accordance with RSA 193-A:7, I] [i]n order to ***either commence or continue a home education program or*** be granted acknowledgment of notification, the parent at such hearing shall establish by a preponderance of evidence, [and the hearing officer shall so find,] that both the parent and home education program comply with [RSA 193-A:4, I and] RSA 193-A:5, II.

(i) [(h)] For an order of termination to be issued [for a program which has been acknowledged,] the ***participating agent*** [resident district superintendent, nonpublic school principal or the commissioner] shall have the burden of proof that the parent or the home education program has substantially failed to [or cannot] provide the child with the minimum course of study as required by RSA 193-A:4, I.

(j) [(i) The hearing officer shall render a decision within 10 business days pursuant to the provisions of RSA 193-A:8.] The decision ***of the hearing officer*** shall list the pertinent facts found by the hearing officer. The decision shall take effect immediately unless an appeal is made pursuant to Ed 315.[17] **19**. A copy of the decision shall be mailed by certified mail, return receipt requested, to all parties named in the order of notice.

Ed 315.[18] **19 Appeal of Decision.** In accordance with RSA 193-A:8, II **T**[t]he parent or the commissioner may appeal the decision of the hearing officer to a court of competent jurisdiction within 30 [calendar] **business** days of the decision. Pending appeal, the home education program shall continue.

APPENDIX

RULE NUMBER	STATUTE OR FEDERAL REGULATION IMPLEMENTED
Ed 315.01	RSA 193-A
Ed 315.02(a)	RSA 193-A:1, I
Ed 315.02(b)	RSA 541-A:7
Ed 315.02(c)	RSA 541-A:6, I
Ed 315.02(d)	RSA 193-A:1, II
Ed 315.02(e)	RSA 193-A:1, III
Ed 315.02(f)	RSA 541-A:7
Ed 315.02(g)	RSA 193-A:1, IV
Ed 315.02(h)	RSA 541-A:7
Ed 315.03	RSA 193-A:1, I; 193-A:3; 193-A:4, I
Ed 315.04	RSA 193-A:5
Ed 315.05(a)-(e)(1)-(7)	RSA 193-A:4, I; 193-A:5; 193-A:6
Ed 315.05(e)(8)-(13)	RSA 193-A:7
Ed 315.06	RSA 193-A:6
Ed 315.07	RSA 193-A:5, I-II
Ed 315.08	RSA 193-A:6, II
Ed 315.09 - 315.10	RSA 193-A:6, III
Ed 315.11 - 315.14	RSA 193-A:10
Ed 315.15 - 315.18	RSA 193-A:7-8