

HAWAII ADMINISTRATIVE RULES

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 2 EDUCATION

PART 1 PUBLIC SCHOOLS

CHAPTER 12

COMPULSORY ATTENDANCE EXCEPTIONS

§8-12-1 Purpose. The department has a legitimate interest in and the responsibility for the appropriate education of all school age children in the State of Hawaii. It is the purpose of this chapter to implement the compulsory attendance exceptions of §302A-1132, Hawaii Revised Statutes. Implementing the compulsory attendance law is not intended to violate the rights and convictions of parents to home school or otherwise except their child from compulsory attendance. Finally, home schooling is not considered a school initiated educational alternative and is not to be used by a school as a means for releasing students with behavior or disciplinary problems or students lacking credits to graduate from the local public school. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-2 Definitions. As used in this chapter:

"Alternative educational program" means an educational program, in a non-school setting other than home schooling, which addresses the standards identified in the Hawaii Content and Performance Standards.

"Department" means the department of education.

"Employment" means suitable, lawful full-time employment of a minimum of forty hours per week.

"Home schooling" means a viable educational option where a parent instructs the parent's own child.

"Local public school" means the school the child would be enrolled in if the child was not excepted from compulsory school attendance.

"Parent" means the natural or legal parent, guardian or other legal custodian of child.

"School age child" means a child who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years on or before December 31 of any school year.

"Tutoring" means an alternative educational program where an individual other than the parent instructs a child. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-3 Applicability. The provisions of this chapter apply to all school age children residing in the State of Hawaii. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1112, 302A-1132)

§8-12-4 Conditions for exceptions. School age children may be excepted from compulsory school attendance in the following cases:

- (1) Where a child is physically or mentally unable to attend school, except for deafness and blindness, of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where any child who has reached the fifteenth anniversary of birth is suitably and lawfully employed;
- (3) Where a family court judge has approved withdrawal from school;
- (4) Where the superintendent of education or designee has approved an appropriate, alternative educational program, other than home schooling; and
- (5) Where the parent of a school age child has provided notification of intent to homeschool the child. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-5 Procedures for exceptions due to disabilities. (a) A parent whose child is physically or mentally unable to attend school, deafness and blindness excepted, shall complete and submit Form 4140, Exceptions to Compulsory Education, to the local public school.

(b) A parent whose child is physically or mentally unable to attend school, deafness and blindness excepted, shall also submit sufficient evidence of the identified disabilities to the local public school. A certificate from a duly licensed physician shall be sufficient evidence.

(c) The district superintendent may approve withdrawal from school for exceptions due to identified disabilities.

(d) Requests for exceptions due to identified disabilities shall be renewed annually. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-6 Procedures for exceptions due to employment. (a) A parent whose child has reached the fifteenth anniversary of birth and is suitably and lawfully employed shall complete and submit Form 4140, Exceptions to Compulsory Education, to the local public school for the principal's recommendation as to whether the exception should be granted. The form shall then be submitted to the district superintendent for approval.

(b) A family court judge may also approve an exception due to employment.

(c) The student to be exempted from attendance shall be employed full-time for a minimum of forty hours per week.

(d) The student's employer shall notify the school within three days if employment is terminated. The student shall return to the school unless the student provides the principal with verification of new employment. (e) Requests for exception due to employment shall be renewed annually. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-7 Procedures for exceptions due to family court order. (a) Approval for exceptions due to family court order shall be authorized by a family court judge.

(b) The approval of the family court judge shall be obtained on Form 4140, Exceptions to Compulsory Education, and submitted to the local public school.

(c) Requests for an exception due to family court order shall be reviewed and renewed annually. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-8 Procedures for exceptions for alternative educational programs, other than home schooling.

(a) The parent of a child requesting a compulsory attendance exception for an alternative educational program other than home schooling shall complete and submit Form 4140, Exceptions to Compulsory Education, to the local public school.

(b) For purposes of this chapter, enrollment in a private school's home study school program shall not be construed as equivalent to attendance at a private school.

(c) The parent requesting an exception under this section shall submit to the local public school principal a planned curriculum for the child along with the Form 4140. The curriculum shall be structured and based on educational objectives as well as the needs of the child, be cumulative and sequential, provide a range of up-to-date knowledge and needed skills, and take into account the interests, needs and abilities of the child. The submittal shall include the following:

(1) The commencement date and ending date of the program;

(2) The number of hours per week the child will spend in instruction which shall average approximately three hours per school day;

(3) The subject areas to be covered in the planned curriculum:

(A) An elementary school curriculum may include the areas of language arts, mathematics, social studies, science, art, music, health and physical education to be offered at the appropriate development stage of the child.

(B) A secondary school curriculum may include the subject areas of social studies, English, mathematics, science, health, physical education and guidance.

(4) The method used to determine mastery of materials and subjects in the curriculum; and

(5) A list of textbooks or other instructional materials which will be used. The list shall be in standard bibliographical format. For books, the author, title, publisher and date of publication shall be indicated. For magazines the author, article title, magazine, date, volume number and pages shall be indicated.

(d) The superintendent or the superintendent's designee may approve withdrawal from school where an appropriate educational program other than home schooling is developed for the child in accordance with the plans and policies of the department.

(e) A request for an exception for an alternative educational program other than home schooling shall be renewed annually.

(f) Further exceptions to the provisions of this chapter concerning a child's alternative educational program may be granted by the superintendent upon the written request of the parent and the recommendations of the principal and the district superintendent. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-9 Testing and progress reports of children excepted for alternative educational programs, other than home schooling.

(a) Test scores are required for grades identified in the Statewide Testing Program. A child is eligible and required to participate in the Statewide Testing Program at the local public school. Parents shall be responsible for securing necessary details from the principal of the school. The parents may elect to arrange for private testing at their own expense. The tests used shall be comparable to the appropriate criterion or norm-referenced tests used by the department in the grades concerned. The parents shall inform the school principal if private testing will be used for purposes of this chapter.

(b) A narrative progress report and report card from the professional staff or tutor of a child's alternative educational program shall be submitted by the family to the local public school principal at the end of each school year. More frequent progress reports may be requested by the principal.

(c) The narrative report shall include statements of progress in each of the subject areas as well as development in social awareness and understanding of self, understanding of the problems of the society and the culture, and independence in learning. Copies of tests or assignments, if available, shall be attached to the narrative report. Grades for courses shall be submitted. The principal shall judge the adequacy of progress of a child. If progress is not satisfactory, the principal shall meet with the parent to discuss the problems and establish a plan for improvement.

(d) If progress is not satisfactory, the principal may recommend to the district superintendent that the exception be rescinded.

(e) The parent shall notify the principal if the alternative educational program is terminated. The child shall be re-enrolled in the local public school or licensed private school unless satisfactory evidence of a new alternative educational program is presented within five school days after the termination of the former alternative educational program.

(f) At the discretion of the principal of the school, a child may be tested for placement when entering or reentering public school. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-10 Instructional personnel of alternative educational programs, other than home schooling.

(a) Instructional personnel in the alternative educational program shall be qualified to provide appropriate education to the child served.

(b) Professional staff members or tutors, or both, providing instruction shall be persons who have at a minimum earned a bachelor's degree from an accredited

college or university. Satisfactory evidence of the qualifications shall be presented to the local school principal at the time Form 4140 is submitted. This evidence shall include the following:

- (1) Names, addresses, and telephone numbers of instructional personnel;
- (2) Place of employment, other than the alternative educational program, if any; and
- (3) Official transcripts verifying educational background.

(c) Nonprofessional staff, for example, teacher assistants, in the alternative educational program may assist the professional staff but shall not have the full responsibility of instructing the child. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-11 High school diploma, alternative education programs, other than home schooling.

(a) A child in an alternative educational program other than home schooling who wants a high school diploma shall comply with the requirements outlined in Department of Education Regulation No. 4540.2, High School Graduation Through the Adult Schools.

(b) The diploma shall be awarded by the community school for adults. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-12 College entrance examination, alternative education. A child in an alternative educational program may participate in any college entrance examination which is made available to all other students. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-13 Notification of intent to home school. (a) The parent shall provide the local public school principal with a notice of intent to home educate the child before initiating home schooling. The purpose of notification is to allow the department, upon request of the parent, to assist in the educational efforts. The notice of intent may be submitted on a department developed form (Form 4140) or in a letter containing the following items:

- (1) Name, address, and telephone number of the child;
- (2) Birthdate and grade level of the child; and
- (3) Signature of the parent.

(b) The notice of intent shall be acknowledged by the principal and the district superintendent. The notice of intent is for record keeping purposes and to protect families from unfounded accusations of educational neglect or truancy.

(c) If a child's annual progress report has been submitted as stated in §8-12-18(b), notification of intent to home school need not be resubmitted annually, except in cases where the child is transferring from one local public school to another, for example, transition from sixth grade to an intermediate school. Then the parents shall notify the principal of the child's new local public school.

(d) The parent(s) submitting a notice to home school a child shall be responsible for the child's total educational program including athletics and other co-curricular activities. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-14 Required statutory services. All educational and related services statutorily mandated shall be made available at the home public school site to home-schooled children who have been evaluated and certified as needing educational and related services and who request the services. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-15 Record of curriculum. The parent submitting a notice of intent to home school shall keep a record of the planned curriculum for the child. The curriculum shall be structured and based on educational objectives as well as the needs of the child, be cumulative and sequential, provide a range of up-to-date knowledge and needed skills, and take into account the interests, needs and abilities of the child. The record of the planned curriculum should include the following:

- (1) The commencement date and ending date of the program;
- (2) A record of the number of hours per week the child spends in instruction;
- (3) The subject areas to be covered in the planned curriculum:
 - (A) An elementary school curriculum may include the areas of language arts, mathematics, social studies, science, art, music, health and physical education to be offered at the appropriate development stage of the child;
 - (B) A secondary school curriculum may include the subject areas of social studies, English, mathematics, science, health, physical education and guidance.

(4) The method used to determine mastery of materials and subjects in the curriculum; and

(5) A list of textbooks or other instructional materials which will be used. The list shall be in standard bibliographical format. For books, the author, title, publisher and date of publication shall be indicated. For magazines, the author, article title, magazine, date, volume number and pages shall be indicated. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-16 Notification of termination of home schooling. The parent shall notify the principal if home schooling is terminated. A child shall be re-enrolled in the local public school or licensed private school unless a new alternative educational program is presented within five school days after the termination of home schooling. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-17 Educational neglect. If there is reasonable cause for the principal to believe that there is educational neglect, the department in compliance with §302A-1132, Hawaii Revised Statutes, shall intervene and take appropriate action in accordance with established departmental procedures. Reasonable cause for educational neglect shall not be based on the refusal of parents to comply with any requests which exceed the requirements of this chapter. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-18 Testing and progress reports of home-schooled children. (a) Test scores shall be required for grades identified in the Statewide Testing Program, grades three, five, eight, and ten. A child is eligible to participate in the Statewide Testing Program at the local public school. The parent is responsible for securing necessary details from the principal of the local public school. The parent may elect to arrange for private testing at the parent's own expense. The tests used shall be comparable to the appropriate criterion or norm-referenced tests used by the department in the grades concerned. The parent may request and the principal may approve other means of evaluation to meet the Statewide Testing Program requirements.

(b) The parent shall submit to the principal an annual report of a child's progress. One of the following methods shall be used to demonstrate satisfactory progress:

(1) A score on a nationally-normed standardized achievement test which demonstrates grade level achievement appropriate to a child's age;

(2) Progress on a nationally-normed standardized achievement test that is equivalent to one grade level per calendar year, even if the overall achievement falls short of grade level standards;

(3) A written evaluation by a person certified to teach in the State of Hawaii that a child demonstrates appropriate grade level achievement or significant annual advancement commensurate with a child's abilities; or

(4) A written evaluation by the parent which shall include:

(A) A description of the child's progress in each subject area included in the child's curriculum;

(B) Representative samples of the child's work; and

(C) Representative tests and assignments including grades for courses if grades are given.

(c) When tests are administered under the Statewide Testing Program for grades three, five, eight, and ten, the parent may choose to have the child participate in the school's testing program and have the results serve as a means of assessing annual progress for that year.

(d) The principal shall review the adequacy of a child's progress. If progress is not adequate, the principal shall meet with the parent to discuss the problems and help establish a plan for improvement. In this case, the principal may request and the parents shall share their record of the child's planned curriculum. When standardized test scores are used, adequate progress shall be considered to be score/stanines in the upper two thirds of the score/stanines. Unless progress is inadequate for two consecutive semesters, based on a child's scores on a norm-referenced test for that grade level or the written evaluation by a person certified to teach in the State of Hawaii, recommendations to enroll the child in a public or private school or to take legal action for educational neglect shall be prohibited. No recommendations shall be made for a child before the third grade. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-19 Instructional personnel of home-schooled children. A parent teaching the parent's child at home shall be deemed a qualified instructor. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-20 Credits. No course credits (Carnegie units) are granted for time spent being home-schooled. [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-21 High school diploma for home-schooled children. (a) A home-schooled child who wants to earn a high school diploma from the local public high school shall attend high school for a minimum of three full years and meet the credit requirements for graduation. Satisfactory performance on the Hawaii State Test of Essential Competencies (HSTEC) is also required.

(b) A home-schooled child who wants to earn a high school diploma from the community school for adults shall meet the following requirements:

- (1) Be at least sixteen years of age, except in the case of emancipated minors;
- (2) Have been home-schooled for at least one semester under Hawaii's home-schooling procedures; and
- (3) Take and achieve a satisfactory score on the General Educational Development (GED) test.

The diploma shall be awarded by the community school for adults. [Eff. 11/7/91; am and comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)

§8-12-22 College entrance examination and home-schooled children. A child who is being home schooled may participate in any college entrance examination which is made available to all other students. The principal of the local public high school shall, upon request, supply written acknowledgement that a child has been home schooled in compliance with the requirements of this chapter." [Eff. 11/7/91; comp 5/13/00] (Auth: HRS §§302A-1112, 302A-1132) (Imp: HRS §302A-1132)