



Advocates for Children of New York

Protecting every child's right to learn since 1971

July 28, 2022

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NYC Education Department
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BY EMAIL: REGCOMMENTS@nysed.gov

Re: Proposed Addition of Section 100.2 and Amendment to Section 200.6 of the Regulations of the Commissioner of Education relating to Instruction Provided to Students in a Home, Hospital, or Institutional Setting Other Than a School (Homebound Instruction)

On behalf of Advocates for Children of New York (AFC), we are writing with comments on the proposed addition of Section 100.2 and amendments to Section 200.6 of the Regulations of the Commissioner of Education relating to instruction provided to students in a home, hospital, or institutional setting other than a school (Homebound Instruction). We are in favor of the proposed amendments to increase the minimum number of hours of instruction and to establish a new section of the regulations to provide a process for students, regardless of Individualized Education Program (IEP) status, to request home instruction, including a timeline upon which instructional services must be put in place. We offer a few additional suggestions below for your consideration prior to final adoption of the regulations.

Every year, for the past 50 years, AFC staff has helped thousands of families navigate the education system in New York City by providing technical assistance, in-depth advocacy, policy advocacy, and legal representation at impartial hearings and in large-scale litigation in pursuit of a quality education for all NYC students, including those with disabilities who make up many, although not all, of the



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student population requiring home instruction services for some period of time. Each year, we support or represent students who must spend time learning outside of the regular school building due to medical and mental health needs. The COVID-19 pandemic has led to increased reliance on home instruction for many immuno-suppressed or otherwise medically vulnerable students.

Over the years, we have worked with many parents whose children needed home instruction who were frustrated to hear from New York City Department of Education (DOE) representatives that their children could receive only 5 hours (for elementary school students) or 10 hours (for older students) per week of home instruction—with DOE representatives refusing to give more than the minimum number of hours of home instruction and sometimes incorrectly stating that the DOE was only allowed to provide the minimum number of hours. In some of our cases, it has taken significant advocacy for the DOE to agree to provide more than the minimum. Based on our experience helping students and their families access home instruction when necessary, we agree with the State Education Department that increasing the minimum number of hours of instruction is appropriate and important. The proposed minimum hours of instruction each week – 10 for elementary students and 15 for those in secondary school – are a good start. That said, that amount of time of instruction still represents only a fraction of time a student in school receives support from their teachers, and for many students, 10 or 15 hours will be insufficient.

During the pandemic, we also heard from families whose children did not have an IEP but needed home instruction because they were immuno-compromised and their doctors had determined it was unsafe for them to be in school during the pandemic. Therefore, we are also encouraged by the proposal to add a section to the regulations regarding home instruction for students who need it whether or not they have an IEP. We support the provision extending the school district's obligation to provide home instruction to students who are unable to attend school in person for at least 10 days in a 3-month period. We also support the proposed timelines that would put instructional services in place within 5 days of a student's family notifying their school district of the student's condition or of the family's request for home instruction, whichever comes first.

We have historically seen home instruction stalled for inexplicably long periods of time – leaving students with no instruction for months at a time, forcing those students to fall further and further behind their peers until they can eventually return to school.



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ADDITIONAL RECOMMENDATIONS:

We also recommend the following:

Districts should aid families in requesting and documenting the need for home instruction: Prior to final adoption, we urge the State to amend the regulations to include a requirement for districts to affirmatively aid families in applying for home instruction. Often, an emergency leads to the request for home instruction, and the gathering and submitting of necessary documentation can be an additional stress to families during an already challenging time. School districts should be offering support to families during that time – helping them navigate forms and gather documentation so that students can resume learning as quickly as possible.

The regulations should include a requirement that the total number of home instruction hours each week be revisited periodically for long stretches of learning from home, hospital or institution:

The needs and abilities of students required to learn via home instruction can change with time – with some students tiring more quickly when they first need home instruction and then building strength over time and being ready to take on more learning even as the need for home instruction remains. We recommend requiring districts to initiate periodic discussions of whether hours of home instruction can be increased beyond the initial levels authorized as time passes.

The regulations should be specific in requiring home instruction be delivered daily during the school week and not clustered in 1, 2 or 3 days:

We have worked on cases where the school district provided all the weekly hours of home instruction over a few days rather than spread through the week because it was easier for the district to do so, meaning that students had days when they received no instruction. We urge the State to amend the regulations to require daily instruction (not merely “to the extent possible”) unless inappropriate to meet the student’s needs.

The regulations should eliminate the requirement for families to appeal within 5 school days:

As noted above, families are often requesting home or hospital instruction at a very challenging time in their lives. While we appreciate that the regulations require school districts to begin providing home instruction within 5 days, it may be very difficult for a family who is denied



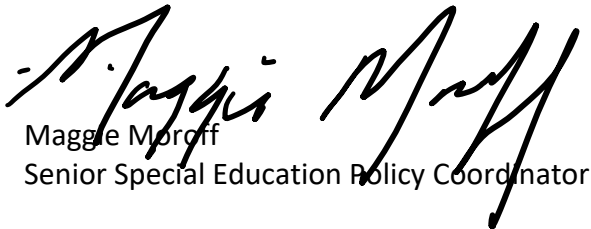
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home instruction to appeal a denial of home instruction within 5 days. A parent may need time to ensure they understand the appeal process, contact the child's doctor, consult with an advocate or attorney, and file the appeal. We recommend eliminating the required timeline for families to appeal.

At-home or remote related services and home instruction must be better coordinated to ensure that students receive both instruction and services during their time out of their school buildings:

We have worked with students with disabilities who never received their full mandated related services during their time on home instruction. As such, we urge that the regulations require school districts to take additional steps to ensure students receive all mandated support, including their related services, whether delivered remotely or in-person as needed during the time the student is home, in the hospital or in an institution.

Thank you for considering our comments. If you have any questions, please do not hesitate to contact us.



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