

**SAINT CHRISTOPHER AND NEVIS**  
**STATUTORY RULES AND ORDERS**

**No. of 2011**

**Education (Home-Based Education) Regulations**

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## **SCHEDULE**

**SAINT CHRISTOPHER AND NEVIS**  
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**No. of 2011**

**Education (Home-Based Education) Regulations.**

In exercise of the power conferred by section 172 of the Education Act No. 9 of 2005, the Minister responsible for Education makes the following Regulations:

**PART I**  
**PRELIMINARY**

1. **Citation.** These Regulations may be cited as the Education (Home-Based Education) Regulations, 2011.

2. **Interpretation.** In these Regulations,

“Act” means the Education Act No. 9 of 2005;

“communication” means a meeting or such other means of dialogue between an official of the Ministry of Education and a parent or home-based educator;

“dispute resolution process” means a process to review disagreements respecting home-based education prior to the hearing of an appeal as provided under regulation 31;

“home-based educator” means the person who is providing and directing a registered home-based education programme for a student;

“improvement plan” means a supplementary educational plan that is intended to correct the deficiencies in the education plan in a registered home-based education programme;

“learning objectives” means the understandings and abilities that the education plan is intended to develop during a school year in a registered home-based education programme;

“official” means a person who holds an office or is employed by the Ministry of Education, but is not engaged as a teacher, principal or vice principal in a school;

“special needs student” means a student with a disability pursuant to section 82 of the Act;

“standardized test” means a normed achievement, aptitude or intelligence test that is administered by an appropriately qualified person, and includes both general and diagnostic tests;

“summative record” means a summary of the educational progress of a student in relation to the written educational plan near the end of a school year, or at the end of another period of time that is determined by the home-based educator and is acceptable to the Chief Education Officer;

“Tribunal” means the Education Appeal Tribunal established by section 162 of the Act.

## **PART II HOME-BASED EDUCATION PROGRAMMES**

3. **Home-based education programme.** (1) A home-based educator may provide, at home or elsewhere, a home based education programme for a student if the programme meets the requirements of the Act and these Regulations.

(2) An education plan for a home-based education programme shall consist of planned and supervised instructional and related educational activities including a curriculum and instructions in the basic skills of

- (a) science;
- (b) mathematics;
- (c) language arts;
- (d) social studies;
- (e) history;
- (f) health science;
- (g) reading writing;
- (h) spelling,

provided for a number of hours equivalent to the total annual programme hours per grade level prescribed for private schools.

(3) The Chief Education Officer is not responsible for the hiring of educators or for the selection of programmes, course, textbooks, and learning resource material for a registered home-based education programme or student.

4. **Prohibition.** (1) A person shall not operate a home-based education programme unless it is registered in accordance with section 80 of the Act.

(2) Notwithstanding sub-regulation (1), a home-based educator who has provided notification, in accordance with regulation 5, for registration of a home-based education programme to the Chief Education Officer in accordance with section 80 (2) of the Act is not liable to prosecution for a violation of sub-regulation (1) for the period of time commencing from the date on which the written notification was provided to the Chief Education Officer and ending on

- (a) the date that the home-based educator receives notification of a decision not to register the programme; or

(b) where the home-based educator appeals that decision, the date he or she receives notification of the result of the appeal.

5. **Notification** (1) A person who intends to provide a home-based education programme for a student during a school year shall provide written notification and the necessary documentation prescribed in sub-regulation (4) to the Chief Education Officer within the time prescribed in sub-regulation (2).

(2) The written notification, referred to in subsection (1), must be received by the Chief Education Officer

(a) where a home-based education programme has not yet been registered, at least three months prior to the intended date of commencement of the programme but not later than July 15 of the school year for which the notification is given;

(b) where a home-based education programme was registered for the student for the previous school year, by August 15 of the school year for which the notification is given;

(c) in a case to which paragraphs (a) or (b) does not apply, at least 30 days before the date the person intends to withdraw a student of compulsory school age from a school or other educational institution.

(3) Notwithstanding sub-regulation (2), the Chief Education Officer may accept a late notification for registration where in his opinion a reasonable attempt was made, by the parent or intended home-based educator, to comply with sub-regulation (2).

(4) A parent or intended home-based educator shall provide written notification on the form set out as Form 1 of the Schedule and shall include in the written notification

(a) the name of the person who is initiating and who is responsible for directing and providing instruction in the home-based education programme;

(b) the address and telephone number of the place at and from which the home-based education programme will be provided;

(c) the name, gender and date of birth of the student on the programme;

(d) the date of commencement of the home-based education programme;

(e) if applicable, the name of the last school or other educational institution in which the student was enrolled;

(f) the last grade completed by the student at the last school or other educational institution referred to in paragraph (e).

(5) Where a home-based educator wishes to continue to provide home-based education for a student during the next school year, the home-based educator shall, in Form III of the Schedule, notify the Chief Education Officer of his intention to continue the programme.

(6) A parent or intended home-based educator shall submit together with the completed written notification forms referred to in sub-regulations (4) and (5)

- (a) the written educational plan for the student in the home-based education programme; and
- (b) a declaration of intent in the form set out as Form II of the Schedule signed by the intended home-based educator affirming that the -
  - (i) information supplied is correct;
  - (ii) home-based educator is accepting the control, direction and management of the home-based education programme; and
  - (iii) home-based educator is accepting responsibility for education of the student in the home-based education programme.

6. **Registration** (1) The Chief Education Officer shall review a notification for the registration of a home-based education programme, within 30 days of its receipt, to determine if it is in compliance with the Act and these Regulations.

(2) The Chief Education Officer may schedule a conference with the person who provided the notification to discuss matters related to the notification and the home-based education programme before registering the home-based education programme.

(3) If the Chief Education Officer determines that the notification is in compliance with the Act and these Regulations, the Chief Education Officer shall, within 30 days, register the home-based education programme and notify, in writing, the relevant person that the home-based education programme has been registered.

(4) If the Chief Education Officer determines that the notification is not in compliance with the Act and these Regulations, the Chief Education Officer shall, within 30 days give the person who provided the notification written notice and details of the non-compliance.

(5) The person who provided the notification may, within 14 days of receipt of a written notice pursuant to sub-regulation (4)

- (a) supply additional information in writing or otherwise rectify the non-compliance; or
- (b) attend a conference to discuss the matter where either the additional information may be supplied or the matter may otherwise be resolved.

(6) If the person who provided the notification does not supply the additional information or otherwise rectify the non-compliance after notice pursuant to sub-regulation (4), or if the Chief Education Officer determines that the notification is still not in compliance with the Act and these Regulations, the Chief Education Officer may subject to sub-regulation (7) refuse to register the programme and shall notify the relevant person, in writing, of the refusal and provide reasons why the programme cannot be registered.

(7) The Chief Education Officer may refuse to register the home-based education programme if the written educational plan is

- (a) inconsistent with the goals of education; or
- (b) inappropriate for the age and ability of the student for whom the programme has been developed;

(8) The parent or intended home-based educator may, within 14 days after receipt of a notice pursuant to sub-regulation (6), request that the matter be referred to the dispute resolution process by giving written notice thereof to the Chief Education Officer.

(9) If the parent or intended home-based educator does not refer the matter to the dispute resolution process pursuant to sub-regulation (8), or if the dispute resolution process does not resolve the issues in dispute, the Chief Education Officer may refuse to register the home-based education program and shall notify, the parent or intended home-based educator, of the decision and provide reasons, in writing, why the program shall not be registered.

(10) This regulation shall apply, with any necessary modification, to the renewal of the registration of a registered home-based education programme.

7. **Duration of registration.** Subject to regulations 24 and 25, where the Chief Education Officer had registered a home-based education programme, the registration is valid until the end of the school year for which the registration was granted and is renewable annually.

8. **Policies and procedural guidelines regarding registration etc.**

The Chief Education Officer shall establish such procedural guidelines as may be necessary for –

- (a) the registration of home-based educational programmes;
- (b) the renewal of the registration of registered home-based education programmes;
- (c) the supervision and monitoring of registered home-based education programmes;
- (d) the termination of a registered home-based education programmes; and
- (e) the dispute resolution process.

9. **Access to policies and procedural guidelines.** The Ministry shall provide information to a parent or home-based educator on existing ministerial and departmental policies and procedures with respect to home-based education.

10. **Instructional time.** The average daily instructional time for a student shall not be less than three hours during any school day.

11. **Compulsory attendance provisions.** (1) The Chief Education Officer may take the necessary steps to ensure that the attendance provisions of the Act are met by all students in registered home-based education programmes.

(2) For the purpose of the Act and these Regulations, a child satisfies the requirement of compulsory school attendance if the child is receiving home-based instructions pursuant to these Regulations.

12. **Delegation of powers of Chief Education Officer.** (1) Subject to sub-regulation (2), the Chief Education Officer may delegate to any Education Officer, any principal of a school or any official any of the powers or responsibilities given to or imposed on the Chief Education Officer by these Regulations.

(2) The Chief Education Officer shall not delegate to an official any powers or responsibilities pursuant to sub-regulation (1) unless that person holds a valid and subsisting teacher's certificate issued pursuant to the Regulations regarding teacher certification and classification.

(3) The exercise of the powers or the fulfillment of the responsibilities delegated pursuant to sub-regulation (1) by the person to whom the powers or responsibilities are delegated is deemed to be the exercise of the powers or fulfillment of those responsibilities by the Chief Education Officer.

### **PART III HOME-BASED EDUCATORS**

13. **Qualifications.** (1) Home-based educational instruction may be provided by

- (a) a home-based educator who is instructing a student if the educational instruction is supervised by a certified teacher; or
- (b) a home-based educator who is instructing a student if the home-based educator is qualified or deemed sufficiently qualified, by the Chief Education Officer, to provide unsupervised home-based instruction.

(2) For the purposes of this regulation, "supervised by a certified teacher" means

- (a) the planning by the certified teacher and the home-based educator of objectives consistent with these Regulations;
- (b) a minimum of one contact hour per week with the child being supervise by the certified teacher; and
- (c) evaluation of the progress of the child by the certified teacher.

14. **Home-based educator rights and responsibilities** A home-based educator, who has submitted written notification to the Chief Education Officer pursuant to these Regulations, is deemed to have accepted

- (a) the control, direction and management of the student in a home-based education programme; and
- (b) the responsibility for the education of the student.

15. **Responsibilities.** A home-based educator shall

- (a) have the primary responsibility for the supervision of the home-based education programme;
- (b) ensure that the home-based education programme fulfils the curriculum standards set by the Ministry;
- (c) consult with a principal or official on the method of assessment of the student that is consistent with the home-based education programme;
- (d) provide the information requested by the principal or official respecting the programme of education at the beginning of the school year;
- (e) twice during the school year, provide the principal or official with a sampling of assessment that show the progress of the student in the home-based education programme;
- (f) twice during the school year, discuss the progress of the student with the principal or official;
- (g) make all reasonable efforts to implement any changes of the home-based education programme that would improve the progress of the student;
- (h) implement any recommendations that the principal or Chief Education Officer may make respecting the home-based education programme.

16. **Written educational plan.** (1) The intent of a written educational plan is for a home-based educator to demonstrate that there is a positive and constructive approach to the education of the student in the home-based education programme.

- (2) A written educational plan shall be appropriate for the age and ability of the student for whom the programme is intended.
- (3) Every written educational plan shall contain a statement or a description of
  - (a) the reason for and the philosophical approach of the proposed home based education programme;
  - (b) the areas of study and the learning objectives and outcomes for the student in the home-based education programme;
  - (c) the educational activities, instructional methods and learning resource materials that the home-based educator expects to use to achieve the learning objectives; and
  - (d) the means of assessing and recording the educational progress of the student.

(4) Notwithstanding sub-regulation (3), the Chief Education Officer may register a home-based education programme for which the educational plan does not contain a scope and sequence of content to be taught throughout the school year.

(5) A home-based education programme

- (a) is not required or expected to provide learning opportunities to achieve all the goals of education; and
- (b) may be focused on the achievement of a select number of the goals of education.

(6) In the case of a student who is a special needs student, the learning objectives of the registered home-based education programme must take into account the special needs and abilities of that student.

(7) Subject to the requirements of this regulation, a home-based educator shall not be required in his written educational plan-

- (a) to include any concept, topic, or practice that is in conflict with his or her conscientious belief; and
- (b) to exclude any concept, topic, or practice that is consistent with the conscientious beliefs of the parent or home-based educator.

(8) A home-based educator may make curricular and instructional adjustments to a registered home-based education programme during a school year in accordance with the educational needs and progress of the student if the adjustments are consistent with the educational plan.

(9) A home-based educator may make amendments to a written educational plan during a school year, if the amendments are requested in writing and are acceptable to the Chief Education Officer.

**17. Portfolio of work and summative record.** (1) The home-based educator shall, for each student, maintain a portfolio of work that shall contain

- (a) a periodic log that records the educational activities completed by the student on a regular basis;
- (b) samples of writing, worksheets, workbooks and creative materials used or produced by the student; and
- (c) a summative record for the student.

(2) Home-based educators are not required to provide the portfolio of work to the Chief Education Officer except in accordance with these Regulations.

(3) The home-based educator shall, for each student, preserve

- (a) the portfolio of work for at least two years;

- (b) the summative record until the programme is terminated or has come to an end.
- (4) When a registered home-based education programme is terminated the home-based educator shall immediately provide the Chief Education Officer with a copy of the student's summative record for each school year or part of a school year.

18. **Annual progress report.** (1) For the purpose of this regulation "educational assessment" means

- (a) an assessment of the ability of a student to handle, deal with and apply material in which the student has received instruction in accordance with a written educational plan; or
- (b) an assessment of the intellectual development of a student in relation to other students of similar age and ability;

and may include standardized tests provided in accordance with these Regulations.

- (2) A home-based educator shall, annually on a date determined by the home based educator and acceptable to the Chief Education Officer, furnish the Chief Education Officer with an annual progress report for the student in the programme.
- (3) The annual progress for the student shall include one of the following
  - (a) a summative record, the periodic log and sufficient samples of work from the portfolio of work to enable the Chief Education Officer to assess the educational progress report for the student in the programme.
  - (b) the test results of the student who has taken a nationally standardized achievement test administered by a person, other than the home-based educator who
    - (i) qualified in accordance with the educational policy; or
    - (ii) is chosen by the home-based educator and who is acceptable to the Chief Education Officer;
  - (c) educational assessment of the student's educational progress, initiated by the home-based educator and prepared at the expense of the home-based educator by a person other the home-based educator who
    - (i) is qualified in accordance with the educational policy; or
    - (ii) is chosen by the home-based educator and is acceptable to the Chief Education Officer; or
  - (d) educational assessment of the student's educational progress conducted in a manner determined by the home-based educator and acceptable to the Chief Education Officer.

#### **PART IV OPERATION**

19. **General duties of home-based educator.** The home-based educator shall, at all times during the continuance of the home-based education programme:

- (a) comply with the written educational plan;
- (b) provide instruction to the student throughout the course of the school year;
- (c) develop, administer and manage the home-based education programme;
- (d) comply with the Act and these Regulations.

20. **Student progress evaluation** (1) A home-based educator shall

- (a) evaluate the progress of the student at regular intervals, by
  - (i) maintaining a portfolio of the student's work and a general record of the student's activities, and
  - (ii) maintaining a record of the method and times of evaluation of the progress of the student and the level of achievement attained by the student;
- (b) be available for regular review of the achievement of the student with the Chief Education Officer at a time and place mutually agreeable to the Chief Education Officer and the home-based educator; and
- (c) ensure that the student is available in order that the Chief Education Officer may evaluate the progress of the student at a time and place set by the Chief Education Officer.

(2) A home-based educator and the Chief Education Officer shall ensure that the student writes the achievement tests respecting the key stages of assessment at such times designated by the Minister.

(3) Where a student has not achieved acceptable standards in a particular subject after writing a test under sub-regulation (2), the Chief Education Officer shall ensure that the relevant test is reviewed with the home-based educator and recommend remedial measures to improve the achievement of the student.

21. **Supervision and Monitoring.** (1) The Chief Education Officer shall monitor every registered home-based education programme.

(2) The Chief Education Officer may schedule a conference with a home-based educator to review the educational progress of a student.

(3) A student is required to make satisfactory educational progress in relation to the written educational plan, commensurate with his age and ability.

(4) If the Chief Education Officer determines that a student is not making satisfactory educational progress as described in sub-regulation (3), the Chief Education Officer

- (a) must be able to substantiate that that is the case; and

- (b) may schedule an additional conference with the home-based educator to discuss establishing an improvement plan.

(5) A home-based educator shall immediately notify the Chief Education Officer in writing if the home-based educator ceases to provide instruction to a student under a registered home-based education programme.

**22. Improvement plan.** (1) The Chief Education Officer may require an improvement plan for a student who, on a nationally normed standardized test, is not achieving at a level at which the Chief Education Officer would initiate remedial instruction for a student enrolled in a public, assisted or private school.

(2) When the Chief Education Officer determines that the student has not made satisfactory progress in accordance with the written educational plan, commensurate with his age and ability, the Chief Education Officer shall in writing request that modification to the programme be made for the student progress to be achieved.

(3) The Chief Education Officer shall provide opportunity for the home-based educator to work in partnership with him or her and another person determined by the home-based educator for the purpose of designing necessary modifications for the student's progress.

(4) The home-based educator shall provide the Chief Education Officer an improvement plan within thirty days of the receipt of the request referred to in sub-regulation (1).

(5) An improvement plan shall be in effect for a fixed period of time determined by the Chief Education Officer.

(6) When an improvement plan is established for a student, the Chief Education Officer may require

- (a) periodic standardized tests of the student;
- (b) reports of the student's progress at reasonable intervals during the period of time fixed pursuant to sub-regulation (5); and
- (c) additional communication with the home-based educator at reasonable intervals during each school year to review the progress of the student.

(7) If the home-based educator does not agree that an improvement plan is necessary, or if the Chief Education Officer and the home-based educator are unable to agree on an improvement plan, the Chief Education Officer shall within fourteen days of the event as the case may be, in writing notify the home-based educator of his intention to terminate the home-based education programme.

- (8) The written notice referred to in sub-regulation (7) shall contain the

reasons for the intended termination of the programme and information respecting the right of the parent or home-based educator to the dispute resolution process.

(9) The home-based educator may, within fourteen days after receipt of the notice under sub-regulation (7), refer the disagreement to the dispute resolution process by giving written notice to the Chief Education Officer.

23. **Permanent record and registry.** The Chief Education Officer shall maintain a permanent record for each student which includes

- (a) all notifications received pursuant to regulation 5;
- (b) the written educational plan, including any amendments;
- (c) copies of correspondence with the home-based educator with respect to the registration,
- (d) annual progress reports;
- (e) the results of any tests or assessments administered pursuant to these Regulations;
- (f) documents relating to any dispute resolution; and
- (g) documents relating to any appeals to the Tribunal with respect to the programme.

24. **Termination by home-based educator.** (1) Where a home-based educator intends to terminate a registered home-base education programme during any school year, the home-based educator shall -

- (a) notify the Chief Education Officer, in writing, of the decision;
- (b) give the Chief Education Officer at least 14 days notice of the intention to terminate the registered home-based education programme specifying the intended date of termination; and
- (c) consult with the Chief Education Officer with respect to the continuing education of the student.

(2) After receiving a notice pursuant to sub-regulation (1), the Chief Education Officer may terminate the registration of the registered home-based education programme for which the notice was given effective the intended date of termination specified in the notice.

(3) Where a home-based educator terminates a registered home-based Education programme for the student pursuant to this regulation, the home-based educator shall not be entitled to register a home-based education programme for that student until the following school year.

(4) Where the Chief Education Officer terminates a home-based education Programme pursuant to sub-regulation (2), he shall ensure that any affected student has access to education.

25. **Termination by Chief Education Officer.** (1) The Chief Education Officer may terminate the registration of a home-based education programme

- (a) where he or she can substantiate that a home-based educator
  - (i) obtained the registration through providing the Chief Education Officer with false or misleading information;
  - (ii) has violated the Act, these Regulations or any policies established pursuant to the Act; or
  - (iii) has refused to schedule or to attend a conference with an official of the Chief Education Officer who is monitoring the programme;
- (b) where the home-based educator fails to implement an improvement plan authorized pursuant to these Regulations;
- (c) where, following an improvement plan, the Chief Education Officer can substantiate that the student is not making satisfactory educational progress commensurate with his or her age and ability or in relation to the written educational plan; or
- (d) where the Chief Education Officer considers it necessary to terminate the registration in the public interest.

(2) A Chief Education Officer shall not terminate the registration of a home-based education programme, without giving the home-based educator an opportunity to be heard.

(3) Notwithstanding sub-regulation (2) where the Chief Education Officer intends to terminate the registration of a home-based education programme, pursuant to this regulation, without giving the home based educator an opportunity to be heard he or she shall:

- (a) notify the home-based educator, in writing, of the intention to terminate;
- (b) provide the home-based educator with written reasons for the intention to terminate;
- (c) notify the home-based educator of the right of appeal and the powers of the Tribunal.

(4) The home-based educator may, within 14 days after receipt of a notice given under sub-regulation (3) refer the matter to the dispute resolution process by giving written notice thereof to the Chief Education Officer.

(5) If the home-based educator does not refer the matter to the dispute resolution process pursuant to sub-regulation (4) or if the basis for termination is not remedied through dispute resolution, the Chief Education Officer may proceed to terminate the registration of the home-based education programme.

(6) Where the Chief Education Officer terminates the registration of a home-based education programme, it shall notify the home-based educator, in writing, of the termination providing reasons for the termination.

(7) Termination of a registered home-based education programme cannot be referred to the dispute resolution process after the termination is effective.

26. **Approved policies.** (1) The Chief Education Officer may develop policies with respect to services that the Ministry of Education is prepared to make available to students in a registered home-based education programme from among the services provided to the students in a public school, including –

- (a) participation in cultural and athletic activities, youth travel, outdoor education, and similar activities;
- (b) participation in programmes of athletic and amateur sport;
- (c) guidance and counselling services; and
- (d) services for special needs students.

(2) The Board of Management of an assisted private school or private school shall Develop policies with respect to services that the Board of management is prepared to make available to students in a home-based education programme from among the services provided to the students in the school including

- (a) participation in cultural and athletic activities, youth travel, outdoor education, and similar activities;
- (b) participation, in programs of athletic and amateur sport;
- (c) guidance and counseling services; and
- (d) services for special needs students.

(3) Every Board of Management, in the case of assisted private schools and private schools, shall develop policies with respect to how a home-based educator can access, on behalf of his students, the services that the Board of Management is prepared to make available pursuant to this regulation.

27. **Authority to provide services.** A principal of a school may, if requested by a home-based educator, provide courses, textbooks, other learning resource materials and information to a home-based educator.

28. **Standardized tests.** (1) The Chief Education Officer shall provide a standardized test once each school year if it is requested by the home-based educator.

(2) The Chief Education Officer may, at his discretion, provide additional standardized tests for a home-based educator.

(3) The Chief Education Officer may require a student to take standardized tests as part of a remedial instruction plan or a special needs assessment.

(4) A principal or official may require a student to take a standardized test on the admission or re-admission of the student into a school in order to assist with placement in the appropriate grade.

- (5) The standardized test shall be taken at a location that
  - (a) is chosen by the home-based educator and is acceptable to the Chief Education Officer; and
  - (b) meets the standards for the administration of the test.
- (6) the Chief Education Officer shall not administer a particular test if
  - (a) the Chief Education Officer has not previously administered the particular test in public, assisted or private schools to students enrolled in such schools;
  - (b) the Chief Education Officer has not indicated to the home-based educator; prior to the test, the purpose of the testing, including the potential use of the results of the testing;
  - (c) if the population norm of the particular test does not account for the social or cultural background of the student; or
  - (d) if the standardized test conflicts with the conscientious beliefs of the home-based educator as expressed in the written plan, unless the test is taken pursuant to sub-regulation (4), in which case this paragraph does not apply.
- (7) After the testing has occurred, the Chief Education Officer shall provide the home-based educator with the results of the test and an interpretation of the results.

29. **Special needs assessment.** (1) “Special needs assessment” means an assessment and diagnosis that is conducted by an appropriately qualified person for the purpose of determining

- (a) if a student has a disability that prevents ordinary learning;
- (b) the level that a student can be expected to achieve; and
- (c) the pattern of strengths that a student possesses that could be used as a base for appropriate adjustments to the student’s educational programme;

and may include functional assessment, curriculum-based assessment, or standardized assessment using standardized diagnostic instruments.

(2) The Chief Education Officer shall provide or arrange for a special needs assessment for a student where a home-based educator demonstrates to the Chief Education Officer that a special needs assessment of the student is advisable.

- (3) The Chief Education Officer may initiate a special needs assessment
  - (a) of a student as part of an improvement plan; or
  - (b) of a student if the Chief Education Officer reasonably believes that

- (i) the student has a disability that prevents ordinary learning; and
- (ii) the home-based educator is not already taking appropriate measures to provide an educational program appropriate for the age and ability of the student.

(4) The Chief Education Officer shall not initiate and administer a special needs assessment if he or she has not indicated to the home-based educator, prior to the assessment, the purpose of the assessment, including the potential use of the results.

- (5) A special needs assessment shall occur at a location that
  - (a) is chosen by the Chief Education Officer; and
  - (b) meets the standards for the administration of the test.

(6) The parent or home-based educator shall be responsible for any transportation and accommodation costs of a student and escort that may be associated with the special needs assessment.

(7) Once a special needs assessment has occurred, the Chief Education Officer shall provide the home-based educator with the results of the assessment and an interpretation of the results and shall discuss with the home-based educator what instructional adjustments, if any in the opinion of the Chief Education Officer, should be made to the registered home-based education programme.

(8) The home-based educator may, within 14 days after being notified of the decision of the Chief Education Officer to initiate a special needs assessment for a student, refer the matter to the dispute resolution process by giving written notice thereof to the Chief Education Officer.

**30. Fees for home-based education.** The Chief Education Officer may charge such fees to cover expenses incurred in the provision of services under these Regulations.

**31. Dispute resolution process.** (1) The purpose of a dispute resolution process is to review disagreements relating to a home-based education programme in an informal manner between a parent or a home-based educator and an education official.

- (2) Where a disagreement is referred to a dispute resolution process, a committee of three persons shall be established consisting of
  - (a) one member nominated on the advice of the parent or home-based educator;
  - (b) one member nominated on the advice of the Minister; and
  - (c) one member appointed by the Chief Education Officer.

(3) The Ministry shall be responsible for all reasonable costs incurred by the members of the committee that are directly related to the dispute resolution process including the cost of transportation, accommodation, meals and any honoraria as may be determined by the Minister.

- (4) At the conclusion of a dispute resolution process:
  - (a) the members of the committee may make a joint recommendation regarding the issue presented for resolution to the Chief Education Officer; or
  - (b) members may make separate recommendations to the Chief Education Officer regarding the issue presented for resolution.

(5) After receiving and considering the recommendation or recommendations, the Chief Education Officer shall make a decision on the disagreement and shall notify, in writing, the parent or home-based educator of the decision and provide reasons for the decision.

(6) The legal and technical rules of evidence and procedure do not apply to a dispute resolution process.

32. **Appeals.** (1) A decision by an official that is made after proceeding through the dispute resolution process may be appealed to the Tribunal by the parent or home-based educator who referred the disagreement to the dispute resolution process by giving written notice of the appeal to the Tribunal within 14 days after receiving notice of the decision.

(2) Where a decision of the Chief Education Officer or an official adversely affects the education of a student, the parent of the student or home-based educator may within a reasonable time from the date he or she was informed of the decision, appeal that decision to the Tribunal.

(3) The Tribunal may consider an appeal pursuant to sub-regulation (1) during a regular meeting or at a special meeting, or may delegate consideration of the appeal to a committee of the Tribunal.

- (4) In deciding an appeal pursuant to this regulation the Tribunal may:
  - (a) affirm the decision appealed; or
  - (b) substitute its decision for the decision appealed.

(5) The Tribunal shall notify the parent or home-based educator who filed the appeal of its decision and provide the reasons for its decision in writing.

(6) If new arguments are raised or new information is provided during the appeal, the Tribunal may refer the matter to the Chief Education Officer for a review of the matter.

(7) Where a matter is referred for review pursuant to sub-regulation (6), the Chief Education Officer shall review the matter and provide a decision within 14 days of the date on which the matter was referred for review.

(8) A parent or home-based educator may appeal the decision of a person mentioned in sub-regulation (7) to the Tribunal by giving written notice of the appeal to the Tribunal and the Chief Education Officer within 14 days of receiving notice of the decision in writing.

33. **Reports and returns.** (1) The Chief Education Officer shall prepare and provide to the Minister such reports and returns:

- (a) as the Minister may request; and
- (b) that relate to registered home-based education programmes.

(2) The reports and returns mentioned in sub-regulation (1) shall be provided within such time as the Minister may direct.

**SCHEDULE  
FORMS**

FORM 1

(Regulation 5)

**EDUCATION ACT NO. 9 OF 2005**

**Notice of Home-based Education Programme**

1. Name of intended home-based educator who is initiating and who is responsible for directing and providing instruction in the home-based education programme

\_\_\_\_\_

2. Address of parent or home-based educator \_\_\_\_\_

3. Telephone number of the place from which the home-based education programme will be provided

\_\_\_\_\_.

4. Name of student \_\_\_\_\_.

5. Gender of student \_\_\_\_\_.

6. Date of birth of student \_\_\_\_\_.

7. Date of commencement of the home-based education programme

\_\_\_\_\_.

8. The name of the last school or other educational institution in which the student was enrolled (If applicable)

\_\_\_\_\_.

9. Last grade completed by the student at the last school or other educational institution referred to in paragraph 8 \_\_\_\_\_.

**Note:**

Please attach

- (a) the written educational plan for the student in the home-based education programme; and
- (b) the signed declaration of intent set out in Form II

**EDUCATION ACT NO. 9 OF 2005**

**Declaration of Intent of home-based educator**

I hereby declare that I \_\_\_\_\_ home-based educator  
for \_\_\_\_\_ (Name of student) have supplied  
correct information and accept that the control, direction and management of the home-  
based education programme and the education of the student is my responsibility.

\_\_\_\_\_  
Signature of home-based educator

**EDUCATION ACT NO. 9 OF 2005**

**Notice of continuation of home-based education programme**

1. Name of home-based educator who is responsible for directing and providing instruction in the home-based education programme

\_\_\_\_\_

2. Address of home-based educator \_\_\_\_\_

3. Telephone number of the place from which the home-based education programme will be provided

\_\_\_\_\_.

4. Name of student \_\_\_\_\_.

5. Date of recommencement of the home-based education programme

\_\_\_\_\_.

**Note:**

Please attach

- (a) the written educational plan for the student in the home-based education programme; and
- (b) the signed declaration of intent set out in Form II

Made the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Nigel Carty  
Minister for Education