

ISBE Resolves State Compliance Complaint, Finding Fault with CPS's Home Hospital Program

Responding to a State Compliance Complaint filed by Equip for Equality, Legal Aid Chicago, and Legal Council for Health Justice (“the complainants”) challenging Chicago Public Schools’ (CPS) administration of its home/hospital instruction program, the Illinois State Board of Education (ISBE) issued a decision letter clarifying and significantly strengthening the requirements of home/hospital services. (Systemic Complaint Home Hospital Instruction Case Number 2021-CO-0054, March 30, 2021.)

The complainants alleged that CPS’s policies and procedures (pre-Covid) denied a free appropriate public education to students needing special education services in the home setting due to a medical condition by:

- (1) requiring approval from a manager of home/hospital instruction placements (effectively taking this decision away from the students’ IEP teams);
- (2) failing to provide direct related services to students receiving home/hospital instruction;
- (3) limiting specialized instruction to a maximum of five (5) hours per week;
- (4) failing to offer make-up home services for services that could not be provided due to student illness or teacher absences; and
- (5) limiting home services to the period after regular school hours and before 7:00pm without considering students’ needs and ability to participate at that time.

ISBE ruled in favor of the complainants on the first four of these issues.

ISBE found that CPS’s home and hospital instruction program (HHIP) inappropriately vested decision making authority about students’ eligibility for homebound services (and the services they should receive) in a manager – and that this practice violated the IDEA and the Illinois Administrative Code provisions mandating that the students’ IEP team make this decision. (23 IAC 226.300(c)).

Further agreeing with the complainants, ISBE determined that CPS’s provision of direct related services in the district’s HHIP program was, “at best, minimal” and that this violated the Illinois Administrative Code requirement that the amount of related services “shall be determined in relation to the child’s educational needs and physical and mental health needs.” (23 IAC 226.300(c)(1)). In reaching its conclusion, ISBE rejected CPS’s position that the purpose of related services was to support a student’s access to instruction only within the school setting.

ISBE's investigation also led it to find that CPS had a common practice of limiting the hours of specialized instruction to homebound students to five hours per week. This 5-hour cap ran afoul of the Illinois Administrative Code which states that the amount of instructional time "...shall be determined in relation to the child's educational needs and physical and mental health needs." (23 IAC 226.300 (c)(1)).

Additionally, when homebound services were missed because, for example, students were too ill, or teachers were unavailable, CPS did not provide consistently for make-up services. This, ISBE concluded, violated the Illinois Administrative Code term requiring districts to collaborate with parents to provide services in the home setting that are missed (as long as medically advisable). (23 IAC 226.300(c)(2)).

On the complainants' final point which related to the timeframe during which homebound services were provided by CPS, ISBE largely sided with CPS. ISBE decided that CPS's practice of restricting homebound instruction to after-school hours did not violate special education requirements. However, ISBE advised CPS to clarify that this limitation on hours need not apply when instruction is being given by special education teachers who do not have teaching or other duties during school hours.

ISBE directed CPS to take corrective action to remedy all the above violations. It further required that CPS provide training and corrected written information to special education administrators, school homebound coordinators, and school nurses on these matters, as well as distribute new guidance documents and internal forms reflecting the needed modifications.

In sum, ISBE issued a pointed rebuke of CPS's home/hospital instruction program and the language in its compliance letter may well substantiate challenges to other districts' programs that operate in a similarly flawed fashion.