Committee on Education
Committee Print
February 11, 2020

A BILL

23-0392

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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

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

Sec. 2. Definitions.

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

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

(2) “Home and hospital instruction” means a program that provides instruction and support to students who have been or are anticipated to be absent, on a continuous, partial, or intermittent basis, from their school of enrollment for 10 or more consecutive or cumulative school days during a school year due to a health condition.
(3) “Home and hospital instruction policy” means a public document written by an LEA that sets forth the process for applying for home and hospital instruction and appealing a denial of eligibility and includes the required contents of a medical certification of need.


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

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

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

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

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


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

Sec. 3. Home and hospital instruction program.

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

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

and;

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

(b) Every LEA shall designate at least one employee to manage the LEA’s home and hospital instruction program.
(c) Nothing in this act shall alter an LEA’s obligations under IDEA, Section 504, or the Americans with Disabilities Act.

Sec. 4. Eligibility determination.

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

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

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

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

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

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

(b) A student’s home or hospital instruction based upon a medical certification of need shall continue for no more than 60 days. Thereafter, a parent may submit medical
recertifications of need to extend home or hospital instruction for additional periods of no more than 60 days upon the submission of each such recertification. A medical recertification of need shall not be required to be submitted for home or hospital instruction that occurs during a period of less than 60 days from the date home or hospital instruction commences.

Sec. 6. Appeals process.
(a) OSSE shall administer the appeals process for a denial of an application for home or hospital instruction submitted pursuant to section 4 or 5.
(b) A parent has a right to appeal the eligibility determination made by the LEA. The appeals process is as follows:
(1) A parent shall submit a written request for an appeal to OSSE. As part of the parent’s written request, the parent may request an opportunity to be heard in person by the appeals panel.
(2) The appeal shall be reviewed by a 3-member panel within OSSE.
(3) The appeals panel shall issue a written response to the parent’s request for an appeal no later than 15 schools days following receipt of the appeal.
(4) The LEA shall implement the decision of the appeals panel no later than 5 days following its issuance.

Sec. 7. Delivery of home and hospital instruction.
(a) An LEA shall begin delivering home and hospital instruction no later than 5 school days following an eligibility determination.
(b) An LEA shall provide a minimum number of per week hours of direct instruction for eligible students according to the medical certification of need.
(1) For eligible students absent on an intermittent or partial basis, the LEA may adjust the minimum required amount of direct instruction based on the student’s schedule and amount of in-school instruction the student is expected to receive.

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

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

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

(1) Directly provide instructional services to a student;

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

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

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

Sec. 8. Attendance.

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

Sec. 9. Healthcare institutions.

(a) A healthcare institution that admits a student eligible to receive home or hospital instruction under this act shall, consistent with its obligations under federal and state law, cooperate and coordinate with the student’s LEA in providing such instruction to the student.
(b) Each healthcare institution referenced in subsection (a) shall establish a point of contact to coordinate home or hospital instruction with the LEA.

Sec. 10. Transparency and accountability.

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

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

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

Sec. 11. Rulemaking Authority.

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

Sec. 12. Fiscal impact statement.


Sec. 13. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.