

WRITTEN TESTIMONY IN OPPOSITION

House Bill 1268 - "Home Education Freedom Act"

House Committee on Education Policy and Administration

New Hampshire General Court | 2026 Legislative Session

Submitted by: Michael Seale

Town: Rochester, NH

Position: **OPPOSE**

Date: 02/20/2026

My name is Michael Seale, and I am a resident of Rochester, New Hampshire. I am writing to ask this committee to vote HB 1268 Inexpedient to Legislate.

I want to be clear about what I am not arguing. I am not arguing that homeschooling families are doing anything wrong. The vast majority of parents who choose to educate their children at home are doing it thoughtfully and well. The current oversight requirements, a one-time notification, an annual progress check, a portfolio kept in the family's own home, are not burdensome to those families.

This proposed bill goes far beyond expanding parental freedom. It eliminates mechanisms the state has to verify that any child is being educated, and in doing so, it puts New Hampshire in direct conflict with federal requirements and places federal education funding at risk. This in turn leaves children with disabilities, the most vulnerable kids in this population and others, without protection, and routine checks.

What This Bill Actually Does

Reading the bill carefully, three things change:

Notification becomes optional. Right now, parents must notify their district superintendent within five business days of starting a home education program. Under HB 1268, notification is only required in three narrow situations: if the parent wants access to public school programs or activities, if they want to use the state assessment, or if they are formally withdrawing from public school. A parent who wants none of those things never has to tell anyone their child exists in the homeschool population.

Annual evaluations become optional. The bill converts every "shall" in the evaluation section to "may." Today, parents are required to document their child's educational progress each year. After this bill, that is entirely up to them.

The termination notice is gone. Current law requires parents to notify the district within 15 days of ending a home education program. This bill deletes that requirement entirely. A child could go from a home education program to nothing at all, and no one in any official capacity would be required to know.

Again — for the families doing this right, none of those requirements were ever a real obstacle. Removing them does not make their lives meaningfully easier. It only removes the safeguards that exist for the cases where things are not going right.

This Bill Conflicts with Federal Law

The most serious problem with HB 1268 is what it does to New Hampshire's obligations under the federal Individuals with Disabilities Education Act — IDEA.

IDEA is not a suggestion. It is a federal law tied to funding. In exchange for receiving federal special education dollars, a proportional share of the \$14.6 billion was appropriated nationally in FY2024, New Hampshire must comply with IDEA's requirements without exception. One of those requirements is called Child Find.

Child Find, under 20 U.S.C. § 1412(a)(3), requires every state and every school district to have systems in place to identify, locate, and evaluate children with disabilities, regardless of whether those children attend public school. The New Hampshire Department of Education states this plainly on its own website:

"Child Find is part of the Federal Individuals with Disabilities Act. This is a law with the intent to serve the education needs of kids with disabilities. Each state and its public schools must have policies and procedures for finding these children who may have special education needs. This applies to home educated children, as well." - NH Department of Education, Home Education

That is not optional language. That is the state's own acknowledgment of a binding federal obligation.

HB 1268 makes it structurally impossible for districts to meet that obligation. If parents are not required to notify anyone that they are homeschooling, districts have no way of knowing which children in their community are being home educated. They cannot identify, locate, and evaluate children they have no reason to know exist. Child Find does not work if the children are invisible to begin with.

This matters especially because the bill explicitly covers children defined under RSA 186-C:2, New Hampshire's own definition of educationally disabled children. New Hampshire's own administrative rule, Ed 315.03(a), confirms this: it states that a parent may establish a home education program for a child "including those defined under RSA 186-C:2, I, and I-a." The state has written disabled children into the home education rules. The bill brings those children into its scope while simultaneously stripping away the notification requirement that would allow districts to find them. That is a direct conflict with federal law, not a gray area.

Beyond Child Find, IDEA also requires districts to set aside federal funds to provide equitable services to parentally-placed students with disabilities, including homeschoolers. The U.S. Department of Education confirmed this directly in OSEP QA 22-01 (February 2022), its official guidance document on serving children placed by parents in private schools, which explicitly states it covers "home-schooled children with disabilities as determined by State law." Districts can only fulfill that obligation if they know the children are there. HB 1268 ensures a large portion of them will not be known.

Federal Funding Is at Stake and Current Funding Is Already Stretched Thin

Under 20 U.S.C. § 1416, if the U.S. Department of Education determines that a state is not meeting its IDEA obligations, it can withhold federal IDEA funds, require repayment of funds already distributed, and impose corrective action plans. The Department has done this before to states with systemic Child Find failures.

It is worth understanding how precarious that funding already is before this bill adds any risk to it. The federal government proposed roughly \$14.3 billion for IDEA Part B grants in 2025, a figure that sounds substantial until you consider that federal dollars cover less than 12 percent of the actual cost of special education nationally. When Congress passed IDEA in 1975, it promised to cover up to 40

percent of those costs. It has never come close. That gap, the difference between what the federal government promised and what it actually pays, has fallen on local school districts for decades, and local property taxpayers have been making up the difference ever since.

New Hampshire school districts are already absorbing that shortfall every year. Any reduction in the federal share, whether through non-compliance penalties, funding restructuring, or withholding, does not disappear. It lands upon districts, and from there it lands upon towns. In a state where local property taxes are already the primary driver of school funding, that is not a manageable risk to take on voluntarily.

Passing a bill that creates a known, structural gap in Child Find compliance is not expanding freedom. It is adding risk to a funding stream that is already underfunded, already contested at the federal level, and already shouldered in large part by the people in this room's own communities.

Compulsory Education Becomes Unenforceable

RSA 193:1 requires every child in New Hampshire between the ages of 6 and 18 to receive an education. Home education under RSA 193-A is one way to satisfy that requirement. The current notification and evaluation requirements are how the state verifies that requirement is being met.

Under this bill, a parent could begin homeschooling, never tell anyone, never document any learning, and end the program without notice, and no one would be required to follow up. The compulsory education law would remain on the books, but there would be no mechanism to enforce it for this population. That is not a policy balance. That is a policy gap.

A Few Points Worth Addressing

Waiving FAPE rights does not eliminate the Child Find obligation. Supporters of this bill may argue that because parents who choose homeschooling are waiving their child's right to a free appropriate public education, IDEA simply does not apply. That is a partial truth that leads to a wrong conclusion. Child Find is not contingent on whether a family wants services. The obligation to identify and locate children with disabilities applies regardless. The district still required to know the child is there and HB 1268 removes the mechanism that makes that knowledge possible.

The current requirements are not government overreach. This bill is framed as a matter of trusting parents and getting government out of the way. Reasonable people can disagree about where that line should be drawn, but the existing requirements are nowhere near it. Filing a one-time notification is not an intrusion into family life. Keeping a portfolio of your child's own work at home, in your own possession, is not surveillance. The families this bill is supposedly protecting are already doing these things because they care about their children's education. Removing these requirements does not make their lives meaningfully better. It only removes the floor that exists for situations where the minimum is not being met.

Other states having less oversight is not a defense. The fact that some states operate with fewer oversight requirements does not make weaker requirements appropriate or defensible for New Hampshire. IDEA's Child Find obligation applies in every state regardless of how they structure their homeschool laws. What differs is whether states have built systems capable of meeting that obligation. HB 1268 does not propose an alternative system, it only removes the existing one.

This Legislature Has Seen These Arguments Before

HB 1268 does not arrive in isolation. Last session, this body passed HB 699, now RSA 186-C:2, effective September 5, 2025, which replaced several state special education definitions with direct deferrals to federal IDEA regulations. Over 3,268 people opposed it. It passed anyway. The result is that New Hampshire's special education framework is now more tethered to federal law than it was a year ago. HB 1268 would strip the oversight mechanisms that make compliance with those same federal standards enforceable for home-educated children. You cannot defer to federal definitions while removing the infrastructure that makes meeting federal Child Find obligations possible. HB 699 increased the state's exposure to federal compliance risk. HB 1268 compounds it.

The funding risk is not theoretical. In 2024, HB 1298 and SB 374 proposed waiving certification requirements for part-time teachers. OSEP warned directly that doing so would put approximately \$57 million in federal IDEA funding at risk, and the bills were blocked on those grounds. HB 1268 works the same way: when a state action makes it structurally impossible to meet an IDEA requirement, whether teacher qualifications or Child Find, federal funding consequences follow. This committee has already applied that reasoning once.

Finally, in 2018, HB 1650 addressed educational neglect in home education settings. DCYF testified that neglect cases were increasing but that limited visibility into the home education population made investigation difficult. The committee killed the bill rather than add oversight. That history cuts against HB 1268: if the bar for adding new protections has consistently been set too high, the bar for removing existing ones should be higher still.

What I Am Asking

I am asking this committee to vote this bill Inexpedient to Legislate.

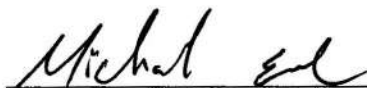
If there are legitimate concerns about the current oversight requirements being too burdensome or too intrusive for some families, I think those concerns deserve serious conversations. There may be ways to streamline notification, offer more flexibility in how evaluations are conducted, or otherwise address real problems that real families are experiencing. I would support that kind of targeted reform.

What I cannot support is a bill that removes every protection for children who cannot advocate for themselves, including children with disabilities who are entitled to federal protections that this bill would make impossible for the state to deliver.

The kids this bill would leave without any oversight are not the children of receiving engaged, attentive homeschooling. This bill affects the kids that are the ones nobody is watching out for, which is exactly the kids the law is intended to protect.

This written testimony is submitted for the public record.

Respectfully,



Michael Seale

References

- Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.
- Child Find: 20 U.S.C. § 1412(a)(3)
- Free Appropriate Public Education (FAPE): 20 U.S.C. § 1412(a)(1)
- Equitable services, parentally-placed students: 20 U.S.C. § 1412(a)(10)
- IDEA enforcement / funding: 20 U.S.C. § 1416
- IDEA implementing regulations: 34 C.F.R. § 300 et seq.
- RSA 193-A: Home Education (current NH law)
- RSA 193:1: Compulsory attendance
- RSA 186-C:2(I), (I-a): Educationally disabled children
- NH Administrative Rule Ed 315: Home Education
- NH Administrative Rule Ed 315.03(a): Eligibility for home education, including children defined under RSA 186-C:2(I)
- U.S. Dept. of Education, OSEP QA 22-01 (Feb. 2022): Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools (including home-schooled children)