

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2023-57

Rule Number Ed 315

1. Agency Name & Address:
**Board of Education
c/o Department of Education
25 Hall St.
Concord, NH 03301**

2. RSA Authority: **RSA 21-N:9, II(g); RSA 193-A:3**

3. Federal Authority: _____

4. Type of Action:
- Adopt
 - Repeal
 - Readoption
 - Readoption w/amendment

5. Short Title: **Home Education**

6. Contact person for copies and questions:

Name: **Julie Shea** Title: **Administrative Rules Coordinator**

Address: **Department of Education
25 Hall St.
Concord, NH 03301** Phone #: **603-931-9133**

7. The rulemaking notice appeared in the Rulemaking Register on **March 9, 2023**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

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5. Short Title: **Home Education**

6. (a) Summary of what the rule says and of any proposed amendments:

The Board of Education is proposing to readopt with amendment Ed 315, relative to home education, to reflect statutory changes, as follows:

Ed 315.01, regarding the statement of purpose, is being readopted with no changes;
Ed 315.02, regarding definitions, deletes “composite results”, amends “educational progress,” and adds “home education”;
Ed 315.03 and Ed 315.04, regarding eligibility and the program schedule, are being readopted with no changes;
Ed 315.05, regarding notification requirements, amends language to reflect changes in RSA 193-A:5;
Ed 315.06, regarding the notification of termination of a home education program, removes “the commissioner” to reflect changes in RSA 193-A:5, III;
Ed 315.07, regarding records, is being readopted with no changes;
Ed 315.08, regarding annual evaluations, is being amended with editorial changes;
Ed 315.09, regarding the Home Education Advisory Council (HEAC), is being amended to reflect the addition of paragraph (b), previously found in Ed 315.11;
Ed 315.10, regarding membership and term of appointment for the HEAC, is being readopted with no changes;
Ed 315.11, regarding the records of the Advisory Council, was deleted, and re-added as (b) in Ed 315.09;
The existing Ed 315.12, regarding funding and support of HEAC activities, is being readopted and renumbered as Ed 315.11;
The existing Ed 315.13, regarding the grievance committee, is being readopted and renumbered as Ed 315.12;
The existing Ed 315.14, regarding request for grievance conference, is being readopted and renumbered as Ed 315.13;
The existing Ed 315.15, regarding grievance conference, is being readopted and renumbered as Ed 315.14; and
The existing Ed 315.16, regarding certificate of completion, is being readopted and renumbered as Ed 315.15.

6. (b) Brief description of the groups affected:

Parents and guardians of students enrolled in home education, school districts, participating agencies, as defined in Ed 315.02(e), and the Home Education Advisory Council.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State or Federal Statute or Federal Regulation Implemented
Ed 315.01	RSA 193:1, I(e)
Ed 315.02	RSA 193-A:1; RSA 193-A:3
Ed 315.03	RSA 193:1, I(b)
Ed 315.04	RSA 193-A:1, I; RSA193-A:3; RSA 193-A:4, I
Ed 315.05	RSA 193-A:5
Ed 315.06	RSA 193-A:5
Ed 315.07	RSA 193-A:6
Ed 315.08	RSA 193-A:6
Ed 315.09, Ed 315.10, Ed 315.11 (formerly Ed 315.12) and Ed 315.12 (formerly Ed 315.13)	RSA 193-A:10
Ed 315.13 and Ed 315.14 (formerly Ed 315.14 and Ed 315.15)	RSA 193-A:10, 11
Ed 315.15 (formerly Ed 315.16)	RSA 193:1, I(f)(2)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Julie Shea** Title: **Administrative Rules Coordinator**
 Address: **Department of Education** Phone #: **(603) 931-9133**
25 Hall St. Fax#:
Concord, NH 03301 E-mail: **Julie.R.Shea@doe.nh.gov**
 TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, April 20, 2023**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, April 13, 2023, 11:30 am**
 Place: **Granite State College Events, Center, 25 Hall St., Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 23:055, dated 2/24/2023

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**
There is no difference in costs when comparing the proposed rules to the existing rules.
2. **Cite the Federal mandate. Identify the impact on state funds:**
No federal mandate, no impact on state funds.
3. **Cost and benefits of the proposed rule(s):**
 - A. **To State general or State special funds:**
None
 - B. **To State citizens and political subdivisions:**
None
 - C. **To independently owned businesses:**
None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

This proposal does not mandate any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivisions, and therefore does not violate Part I, Article 28-a of the New Hampshire Constitution.

Readopt with amendments Ed 315, effective 1-15-21 (Document #13158), to read as follows:

PART Ed 315 HOME EDUCATION

Ed 315.01 Statement of Purpose. The purpose of Ed 315 is to provide a process for uniform application of the requirements of RSA 193-A. 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. In addition to the words defined in RSA 193-A:1, the following words shall have the meanings indicated when used in Ed 315:

(a) “Certificate of completion” means a document signed by the parent of a home educated child certifying that the child has achieved the equivalent of a high school diploma by completing a home education program;

(b) “Commissioner” means the commissioner of the New Hampshire department of education;

(c) “Department” means the New Hampshire department of education;

(d) “Educational progress” means growth in learning commensurate with age, ability, or disability within the child’s individual home education program chosen by the parent;

(e) “Participating agency” means the resident district superintendent, the commissioner, or a participating nonpublic school principal;

(f) “Teacher” means a person who holds a teaching credential issued by the New Hampshire state board of education, is licensed in a state which is a party to the interstate contract, or is currently teaching in a nonpublic school.

(g) “Home education” means instruction in science, mathematics, language, government, history, health, reading, writing, spelling, the history of the constitutions of New Hampshire and the United States, and an exposure to and appreciation of art and music as provided, coordinated, or directed by a parent for his or her own child.

Ed 315.03 Eligibility and Program Schedule.

(a) A parent shall be eligible under these rules to establish a home education program for a child, including those defined under RSA 186-C:2, I, and I-a.

(b) Pursuant to RSA 193:1, I(b), 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. The academic term of a home education program shall not be required to coincide with the resident district academic year.

Ed 315.04 Participating Agencies: Duties and Authority.

(a) A parent shall select, as a participating agency for home education program notification and support, one of the following:

- (1) The commissioner;
- (2) The resident district superintendent; or
- (3) The head of a nonpublic school.

(b) A parent may select a new participating agency at any time. If a parent selects a new participating agency the parent shall notify the new participating agency in accordance with Ed 315.05 and Ed 315.06.

(c) Pursuant to RSA 193-A:4, II, the selected participating agency shall work with parents upon request in meeting the requirements of RSA 193-A:4, I.

(d) A participating nonpublic school shall agree to administer the provisions of RSA 193-A and Ed 315, shall not be required to be in the resident district, and may require a fee for any request for assistance by the parent.

(e) No fee shall be required when a test utilized in the resident district is administered to the student by the resident district.

(f) A resident district acting as the participating agency may charge fees for any mutually agreed upon alternative used to satisfy the requirements of RSA 193-A or Ed 315, including, but not limited to, portfolio review.

(g) Pursuant to RSA 193-A:11, the commissioner or resident district acting as the participating agency shall not propose, adopt, or enforce any policy or procedure governing home educated pupils that is inconsistent with or more restrictive than the provisions of RSA 193-A, RSA 193:1-c, or the rules of Ed 315.

(h) On October 1 of each year, the participating agency shall notify the commissioner of the number of children for whom programs were established since the previous report.

Ed 315.05 Notification Requirements.

(a) A parent shall provide notification of a home education program pursuant to RSA 193-A:5 to comply with the compulsory attendance requirements of RSA 193:1.

(b) The parent of a student currently enrolled in a public school 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.

(c) A parent shall notify the selected participating agency in writing within 5 business days of commencing a home education program. Only the information enumerated in RSA 193-A:5, II shall be required in the notice. The parent shall provide contact information and update the notification information as necessary.

(d) Any parent who previously notified the resident district superintendent of a home education program who moves from said district shall notify the original resident district superintendent that the child has moved from the district and shall provide notification pursuant to (c) above.

(e) Within 14 days of receipt of the notification, a participating agency shall acknowledge receipt of the notification in accordance with the contact information provided by the parent, along with a request for any information required by RSA 193-A:5, II that was not included in the original notice.

Ed 315.06 Notification – Termination of a Home Education Program. A home education program shall remain in effect unless terminated in writing by the parent. A parent wishing to terminate a home education program shall notify the participating agency in writing within 15 days of termination while also satisfying any one of the alternatives for compulsory attendance listed in RSA 193:1.

Ed 315.07 Records.

(a) In accordance with RSA 193-A:6, the parent shall keep a portfolio each year the child is being home educated.

(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.

Ed 315.08 Annual Evaluation.

(a) The parent shall provide for an annual evaluation for a child that meets the requirements of the options enumerated in RSA 193-A:6, II.

(b) The resident district superintendent, when acting as the participating agency, shall provide evaluation services, upon request of the parent. If the resident district superintendent is not acting as the participating agency, the resident district superintendent may provide evaluation services.

(c) A parent intending to use the state or local assessment provided by the resident district shall notify the resident district superintendent in writing as soon as practicable to provide the district adequate time to prepare and obtain the testing materials.

(d) If a parent chooses to have a portfolio review as the method of evaluation pursuant to RSA 193-A:6, II(a), the parent may choose a teacher who agrees to perform evaluation services, or 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.

(e) The contents of the portfolio shall comply with the requirements of RSA 193-A:6, I and 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;
- (4) A summary of the child's educational progress in the home education program concluding with a statement that the child has or has not made educational progress; and
- (5) The signatures of the teacher and the parent.

(f) The parent may choose any other valid measurement tool mutually agreed upon by the parent and the participating agency as provided for in RSA 193-A:6, II(d), including but not limited to:

- (1) Interview;
- (2) Educational progress in a particular curriculum as measured by the parent;
- (3) Educational progress in a particular curriculum as measured by the provider;
- (4) Review of the child’s portfolio by a participating agency;
- (5) Evaluation by a teacher in a program recognized by any state department of education; or
- (6) Specially prepared tests or evaluations measuring educational progress in a particular subject or curriculum.

Ed 315.09 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) The home education advisory council shall comply with RSA 91-A. Minutes of home education advisory council meetings shall be maintained by the department.

(c) 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 315.10 Membership Selection For the Home Education Advisory Council and Term of Appointment.

(a) Membership selection for the home education advisory council shall be as specified in RSA 193-A:10, I. Council chair selection shall be as specified in RSA 193-A:10, III.

(b) Members appointed by the commissioner shall have a term of 3 years, and such terms shall end on August 31 of the year in which the term is completed. Legislative members shall serve a term which is coterminous with their elected office and will be non-voting members of the council.

(c) The conduct of business shall not depend on the maintenance of full council membership.

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

Ed 315.11 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 315.12 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. 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 days of the commissioner's referral.

Ed 315.13 Request for Grievance Conference. Any party to a home education program may request a grievance conference as follows:

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

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

(c) The commissioner shall notify the requestor within 5 business days in writing that the commissioner has scheduled a grievance conference in accordance with Ed 314.14 or that the commissioner requires additional information to clarify the issues;

(d) The requestor shall have 10 calendar days from receipt of the commissioner's request for additional information to respond with the requested information; and

(e) The commissioner shall, upon receipt of the requested information, forward the request to the chairperson of the home education advisory council who shall schedule a grievance conference in accordance with Ed 314.15(b).

Ed 315.14 Grievance Conference.

(a) Upon receipt of a request concerning an action taken under these rules, 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 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 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.
- (f) The grievance committee shall present its findings on unresolved grievances or report on the proposed settlement reached by the parties to the commissioner within 10 calendar days of the conference.
- (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.
- (h) The findings shall list the pertinent facts found by the committee.
- (i) If the parties do not reach a settlement prior to, or during, the grievance conference, the commissioner after reviewing the unresolved grievances shall notify the parties of the commissioner's decision within 10 calendar days of receipt of the committee's findings.
- (j) A party aggrieved by the decision of the commissioner may appeal by requesting an administrative due process hearing in accordance with Ed 200.

Ed 315.15 Certificate of Completion.

(a) Pursuant to RSA 193:1, I(f)(2), when the parent of a child under the age of 18 submits a document to the department certifying that the child has completed the home education program at the high school level, the student shall be determined to have met the requirements for successful completion of a home education program.

(b) The document 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 can be reached during normal business hours; and
- (5) Signature of the parent.

Edit. Isn't this supposed to be 315.15? Section 13 is about the request for a grievance conference.

(c) A document that meets all the requirements of Ed 315.13 (a) and (b) shall be conclusive evidence of completion of the parent's duty of compulsory attendance, as set forth in RSA 193:1.

(d) Documentation of receipt shall serve as proof of delivery of such certification.

Appendix I

Rule	State or Federal Statute or Federal Regulation Implemented
Ed 315.01	RSA 193:1, I(e)
Ed 315.02	RSA 193-A:1; RSA 193-A:3
Ed 315.03	RSA 193:1, I(b)
Ed 315.04	RSA 193-A:1, I; RSA193-A:3; RSA 193-A:4, I
Ed 315.05	RSA 193-A:5
Ed 315.06	RSA 193-A:5
Ed 315.07	RSA 193-A:6
Ed 315.08	RSA 193-A:6
Ed 315.09-Ed 315.12	RSA 193-A:10
Ed 315.13-Ed 315.14	RSA 193-A:10, 11
Ed 315.15	RSA 193:1, I(f)(2)