

INSTRUCTION IN THE HOME VS. HOMEBOUND INSTRUCTION

Over the years, we have received numerous questions concerning the legal distinction between instruction in the home and homebound instruction. Most often, confusion arises in the context of placing a special education student on in-home instruction, uncertain of whether such amounts to instruction in the home or homebound instruction.

While the legalities of both types of in-home services have remained virtually unchanged for years, the Pennsylvania Special Education Regulations, adopted June of 2001, removed the provisions related to instruction in the home. Instruction in the home is now governed by federal regulations and an October 2001 Basic Education Circular (BEC) issued by the Department of Education.

Under the federal regulations and the BEC, instruction in the home is recognized as a placement option on the continuum of alternative placements for students with disabilities, and requires the issuance of a Notice of Recommended Educational Placement (NOREP). The use of instruction in the home is limited to those students whose needs require a full-time special education placement and specially designed instruction outside of the school setting for the entire day. Typically, these will be students who, because of a severe medical condition, are unable to leave the home, although there are situations where instruction in the home may be used as a short-term option while the IEP team is locating an appropriate program.

When a student is placed by his Individualized Education Program (IEP) team on instruction in the home, the student is still entitled to an appropriate program. The IEP team, therefore, must specifically consider the amount of in-home instruction the student requires, unless the student will continue to receive the same amount of instruction that his or her non-disabled peers receive.

In contrast, homebound instruction is not a special education placement, but rather a temporary excusal from compulsory attendance laws. The statutory authority for homebound instruction is found in Section 1329 of the Public School Code, and it applies to students confined to home or a hospital for physical disability, illness or injury, or when such confinement is recommended for psychological or psychiatric reasons. Homebound instruction can be provided only after receipt of a written recommendation from a physician or psychiatrist. As the School Code is silent on the procedures for implementing homebound instruction, including the amount of hours of instruction to be provided, each school district should have a policy that addresses these issues.

While homebound instruction is not a special education placement, there are occasions when a special education student may receive a temporary excuse from compulsory attendance through homebound instruction in the same manner as their non-disabled peers. However, the IEP team does not place the student on homebound instruction and does not issue a NOREP for homebound instruction. Rather, a school district should place a special education student on homebound instruction following the same procedures used for non-disabled peers.

If the medical condition that precipitated the temporary excusal from attendance and placement on homebound instruction for a special education student results in a change in the student's need for specially designed instruction, the school district may need to reevaluate the student and determine whether his or her placement should be changed to instruction in the home. Likewise, if the condition resulting in the placement of a non-disabled student on homebound is indicative of a need for specially designed instruction, the school district may need to evaluate the student to determine his or her eligibility for special education and related services.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.