

NEW YORK SCHOOLS NO LONGER AUTHORIZED TO PROVIDE SPECIAL EDUCATION SERVICES TO HOMESCHOOLED STUDENTS

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The landscape of New York's special education law has been reshaped once again.

In January 2008, the New York State Education Department (SED) issued a memorandum that drastically changed the rules governing the provision of special education services to homeschooled students. Under the Education Law, homeschooled students are taught by a private instructor (usually a parent or guardian) pursuant to an Individualized Home Instruction Plan (IHIP).

Previously, it was well accepted in New York that a homeschooled student with a disability, as defined under the Individuals With Disabilities Education Act (IDEA), was entitled to special education services. SED's memorandum has reversed that rule, informing school districts that they are not authorized to provide special education services to homeschooled students.

SED explained, however, that school districts still have some obligations to homeschooled students with disabilities. In accordance with its child find obligations, the Committee on Special Education (CSE) still must locate and evaluate—if a parent or guardian consents to such an evaluation—all homeschooled students with disabilities. The CSE must then develop an appropriate Individualized Education Plan (IEP) for those students, which shall be offered if any such student is enrolled in public school. Consistent with this new rule, school districts should arrange for the CSE to reconvene to determine if any amendments should be made to the IEPs of all homeschooled students with disabilities.

Since the school district is no longer responsible for the provision of special education services to homeschooled students, SED has advised that parents of homeschooled students should be notified of their need to review and revise, as deemed necessary, their child's IHIP to appropriately address any special education needs. The amended IHIP must then be reviewed and approved by the school district superintendent.

Attorneys

Ryan Everhart

Practices & Industries

Education

Special Education