



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

PRESIDENT OF THE UNIVERSITY AND
COMMISSIONER OF EDUCATION

SEP 05 2000

August 31, 2000

The Honorable John R. Kuhl, Jr.
State Senator
18 Buell Street
P.O. Box 153
Bath, NY 14810

Dear Senator Kuhl:

This is in response to your letter of June 22, 2000 in which you ask me to address your proposed amendments to existing home instruction regulations (8 NYCRR §100.10). Specifically, you recommend the following changes:

1. Eliminating quarterly reports;
2. Eliminating certain home schooling notice requirements;
3. Eliminating the requirement to provide curriculum;
4. Permitting alternative forms of evaluation at every grade level;
5. Eliminating the requirement to submit annual evaluation results; and
6. Eliminating the requirement that the local superintendent consent to the person conducting the annual evaluation.

New York State has a compelling interest in assuring that all children in the State receive an education to prepare them to be productive members of society. As you know, State law currently requires all children ages 6 to 16 to attend full-time instruction at a public school or elsewhere (this would be extended to age 17 on July 1, 2001 if S.8071 is signed into law). If the instruction is given other than at a public school, it must be "substantially equivalent" to the instruction given to children of similar age attending the public schools of the district where the child resides.

The primary responsibility for ensuring compliance with the compulsory education law rests with local boards of education and their superintendents of schools. Prior to the adoption of §100.10 of the Regulations of the Commissioner in 1988, individual superintendents of schools had the

responsibility of determining whether home instruction was substantially equivalent to instruction in the public schools, but there were no uniform, statewide procedures for making such determinations. The inevitable result was inconsistency in the treatment of home instruction from district to district, with inadequate monitoring of home instruction in some school districts and home schooling parent complaints of overzealous regulation and unfair treatment. The issue was brought to the attention of the Regents and the result was the adoption of §100.10, a regulation intended to establish uniform procedures for determining the substantial equivalence of home instruction that enables local school officials and parents of home schooled children to fulfill their responsibilities under the compulsory attendance law. Department staff who participated in the development of §100.10 have advised me that the Regents' overarching concern at the time was that the procedures established by the regulation enable local school officials to ensure that parents are held accountable for the home instruction they provide, through the development and approval of an individualized home instruction plan (IHIP), regular reporting requirements and annual assessments, and so that local schools would be able to intervene if in fact a home schooled student was not receiving any instruction or was not receiving instruction that met State standards.

The specific regulations you've identified as in need of revision involve key elements of the accountability system established by §100.10. I believe fundamental changes in this system should only be undertaken after careful study, with input from all affected constituencies, and in the context of implementing higher learning standards for all students.

The proposal to allow the use of an alternative evaluation by parents of home schoolers in grades 4 through 8 each year is contrary to the direction of Regents policy in assuring accountability in the public schools. Public school students who fail to perform adequately on the 4th and 8th grade tests must now be provided academic intervention services to address their deficiencies so that they will be able to meet State standards for high school graduation. I would not be able to justify allowing their counterparts receiving home instruction to be exempted from standardized testing altogether until they reach grade 9. Similarly, if home schooling parents are not required to submit to the superintendent annual assessment results or quarterly reports describing the hours of instruction provided, the material covered and the student's progress, a superintendent of schools could not assure accountability and intervene, where necessary, to protect the interests of the child. Because students attending public schools are typically graded on a quarterly basis, it does not appear unreasonable to require quarterly progress reports by parents of home schooled students. If the IHIP does not include a list of the syllabi, curriculum materials, textbooks or plan of instruction, the superintendent of schools cannot verify that the parent will in fact be providing appropriate instruction in all required subjects. I could not support changes that could result in lowering standards for home schooled students as compared to students attending the public schools.

Other specific changes that are suggested in your letter relate to provisions intended for the benefit of local school officials, and should not be eliminated without considering the impact on the public schools. For example, the requirement that parents provide, prior to July 1 of each year, an initial notice of intent to instruct at home is intended to ensure that superintendents know in advance that the student will be home instructed and that they will be receiving an IHIP, which they must

review before September. The requirements that the superintendent consent to the location and the evaluator are intended to ensure the validity of the annual assessments. These consent requirements provide a reasonable alternative to requiring that the assessment be conducted by the public school and help the superintendent to ensure that the assessment is conducted by a person qualified to administer it.

The input we have received, from both the field and our advisory group, has not indicated to us that these regulations are causing difficulties, even though they were put in place 12 years ago.

Please contact me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard P. Mills". The signature is written in a cursive style with a large, sweeping initial "R".

Richard P. Mills