

The Home-based Education Program Regulations, 2015

being

[Chapter E-0.2 Reg 23](#) (effective October 19, 2015) as amended by an [Errata Notice](#) published in the Gazette on December 24, 2015).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER E-0.2 REG 23

The Education Act, 1995

PART I

Preliminary Matters

Title

1 These regulations may be cited as *The Home-based Education Program Regulations, 2015*.

Interpretation

2 In these regulations:

“**Act**” means *The Education Act, 1995*; (« *Loi* »)

“**curriculum-based assessment**” means an assessment that:

(a) measures a pupil’s progress in the curriculum being studied by the pupil; and

(b) is appropriate for the pupil’s age and ability; (« *évaluation en fonction du programme d’études* »)

“**dispute resolution process**” means the dispute resolution process set out in section 21; (« *mode de règlement des différends* »)

“**home-based educator**” means the parent or parents of a pupil who provide and direct a registered home-based education program for the pupil; (« *éducateur à domicile* »)

“**home-based learner**” means a pupil who is receiving instruction in a registered home-based education program; (« *apprenant à domicile* »)

“**home-based learner assessment**” means an assessment of a home-based learner:

(a) in accordance with sections 178 and 178.1 of the Act;

(b) pursuant to a curriculum-based assessment; or

(c) based on a standardized test; (« *évaluation d’apprenant à domicile* »)

“**improvement plan**” means a supplementary written education plan that is intended to correct a home-based learner’s deficiencies in achieving satisfactory educational progress in a registered home-based education program; (« *plan de redressement* »)

“**ministry**” means the ministry over which the minister presides; (« *ministère* »)

“**parent**” includes a guardian; (« *parent* »)

“registering authority” means a board of education, the conseil scolaire or the minister, as the case may be, with whom, pursuant to these regulations:

- (a) a home-based education program is registered; or
- (b) a proposed home-based education program is sought to be registered; (« *autorité inscriptrice* »)

“standardized test” means a normed achievement, aptitude or intelligence test that includes both general and diagnostic tests and that is administered in accordance with the policies established by the minister; (« *test standardisé* »)

“written education plan” means a written plan that outlines the home-based education program for a home-based learner and that provides a framework for progressing through the plan. (« *plan éducatif écrit* »)

28 Aug 2015 cE-0.2 Reg 23 s2; Errata Notice 24 Dec 2015.

PART II

Registration of Home-Based Education Programs

DIVISION 1

Board of Education or Conseil Scolaire as Registering Authority

Policies and procedures

3 Subject to these regulations and consistent with the policies established by the minister, every board of education and the conseil scolaire shall establish policies and procedures for:

- (a) the registration of home-based education programs;
- (b) the renewal of the registration of home-based education programs;
- (c) the monitoring of registered home-based education programs;
- (d) the cancellation of the registration of home-based education programs; and
- (e) the provision of services for home-based learners.

28 Aug 2015 cE-0.2 Reg 23 s3.

Notice of intent to register

4(1) A parent who wishes to become a home-based educator shall give notice of his or her intention to register a proposed home-based education program to, as the case requires:

- (a) the board of education of the school division in which the pupil who is to be the home-based learner in the proposed home-based education program is entitled to attend school in accordance with the Act; or
- (b) the conseil scolaire.

- (2) The notice mentioned in subsection (1) shall be made in accordance with:
- (a) any policies established by the minister; and
 - (b) any policies and procedures established by the board of education or conseil scolaire, as the case may be.
- (3) At the time notice is given pursuant to subsection (1), the parent shall give the registering authority a written education plan that is consistent with the policies established by the minister.

28 Aug 2015 cE-0.2 Reg 23 s4.

Registration

5 A board of education or the conseil scolaire, as the registering authority, shall register a home-based education program if it determines that the notice of intent mentioned in section 4 is in compliance with the Act, these regulations and the policies mentioned in that section.

28 Aug 2015 cE-0.2 Reg 23 s5.

Services for home-based learners

6(1) Every board of education and the conseil scolaire shall make the following services available to every home-based learner registered with it:

- (a) home-based learner assessments;
- (b) education and training in the operation of motor vehicles pursuant to section 189 of the Act.

(2) Every board of education and the conseil scolaire shall develop policies with respect to those services that the board of education or conseil scolaire is prepared to make available to home-based learners, including:

- (a) participation in cultural and athletic activities, youth travel, outdoor education and similar activities pursuant to section 179 of the Act;
- (b) participation in programs of athletic and amateur sport pursuant to section 188 of the Act;
- (c) guidance and counselling services pursuant to section 191 of the Act;
- (d) services for pupils with intensive needs pursuant to section 178 of the Act; and
- (e) enrolment in distance-education opportunities.

28 Aug 2015 cE-0.2 Reg 23 s6.

Reports and returns by board of education or conseil scolaire

7(1) Every board of education and the conseil scolaire shall prepare and provide to the minister any reports and returns that the minister may request relating to home-based educators and home-based education programs registered with the board of education or conseil scolaire.

(2) The reports and returns mentioned in subsection (1) shall be provided in the form and within the time determined by the minister.

28 Aug 2015 cE-0.2 Reg 23 s7.

Delegation of powers and responsibilities of registering authorities

8(1) In this section, “**official**” means an individual:

- (a) who is employed by a board of education or the conseil scolaire; and
- (b) who is not engaged as a teacher, vice-principal or principal in a school.

(2) No board of education nor the conseil scolaire shall delegate to any official any powers granted to or responsibilities imposed on the board of education or the conseil scolaire pursuant to these regulations unless the official holds a valid teacher’s certificate.

(3) The exercise of the powers or the fulfilment of the responsibilities by the official to whom the powers or responsibilities are delegated in accordance with subsection (2) is deemed to be the exercise of those powers or the fulfilment of those responsibilities by the board of education or the conseil scolaire, as the case may be.

28 Aug 2015 cE-0.2 Reg 23 s8.

DIVISION 2
All Registering Authorities

Access to program information

9 On the request of any person, a board of education, the conseil scolaire or the ministry, as the case may be, shall provide the person with a copy of the following, free of charge:

- (a) any policy or procedure that it has established with respect to home-based education;
- (b) any additional program information that it has with respect to home-based education.

28 Aug 2015 cE-0.2 Reg 23 s9.

Duration of registration

10 Subject to sections 14 and 19, the registration of a home-based education program pursuant to section 5 or 22 is valid until the end of the school year for which the registration is granted.

28 Aug 2015 cE-0.2 Reg 23 s10.

Permanent records to be kept by registering authority

11(1) Every registering authority shall maintain a permanent record for each home-based learner registered with it.

(2) The permanent record mentioned in subsection (1) shall include:

- (a) all notices of intent received pursuant to section 4 or 22 with respect to the home-based learner;
- (b) the written education plan, including any amendments, received for each school year;

- (c) correspondence with the home-based educator with respect to the registration, monitoring and renewal of the registered home-based education program;
- (d) annual progress reports;
- (e) the results of any tests or home-based learner assessments administered pursuant to these regulations; and
- (f) documents relating to any difference or conflict that is dealt with in accordance with the dispute resolution process.

28 Aug 2015 cE-0.2 Reg 23 s11.

Compliance and monitoring

12(1) Every registering authority shall monitor all registered home-based education programs registered with it:

- (a) to assess compliance with the Act, these regulations and the policies and procedures mentioned in subclauses 15(a)(ii) and (iii); and
- (b) to assess the progress of the home-based learner in relation to:
 - (i) the written education plan; and
 - (ii) the home-based learner's age and ability.

(2) If the registering authority determines that a home-based educator is not in compliance with the Act, these regulations or the policies and procedures mentioned in subclauses 15(a)(ii) and (iii), the registering authority shall contact the home-based educator to discuss the steps to be taken by the home-based educator to ensure compliance.

(3) If the registering authority determines that a home-based learner is not making satisfactory educational progress in relation to the written education plan, the registering authority shall:

- (a) provide evidence to the home-based educator of the lack of satisfactory progress; and
- (b) contact the home-based educator to discuss establishing an improvement plan.

28 Aug 2015 cE-0.2 Reg 23 s12.

Improvement plan

13(1) If the registering authority provides evidence that a home-based learner has not made satisfactory progress in relation to the written education plan and the home-based learner's age and ability, the registering authority shall notify the home-based educator, in writing, that it requires changes in the home-based learner's registered home-based education program.

(2) Subject to subsection (3), within 30 days after the date on which the home-based educator receives the written notice mentioned in subsection (1), the home-based educator shall provide the registering authority with an improvement plan that meets the requirements set out in the policies established by the minister.

(3) By giving written notice to the other party, the home-based educator or the registering authority may refer any of the following differences or conflicts to the dispute resolution process:

- (a) if the home-based educator does not agree that an improvement plan is necessary;
- (b) if the home-based educator and the registering authority are unable to agree on an improvement plan.

28 Aug 2015 cE-0.2 Reg 23 s13.

Cancellation of registered home-based education program

14(1) A registering authority may cancel the registration of a home-based education program in accordance with this section if the registering authority can substantiate all or any of the following:

- (a) that the home-based educator obtained the registration of the home-based education program through false or misleading information;
- (b) that the home-based educator is not complying with the Act, these regulations or the policies and procedures mentioned in subclauses 15(a)(ii) and (iii);
- (c) that the home-based educator failed to create and implement an improvement plan when required to do so pursuant to section 13;
- (d) that the home-based learner is not making satisfactory progress in relation to:
 - (i) the written education plan or improvement plan; or
 - (ii) the home-based learner's age and ability.

(2) If a registering authority intends to cancel the registration of a home-based education program, the registering authority shall immediately:

- (a) notify the home-based educator, in writing, of:
 - (i) the registering authority's intention to cancel the registration; and
 - (ii) the reasons for the intended cancellation; and
- (b) meet with the home-based educator to attempt to resolve any difference or conflict.

(3) If a board of education or the conseil scolaire, as the registering authority, and the home-based educator fail to resolve the difference or conflict, the board of education or conseil scolaire shall give the home-based educator written notice of:

- (a) the procedures established by the board of education or conseil scolaire, as the case may be, pursuant to section 148 of the Act for resolving the difference or conflict; and
- (b) the home-based educator's right to refer the difference or conflict to the dispute resolution process.

- (4) If the home-based educator decides not to use the procedures mentioned in clause (3)(a) or is dissatisfied with the decision resulting from using those procedures, the home-based educator may apply to refer the difference or conflict to the minister pursuant to subsection 21(2).
- (5) A home-based educator shall apply to refer a difference or conflict to the dispute resolution process within 30 days after the later of:
- (a) the date on which the home-based educator received the written notice mentioned in subsection (3); and
 - (b) the date of a decision using the procedures established pursuant to section 148 of the Act.
- (6) If the home-based educator does not apply to refer the difference or conflict to the dispute resolution process within the period mentioned in subsection (5) or if the basis for the cancellation is not remedied through the dispute resolution process, the board of education or conseil scolaire, as the registering authority, may cancel the registration of the home-based education program.
- (7) If a registering authority cancels the registration of a home-based education program in accordance with this section, it shall give the home-based educator, within 15 days after the cancellation:
- (a) written notice of the cancellation; and
 - (b) written reasons for the cancellation.
- (8) The cancellation of a home-based education program pursuant to subsection (7) is not referable to the dispute resolution process.

28 Aug 2015 cE-0.2 Reg 23 s14.

PART III

Responsibilities of Home-Based Educators

Responsibilities of home-based educators

15 A home-based educator:

- (a) shall comply with:
 - (i) the Act and these regulations;
 - (ii) any policies established by the minister; and
 - (iii) if the home-based education program is registered with a board of education or the conseil scolaire, the policies and procedures established by the board of education or conseil scolaire; and
- (b) is responsible for the education of the home-based learner in accordance with the written education plan or improvement plan, as the case may be.

28 Aug 2015 cE-0.2 Reg 23 s15.

E-0.2 REG 23 HOME-BASED EDUCATION PROGRAM, 2015**Portfolio of work**

16 For each home-based learner, the home-based educator shall:

- (a) maintain a portfolio of work that contains the information required by the minister pursuant to the policies established by the minister; and
- (b) preserve the portfolio of work for at least two calendar years after the end of the calendar year in which the work was created.

28 Aug 2015 cE-0.2 Reg 23 s16.

Annual progress report

17 Every home-based educator shall submit to the appropriate registering authority, in the form and within the period required by the minister, an annual progress report with respect to the home-based learner in the registered home-based education program.

28 Aug 2015 cE-0.2 Reg 23 s17.

Language of instruction

18(1) Subject to subsection (2), the language of instruction in a registered home-based education program must be English or French.

(2) With the approval of the registering authority, a home-based educator may use a language other than English or French as a language of instruction to a maximum of 50% of the instructional time.

(3) If the language of instruction is other than English, the home-based educator shall provide instruction in English language arts, commencing not later than the date on which the home-based learner turns eight years of age.

28 Aug 2015 cE-0.2 Reg 23 s18.

Termination of program by home-based educator

19(1) If a home-based educator wishes to terminate a registered home-based education program during the year in which it is registered, the home-based educator shall notify the registering authority, in writing, in accordance with the policies established by the minister.

(2) On receipt of a notice pursuant to subsection (1), the registering authority shall cancel the registration of the home-based education program, effective on the date of termination specified in the notice.

(3) If the registration of a home-based education program is terminated at the request of a home-based educator pursuant to this section, the home-based educator is not entitled to register a home-based education program for that pupil until the school year following the school year in which the registered home-based education program is terminated.

28 Aug 2015 cE-0.2 Reg 23 s19.

PART IV
Dispute Resolution Process

Interpretation of Part

20 In this Part, “**home-based educator**” includes, as the case requires, the parent or parents of a pupil who are seeking to register a home-based education program for the pupil.

28 Aug 2015 cE-0.2 Reg 23 s20.

Dispute resolution process

21(1) If a difference or conflict arises between a home-based educator and a board of education or the conseil scolaire with respect to a registered home-based education program or the registering of a home-based education program, the home-based educator is entitled to use the procedures established by the board of education or conseil scolaire in accordance with section 148 of the Act for the purposes of investigation and mediation of the difference or conflict.

(2) If the difference or conflict mentioned in subsection (1) arises from an action or decision of the board of education or conseil scolaire concerning any of the matters mentioned in subsection (3), the home-based educator may apply to the minister for a review of the action or decision:

(a) if the home-based educator has decided not to use the procedures for resolving a difference or conflict that the board of education or conseil scolaire has established pursuant to section 148 of the Act; or

(b) if the home-based educator is dissatisfied with any action or decision made following the procedures established pursuant to section 148 of the Act.

(3) An application may be made to the minister pursuant to subsection (2) with respect to an action or decision of the board of education or conseil scolaire concerning any of the following matters:

(a) the development or content of a written education plan pursuant to subsection 4(3);

(b) the monitoring of the registered home-based education program by the registering authority pursuant to section 12;

(c) the development or content of an improvement plan pursuant to section 13;

(d) subject to subsection 14(5), the intention to cancel a registered home-based education program pursuant to section 14;

(e) any home-based learner assessment undertaken or to be undertaken by the registering authority with respect to the home-based learner.

(4) An application pursuant to subsection (2) must be received by the minister within 30 days after the date of the written notice of the registering authority respecting the action or decision that has given rise to the difference or conflict.

(5) On receipt of an application pursuant to subsection (2), the minister may appoint a person:

- (a) to review the difference or conflict; and
- (b) to provide recommendations to the registering authority and the home-based educator to resolve the difference or conflict.

28 Aug 2015 cE-0.2 Reg 23 s21.

Minister as registering authority

22(1) If a board of education or the conseil scolaire, as the registering authority, complies with the recommendations provided pursuant to clause 21(5)(b), the home-based educator shall not apply to the minister to register the home-based education program.

(2) If a board of education or the conseil scolaire, as the registering authority, fails to comply with the recommendations provided pursuant to clause 21(5)(b), the home-based educator may give the minister notice of his or her intention to register the home-based education program with the minister.

(3) At the time notice is given pursuant to subsection (2), the home-based educator shall give the minister a written education plan that is consistent with the policies established by the minister.

(4) On receipt of a notice of intent pursuant to subsection (2), the minister shall:

- (a) register the home-based education program if the minister is satisfied that the home-based educator has complied with the Act, these regulations and the policies established by the minister respecting the registration of the home-based education program; or
- (b) deny registration of the home-based education program if the minister is satisfied that the home-based educator has failed to comply with the Act, these regulations or the policies established by the minister respecting the registration of the home-based education program.

(5) If, pursuant to clause (4)(b), the minister denies registration of a home-based education program, the minister shall notify the home-based educator, in writing, of the minister's decision to deny registration, with reasons.

28 Aug 2015 cE-0.2 Reg 23 s22.

PART V Prohibition

Prohibition

23(1) Subject to subsections (2) and (3), no person purporting to provide a pupil of compulsory school age with an exemption from attendance at a school pursuant to clause 157(1)(c) of the Act shall operate a home-based education program unless it is a registered home-based education program.

(2) If, in accordance with section 4 or 22, a person provides a notice of intent to the proper registering authority to register a proposed home-based education program, the person is not liable to prosecution for a contravention of subsection (1) for the period between:

- (a) the date on which the notice of intent is given pursuant to section 4 or 22, as the case may be; and
- (b) the date on which the person is advised that the registration:
 - (i) has been granted; or
 - (ii) has been denied, and no further review or appeal of that decision may be taken.

(3) If, in accordance with section 14, a registering authority notifies a home-based educator of the registering authority's intention to cancel the registration of a home-based education program, the home-based educator is not liable to prosecution for a contravention of subsection (1) while he or she is, in an attempt to resolve the difference or conflict, using:

- (a) the procedures established by the board of education or conseil scolaire, as the case may be, pursuant to section 148 of the Act; or
- (b) the dispute resolution process.

28 Aug 2015 cE-0.2 Reg 23 s23.

PART VI

Repeal, Transitional and Coming into Force

R.R.S. c.E-0.2 Reg 22 repealed

24 *The Home-based Education Program Regulations, 2013* are repealed.

28 Aug 2015 cE-0.2 Reg 23 s24.

Transitional

25 The registration of any home-based education program continued or registered pursuant to *The Home-based Education Program Regulations, 2013* is continued pursuant to these regulations and is to be dealt with as if the home-based education program had been registered pursuant to these regulations.

28 Aug 2015 cE-0.2 Reg 23 s25.

Coming into force

26(1) Subject to subsection (2), these regulations come into force on the day on which section 3 of *The Education Amendment Act, 2015* comes into force.

(2) If these regulations are filed with the Registrar of Regulations after the day on which section 3 of *The Education Amendment Act, 2015* comes into force, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

28 Aug 2015 cE-0.2 Reg 23 s2.

