

1 **Committee on Education**
2 **Committee Print**
3 **February 11, 2020**
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6

7 A BILL

8
9 23-0392

10
11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
12

13 To require the District of Columbia Public School system or any individual or group of public
14 charter schools operating under a single charter in the District to adopt and implement a
15 home and hospital instruction program that provides academic instruction and support to
16 students who have been or will be absent from their school of enrollment for 10 or more
17 consecutive or cumulative school days during a school year due to a health condition; to
18 establish an appeals process to be administered by the Office of the State Superintendent
19 of Education; and to require the Office of the State Superintendent of Education to
20 promulgate implementing regulations.
21

22 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
23 act may be cited as the “Students’ Right to Home and Hospital Instruction Act of 2020”.
24

25 Sec. 2. Definitions.

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

27 (1) “Health condition” means a physical or mental illness, injury, or impairment
28 that prevents a student from participating in the day-to-day activities typically expected during
29 school attendance.

30 (2) “Home and hospital instruction” means a program that provides instruction
31 and support to students who have been or are anticipated to be absent, on a continuous, partial, or
32 intermittent basis, from their school of enrollment for 10 or more consecutive or cumulative
33 school days during a school year due to a health condition.

34 (3) "Home and hospital instruction policy" means a public document written by
35 an LEA that sets forth the process for applying for home and hospital instruction and appealing a
36 denial of eligibility and includes the required contents of a medical certification of need.

37 (4) "IDEA" means the Individuals with Disabilities Education Act, approved
38 April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400et seq.), and its implementing regulations.

39 (5) "IEP" means an individualized written plan that specifies the special education
40 programs and services to be provided to meet the unique educational needs of a child with a
41 disability, as required under section 614(d) of IDEA (20 U.S.C. § 1414(d)).

42 (6) "LEA" means the District of Columbia Public School system or any individual
43 or group of public charter schools operating under a single charter in the District.

44 (7) "Medical certification of need" means a diagnosis with an explanation of how
45 a health condition has caused or is anticipated to cause the student to be absent, on a continuous,
46 partial, or intermittent basis, from their school of enrollment for 10 or more consecutive or
47 cumulative school days during a school year, and a recommendation that the student receive
48 home or hospital instruction, to the extent permitted by the student's health condition, that is
49 certified by a licensed physician, licensed nurse practitioner, licensed clinical psychologist,
50 licensed clinical social worker, licensed mental health counselor or therapist, or physician's
51 assistant.

52 (8) "Medical recertification of need" means a medical certification of need
53 verifying the continued need for home or hospital instruction.

54 (9) "OSSE" means the Office of the State Superintendent of Education
55 established by section 2 of the State Education Office Establishment Act of 2000, effective
56 October 21, 2000 (D.C. Law 13-176, D.C. Official Code § 38-201).

57 (10) "Parent" means a parent, guardian, or other person who has custody or
58 control of a student enrolled in a school in an LEA.

59 (11) "Section 504" means Section 504 of the Rehabilitation Act of 1973,
60 approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794), and its implementing regulations.

61 (12) "Section 504 Plan" means a written plan that specifies the accommodations
62 and services provided to a student pursuant to Section 504.

63 Sec. 3. Home and hospital instruction program.

64 (a) Beginning in school year 2020-2021, every LEA shall adopt and implement a home
65 and hospital instruction program that provides academic instruction and support to students who
66 have been or will be absent, on a continuous, partial, or intermittent basis, from their school of
67 enrollment for 10 or more consecutive or cumulative school days during a school year due to a
68 health condition. Such a program shall:

69 (1) Be designed to promote the student's academic progress, allow the student to
70 stay current with classroom instruction in core subjects to the greatest extent possible, foster
71 coordination between the student's classroom teachers and the home or hospital instructors, and
72 facilitate the rapid reintegration into classroom instruction when the student returns to school;
73 and;

74 (2) Ensure coordination of home and hospital instruction with any special
75 education services, IEP, or Section 504 plan the student receives or is eligible to receive and the
76 continued provision of any special education and related services and accommodations to the
77 student.

78 (b) Every LEA shall designate at least one employee to manage the LEA's home and
79 hospital instruction program.

80 (c) Nothing in this act shall alter an LEA's obligations under IDEA, Section 504, or the
81 Americans with Disabilities Act.

82 Sec. 4. Eligibility determination.

83 (a) A parent of a student may submit an application for home or hospital instruction
84 orally or in writing to the LEA office responsible for processing such requests. The LEA shall
85 document any request from a parent no later than 2 school days following receipt.

86 (b) A student shall be eligible for home or hospital instruction and the LEA shall approve
87 the application for home or hospital instruction if a medical certification of need has been
88 submitted to the LEA. An LEA may deny an application for home or hospital instruction only in
89 the event that a medical certification of need has not been submitted to the LEA.

90 (c) The LEA shall approve or deny a home or hospital eligibility application submitted
91 pursuant to subsection (a) of this section no later than 2 school days following receipt of the
92 application.

93 (d) An LEA shall provide a written explanation of the basis for an approval or denial of
94 an application for home or hospital instruction no later than 2 school days following its approval
95 or denial of the application in which the LEA shall state specifically the basis for its
96 determination that a medical certification of need was not submitted.

97 Sec. 5. Termination or continuation of home or hospital instruction services.

98 (a) A student's home or hospital instruction shall terminate when it is no longer needed as
99 outlined in the medical certification of need or after 60 days except as provided in subsection (b)
100 of this section.

101 (b) A student's home or hospital instruction based upon a medical certification of need
102 shall continue for no more than 60 days. Thereafter, a parent may submit medical

103 recertifications of need to extend home or hospital instruction for additional periods of no more
104 than 60 days upon the submission of each such recertification. A medical recertification of need
105 shall not be required to be submitted for home or hospital instruction that occurs during a period
106 of less than 60 days from the date home or hospital instruction commences.

107 Sec. 6. Appeals process.

108 (a) OSSE shall administer the appeals process for a denial of an application for home or
109 hospital instruction submitted pursuant to section 4 or 5.

110 (b) A parent has a right to appeal the eligibility determination made by the LEA. The
111 appeals process is as follows:

112 (1) A parent shall submit a written request for an appeal to OSSE. As part of the
113 parent's written request, the parent may request an opportunity to be heard in person by the
114 appeals panel.

115 (2) The appeal shall be reviewed by a 3-member panel within OSSE.

116 (3) The appeals panel shall issue a written response to the parent's request for an
117 appeal no later than 15 schools days following receipt of the appeal.

118 (4) The LEA shall implement the decision of the appeals panel no later than 5
119 days following its issuance.

120 Sec. 7. Delivery of home and hospital instruction.

121 (a) An LEA shall begin delivering home and hospital instruction no later than 5 school
122 days following an eligibility determination.

123 (b) An LEA shall provide a minimum number of per week hours of direct instruction for
124 eligible students according to the medical certification of need.

125 (1) For eligible students absent on an intermittent or partial basis, the LEA may
126 adjust the minimum required amount of direct instruction based on the student's schedule and
127 amount of in-school instruction the student is expected to receive.

128 (2) For purposes of this subsection, direct instruction shall mean instruction
129 provided in-person by a home or hospital instructor or, with the consent of the parent, instruction
130 provided by a home or hospital instructor via real-time videotelephony.

131 (c) An LEA shall develop a home and hospital instruction program that provides content
132 aligned to that being provided in the student's classroom.

133 (d) To satisfy the provisions of this section, an LEA may:

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

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

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

137 (4) Combine any of the delivery options described in paragraphs (1) through (3)

138 of this subsection.

139 Sec. 8. Attendance.

140 Each LEA shall maintain a student receiving home or hospital instruction on the regular
141 school attendance roll and count the student as present, except when a student is not available for
142 scheduled instruction, in which event the student may be counted absent.

143 Sec. 9. Healthcare institutions.

144 (a) A healthcare institution that admits a student eligible to receive home or hospital
145 instruction under this act shall, consistent with its obligations under federal and state law,
146 cooperate and coordinate with the student's LEA in providing such instruction to the student.

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

149 Sec. 10. Transparency and accountability.

150 (a) Every LEA shall publish its written home and hospital instruction program policy
151 online in a reader-friendly format format and provide a copy of the program policy to parents
152 after a request for home or hospital instruction has been made.

153 (b) On an annual basis, each LEA shall report to OSSE eligibility determinations made,
154 including reasons for denial, and type of instruction delivered.

155 (c) Upon submission of an application for home or hospital instruction, the LEA shall
156 require the home or hospital designee to provide the parent with a notice of their rights as they
157 pertain to IDEA and Section 504.

158 Sec. 11. Rulemaking Authority.

159 No later than 120 days following the effective date of this act, OSSE shall promulgate
160 proposed regulations to implement the provisions of this act.

161 Sec. 12. Fiscal impact statement.

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

165 Sec. 13. Effective date.

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

169 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
170 Columbia Register.