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14 A BILL

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17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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21 To require every LEA to adopt and implement a home or hospital instruction program that  
22 provides academic instruction and support to students who have been or will be absent  
23 from their school of enrollment for 10 or more consecutive or cumulative school days due  
24 to a physical condition or a psychological condition; require OSSE to administer the  
25 appeals process; require OSSE to promulgate regulations.

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27 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
28 act may be cited as the “Students’ Right to Home or Hospital Instruction Act of 2019”.

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30 Sec. 2. Definitions.

31 (a) For the purpose of this act, the term:

32 (1) “Home or hospital instruction” means a program that provides instruction and  
33 support to students who have been or will be absent from their school of enrollment 10 or more  
34 consecutive or cumulative school days due to a physical or psychological condition.

35 (2) “LEA” means a local education agency.

36 (3) “Medical certification of need” means a diagnosis with an explanation of how  
37 a physical condition or a psychological condition has caused or would cause the student to be  
38 absent from their school of enrollment 10 or more consecutive or cumulative school days that is

39 certified by a licensed physician, licensed nurse practitioner, licensed clinical psychologist, or  
40 physician's assistant.

41 (4) "Medical recertification of need" means documentation verifying the  
42 continued need for home or hospital instruction.

43 (5) "OSSE" means the Office of the State Superintendent of Education.

44 (6) "Physical condition" means a condition that is a serious or terminal illness,  
45 comprises the student's immune system, requires surgery, or postpartum recovery.

46 (7) "Psychological condition" means a condition that affects a student's mood,  
47 thinking, or behavior.

48 Sec. 3. Home or hospital instruction program.

49 (a) Beginning in school year 2020-2021, every LEA shall adopt and implement a home or  
50 hospital instruction program that provides academic instruction and support to students who have  
51 been or will be absent from their school of enrollment for 10 or more consecutive or cumulative  
52 school days due to a physical condition or a psychological condition.

53 (b) Every LEA shall designate at least one employee to manage the LEA's home or  
54 hospital instruction program.

55 Sec. 4. Eligibility determination.

56 (a) A parent or guardian of a student may apply to an LEA for home or hospital  
57 instruction orally or in writing. The LEA shall document any request from a parent or guardian  
58 within 2 school days of receipt.

59 (b) A student shall be eligible for home or hospital instruction if they have appropriately  
60 submitted to the LEA a medical certification of need.

61 (c) For students who are eligible for special education or related services, the IEP team  
62 must revise the IEP as appropriate and in alignment with all local and federal law.

63 (d) To ensure timely eligibility finding, the LEA shall complete the home or hospital  
64 eligibility determination within 2 school days of receipt of the medical certification of need.

65 (1) An LEA shall provide a written explanation as to why a request for home or  
66 hospital instruction was approved or denied within 2 school days of the decision.

67 Sec. 5. Continuation or termination of home or hospital instruction services.

68 A student's home or hospital instruction shall be discontinued once it is no longer needed  
69 as outlined in the medical certification of need, unless a parent or guardian appropriately  
70 completes and submits a medical recertification of need to the LEA.

71 Sec. 6. Appeals process.

72 (a) OSSE shall administer the appeals process for a denial of eligibility determination.

73 (b) A parent or guardian has a right to appeal the decision made by the LEA. The appeals  
74 process is as follows:

75 (1) A parent or guardian shall submit a written request for an appeal to OSSE. As  
76 part of their written request the parent or guardian may request an opportunity to be heard in-  
77 person by the appeals panel.

78 (2) The appeal shall be reviewed by a three-member panel within OSSE.

79 (3) The appeals panel shall issue a written response to the parent or guardian  
80 within 15 schools days of receipt of the appeal.

81 (i) The decision of the appeals panel shall be final.

82 Sec. 7. Delivery of home or hospital instruction .

83 (a) An LEA shall begin delivering instruction and support within 5 schools days of an  
84 eligibility determination.

85 (b) An LEA shall develop a home or hospital instruction program that:

86 (1) Guarantees a minimum number of teacher-delivered instructional hours in an  
87 alternative setting;

88 (2) Provides content in line with what is being delivered in the student's  
89 classroom to the best of its ability; and

90 (3) Delivers instruction by virtual means only when necessary.

91 (c) In accordance with subsection (a) of this section, each LEA may:

92 (1) Directly provide instructional services to a student;

93 (2) Contract with private providers to deliver instructional services;

94 (3) Contract with other LEAs to provide instructional services; or

95 (4) Combine any of the delivery options described in paragraphs (1) through (3)  
96 of this section.

97 Sec. 8. Attendance.

98 Each LEA shall maintain a student receiving home or hospital instruction on the regular  
99 school attendance roll and count the student as present, except when a student is not available for  
100 the scheduled instructional service, in which event the student is counted absent.

101 Sec. 9. Healthcare institutions.

102 (a) A healthcare institution that admits a student that should be receiving instruction and  
103 support in accordance with this act shall not impede a student's instruction provided that nothing  
104 in this section requires the healthcare institution to violate a federal law.

105 (b) Each healthcare institution in subsection (a) shall establish a point of contact to  
106 coordinate home or hospital instruction with the LEA.

107 Sec. 10. Transparency and accountability.

108 (a) Every LEA shall publish their home or hospital instruction program online in a reader  
109 friendly format for parents and guardians.

110 (b) Every LEA shall report on an annual basis to OSSE eligibility determinations, any  
111 reason for refusal, type of instruction, and service delivery.

112 (c) Once a parent or guardian of a student applies to an LEA for home or hospital  
113 instruction, the LEA shall require the home or hospital designee to provide the parent or guardian  
114 with a notice of their rights as they pertain to the Individuals with Disabilities Education Act,  
115 section 504 of the Rehabilitation Act of 1973, and home or hospital instruction policy.

116 Sec. 11. Rulemaking Authority.

117 Within 120 days of the effective date of this act, OSSE shall promulgate proposed  
118 regulations to implement the provision of this act.

119 Sec. 12. Fiscal impact statement.

120 The Council adopts the fiscal impact statement in the committee report as the fiscal  
121 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
122 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

123 Sec. 13. Effective date.

124 This act shall take effect following approval by the Mayor (or in the event of veto by the  
125 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
126 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

127 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
128 Columbia Register.