



**“There’s No Place Like Home:”
Providing Homebound Services
Under Section 504**

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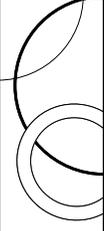
General Education Homebound under Texas Law

- Three requirements found in the State Attendance Accounting Handbook:
 1. The student is expected to be confined at home or hospital bedside for a minimum of 4 weeks (the weeks need not be consecutive);
 2. The student is confined for medical reasons only; and
 3. The student’s medical condition is documented by a physician licensed to practice in the United States.

See TEA *Student Attendance Accounting Handbook 2021-22*, Section 3.7.

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General Education Homebound under Texas Law

- On the Handbook requirements, note:
 - Student must be “confined at home” due to condition (not same as cannot go to school)
 - Medical reasons can be physical or mental
 - Certification must be signed by an MD (including psychiatrist), but not a nurse practitioner, or other professional.
 - Days confined to home do not need to be consecutive.

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General Education Homebound under Texas Law

- **Intersection with § 504?**
 - GEH students have physical or mental impairments.
 - Inability to leave home due to impairment would indicate “substantial limitation” is present.
 - Even if temporary, the limitation is severe, so temporary § 504 eligibility would be warranted.

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General Education Homebound under Texas Law

- **Intersection with § 504?**

Best to make GEH decisions in a § 504 committee meeting that includes (1) campus administrator, (2) teacher of the student, and (3) parent/guardian.

(If initial § 504 meeting, notice of evaluation and consent for evaluation will be required).

Why? This meets requirements of Handbook and § 504 at the same time.

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General Education Homebound under Texas Law

- **GEH/504 Committee Decisions**

Review of information to determine eligibility (will include Dr's documentation of need for GEH).

Determination of amount of services (see § 3.7.2.1).

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• Recent Handbook Changes on GEH

“Except in cases of medically fragile students, potential medical conditions or concerns that students may develop medical conditions do not constitute grounds for GEH program eligibility.” (§ 3.7).

Meaning, underlying medical condition/vulnerability or fear of COVID infection is **not** grounds for GEH.

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• Recent Handbook Changes on GEH

“In cases where students are medically able to receive more than the required minimum four hours of face to face instruction, LEAs must provide additional remote instruction.” (§ 3.7).

Meaning, committee must arrange for additional remote instruction beyond the GEH in-person hours.

The remote services cannot be provided by a teacher that is concurrently teaching kids at school as well. (§ 3.7)

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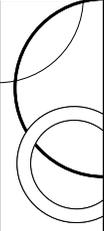
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- **Recent Handbook Changes on GEH**

“Supplementing in-person homebound instruction with virtual instruction is encouraged for students in GEH programs where medically appropriate. Virtual instruction provided to students in GEH programs cannot be provided by a teacher concurrently instructing students in person.” (§ 3.7).

Confusing, since this provision uses the term “encouraged,” while the previous one uses the term “must.”

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Examples of impairments that *can* confine to the home

- **Post-concussion syndrome.** *Mt. Zion Unitary Sch. Dist., 111 LRP 51317 (SEA IL 04/04/11).*
 - “[T]he stimuli of a regular classroom and school setting would almost certainly cause a deterioration of Student’s physical condition given the stimuli of a normal school environment.”
 - No safe way to educate the student in any classroom with peers, and no accommodations can reduce the risk (except removing other students from classroom!).

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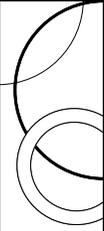


Examples of impairments that *can* confine to the home

- **Poor body temperature regulation.** *New Jersey Dep't of Educ. Complaint Investigation C2012-4341*, 59 IDELR 294 (N.J. Sup. Ct.App. Div. 2012).
 - “Because of a brain defect, T.S. has poor temperature regulation and must be in an environment that is 77 degrees Fahrenheit or higher so that his core body temperature remains about 96.5 degrees.”
 - The only available setting with stable temperature is the home.

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Examples of impairments that *can* confine to the home

- **Leukemia.** *Yancey (NC) County Schs.*, 51 IDELR 23 (OCR 2008).
- **Severe asthma and allergies.** *Great Falls (MT) Pub. Sch. Dist.*, 48 IDELR 200 (OCR 2006).
- **Sensitivity to colognes, perfumes, & fragrances.** *Zandi v. Fort Wayne Cmty. Sch.*, 50 IDELR 283 (N.D. Ind. 2012).
- **Variety of serious physical injuries from a motorcycle accident.** *Bradley County (TN) Schs.*, 43 IDELR 143 (OCR 2004).

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Is the student *really* confined because of impairment?

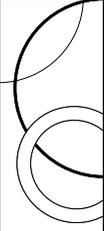
- *Calallen Indep. Sch. Dist. v. John McC.*, 25 IDELR 1017 (SEA TX 1997).

An couple of older sp ed cases that make a point also valid under § 504...

“Some students need continuous homebound services. John is not among them. One is hard pressed to justify continuous homebound services for a student who drives the family car, goes out on dates, and regularly participates in other activities outside the home.”

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Is the student really confined because of impairment?

- *Plano Indep. Sch. Dist.*, 62 IDELR 159 (SEA TX 2013).

“Outside of school Student is not restricted to home. Student goes to the local shopping mall with friends, McDonalds, and other social gatherings. Student enjoys swimming and playing soccer... Student appears robust and healthy and seems to engage in activities involving mold, pollen, and other people *when the activity suits Student.*”

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Is the student *really* confined because of impairment?

- When the doctor says “confined,” but the student isn’t...
 - The Stick Approach: Resolution may require a fact-finder (truancy court, hearing officer/ALJ) to make a determination.
 - Truancy court is an option, but effectiveness depends on the local courts...
 - The Carrot Approach:
 - Explain long-term adverse effects of homebound to parents (social, academic)

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Is the student *really* confined because of impairment?

- When the doctor says “confined” but the student isn’t...
 - Parents may not understand that homebound services require the student to do their classwork independently, as sessions are usually devoted to instruction
 - For some students, this will make doing the work on their own difficult... And thus, progress will slow.

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Doctors & Determining Need for Homebound

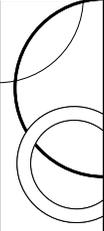
- A doctor’s homebound documentation is not the only data the § 504 committee must consider

“In making these decisions, the GEH committee must consider information from the student’s licensed physician. However, documentation from the licensed physician is **not** the sole determining factor in the committee’s decision-making process.”

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See TEA *Student Attendance Accounting Handbook 2021-22*, Section 3.7.2

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Doctors & Determining Need for Home Instruction

- **“A physician cannot simply prescribe special education.”** *Marshall Joint Sch. Dist. #2 v. C.D.*, 54 IDELR 307 (7th Cir. 2010).
- **A diagnosis isn’t enough — why is the student confined to home?** *Bellingham Pub. Schs.*, 41 IDELR 74 (SEA MA 2004).
- **Why doctors don’t make the placement decision.** *Plano Indep. Sch. Dist.*, 62 IDELR 159 (SEA TX 2013); *Brevard County*, 109 LRP 56512 (SEA FL 08/12/09).

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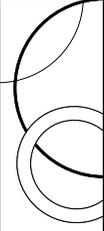


Doctors & Determining Need for Home Instruction

- **Who has the duty to evaluate the student's need for homebound?** *Rodriguez & Lopez v. ISD of Boise City, No. 1, 63 IDELR 36 (D.Id. 2014).*
 - School: But he isn't confined under state law... he should come back NOW.
 - Doctors: student's anxiety precludes return to school.
 - Court: What evidence is there that the student could return to school immediately?
 - And, the student has missed 8 mos. of services while dispute goes on, since school summarily rejected HB services.
 - Court found school violated IDEA.

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Doctors & Determining Need for Home Instruction

- **Doctor's "request" for homebound.** *Rockford Sch. Dist. #205, 108 LRP 42815 (SEA IL 06/26/08).*
 - Why is student's autism now causing absences?
 - Student missed entire months of school due to alleged illness, although parent did not take student to Dr.
 - Parent did not submit HB documentation
 - Parent response to the threat of truancy? A letter falsely stating student would be attending another school.
 - ALJ found denial of HB services was warranted, based on parent's actions.

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A reminder on the duty to evaluate

- **What happens when the school doesn't know why the student won't come back to school?** *Boston Public Schools, 40 IDELR 108 (SEA Mass. 2003).*
 - If the school lacks data to address the problem, it has a duty to seek the data!
 - Does the school know what is keeping the student at home? You can't address what you don't understand
 - Student apparently felt "unsafe" at school
 - Here, school failed to evaluate attendance problems of a student with anxiety and depression, and consequently, failed to include measures in the IEP to address attendance.

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And a reminder on the *affirmative* duty to provide FAPE

- **Does the parent have to ask for homebound?** *Tehachapi Unified School District, 67 IDELR 102 (SEA CAL. 2016).*
 - School knew during IEP Team meeting that IDEA-eligible student would miss six weeks of school for surgery
 - School neither informed parent of possible homebound or discussed it in IEP Team meeting
 - Hearing officer awarded compensatory ed.
 - Schools have affirmative duty to suggest HB if it appears warranted.

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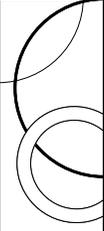
How many hours of instruction are required?

- **Full-day services required during in-home instruction?** *Renton Sch. Dist.*, 111 LRP 72136 (SEA WA 11/10/11).

“There is no requirement that homebound instruction be for the full school day, nor that it provide the same number of special education minutes the student received while attending school.”

- But who supervises the child during school hours? Here, parents had to get grandma to supervise (for a fee), and they felt the District should pay.

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How many hours of instruction are required?

- **Full-day services required during in-home instruction?** *Renton Sch. Dist.*, 111 LRP 72136 (SEA WA 11/10/11).

It is common (and advisable) for schools to have policies that require an adult to be present during HB services

- See *Daniel O. v. Missouri State Bd. of Educ.*, 30 IDELR 588 (W.D. Mo. 1999), *affirmed*, 32 IDELR 113 (8th Cir. 2000)(if parents wish to leave home while HB is provided, they *choose* to incur the cost of hiring someone to be there instead. School only has to provide the services for free. Policy requiring adults to be present during HB is not contrary to IDEA).

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How many hours of instruction are required?

- **Can the school just provide the state-required minimum?** *Torrance Unified Sch. Dist., III LRP 19380 (SEA CA 03/04/11).*

“a school district’s offer of educational services and placement must be designed to meet the student’s unique needs and be reasonably calculated to provide some educational benefit in the least restrictive environment.”

◦“Given the severity of Student’s needs, five hours per week of home instruction was simply not a FAPE.”

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How many hours of instruction are required?

- **Can the school just provide the state-required minimum?** *Torrance Unified Sch. Dist., III LRP 19380 (SEA CA 03/04/11).*

Schools should avoid providing only the minimum number of HB hours (4 hrs in TX to obtain full funding)

The number of hours must be based on what it will take to provide a FAPE to the individual student.

Students with more significant needs, and less ability to work independently, will need more hours.

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How many hours of instruction are required?

- **Can the school set a maximum number of homebound hours that it will provide?**
Yancey (NC) County Schs., 51 IDELR 23 (OCR 2008). **NO.**
 - A cap on HB hours limits individualization of services, especially for students with high levels of need for direct instruction, and is thus a policy that violates § 504.
 - The school agreed to end policy of five hours per week as maximum number of hours of homebound instruction.

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How many hours of instruction are required?

- The question should **not** be asked this way: How many HB hours do we need to provide per week to get full funding?
 - (GEH Homebound rules say 4 hours/week = ADA for 5 days of attendance)
 - Does everyone get the same amount? Is that individualized?...

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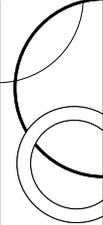


What about making up missed services?

- **Does the school have to make up homebound sessions missed by the student?** *Greenville Indep. Sch. Dist., 102 LRP 12471 (SEA TX 02/01/02).*
 - Where the services were available and the student was not present to be served, there is no duty to provide makeup services.
- What happens when the student doesn't show up for home instruction? Is it truancy? Yes, unless excused.
- But, if session is missed due to staff issues, it must be made up.

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What services are required at Home?

- **General rule: If on the IEP prior to home instruction, it should be discussed by IEP Team for the home.** *Cincinnati City Sch. Dist., 111 LRP 67197 (SEA OH 08/30/11).* **Same for § 504.**

“If the IEP team believes that the student requires occupational therapy and physical therapy, the IEP team must include these services regardless of the student’s placement on home instruction.”

§ 504 example—Student has counseling on his 504 plan? Counseling should be provided in HB (really important for students with mental impairments like anxiety).

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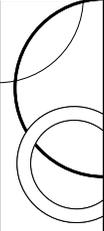


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What services are required at Home?

- **Does home instruction have to be provided in all of the student’s classes?** *In re Student with Disability*, 111 LRP 59292 (SEA CT 04/20/11).
 - “Section 34 C.F.R. 300.10 lists core academic subjects: English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, ... history and geography. It appears that the Board has no legal basis for refusing to provide Spanish instruction within a homebound program.”
 - If some classes are not feasibly provided by HB teacher, remote/virtual instruction could be an option

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What services are required at Home?

- **Homebound as a reduced version of the week’s instruction.** *Greenville Indep. Sch. Dist.*, 102 LRP 12471 (SEA TX 02/01/02).

“Clearly, homebound instruction is a reduced version of weekly classroom instruction. Where the typical ninth grader at Greenville High School might spend thirty or more hours per week in classroom instruction, Zachariah would have eight hours per week of instruction.”

“Accordingly, the homebound teachers had to focus on the main points of the lessons while implementing the required modifications and allowing for the plethora of missed sessions. Zachariah’s complaints about his homebound services are without merit.”

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What services are required at Home?

- **Homebound as a reduced version of the week's instruction.** *Greenville Indep. Sch. Dist., 102 LRP 12471 (SEA TX 02/01/02).*

Parents did not like the HB teachers, refused weeks of HB services, and complained both that the teachers did not cover all the course material in HB *and* that there was too much work.

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What services are required at Home?

- **What if the student is in advanced classes for gifted kids?** *K.K. v. Pittsburgh Pub. Schs., 64 IDELR 62 (3d Cir. 2014).*
 - Prior to homebound, the student's classes included English, Japanese, Chinese, calculus, physics, European History, and biology. As the homebound teacher could not personally provide "direct substantive guidance" in all of those classes, the student dropped two, and attempted to self-teach others with the help of a private tutor.
 - School amended 504 Plan to include one period per week of direct instruction from a qualified instructor in English, Calculus, Japanese, Chinese, and Physics, and generous accommodations. She returned to school after three months of homebound services and graduated well.
- Some assignments don't work outside the school. *Greenville County (SC) Schs., 114 LRP 47376 (OCR 05/07/14)*(labs, group assignments).

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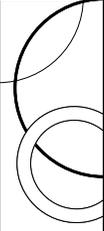


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What services are required at Home?

- **What about advanced classes for gifted kids?**
K.K. (cont'd)
 - COURT: Homebound policy was not intended to *duplicate* the classroom, especially a gifted classroom.
 - “District’s homebound instruction policy was never intended to be a full substitute for in-class learning—but nor was it required to be. Instead, it is a stopgap procedure designed to give temporarily homebound students a reasonable opportunity to maintain pace with their coursework during a limited absence from the classroom setting. As implemented here, the policy resulted in District personnel working actively with K.K. and her parents to provide **a modest approximation of the high-caliber instruction that K.K. had received while actively attending class.**”

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What services are required at Home?

- **Can the parent or other adult be required for homebound services?** *Renton School District, III LRP 72136 (SEA WA 11/10/11).* **YES.**
 - Citing *Daniel O.*, and finding that the district is not liable for the lack of instruction on days when instruction was not provided due to lack of a parent/adult at home.
 - “[T]imeframes of 9:00-10:30 a.m. or 4:00-5:30 p.m. did not work for the family schedule,” nor would 5:30-7:00 p.m. work due to the children’s extracurricular activity schedule.
 - *Renton* held that the parents could not claim a failure to implement homebound instruction for hours when their scheduling needs did not allow the instruction to proceed.
Tread very carefully with this.

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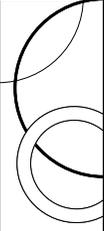


What services are required at Home?

- **Can the parent or other adult be required for homebound services?** *Renton School District, 111 LRP 72136 (SEA WA 11/10/11).* **YES.**
 - Schools should reasonably try to accommodate parent's schedule preferences, particularly if related to student's disabilities (e.g., works better in early afternoons, later is fatigued due to medical condition).
 - But schools don't have to accommodate parents' vacations or kids' extracurricular activities.

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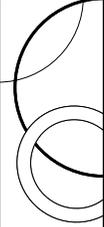


What services are required at Home?

- *Abington Heights, 112 LRP 16163 (SEA PA 03/13/12).*
 - Violation found where "No consideration was given to determining whether 10 hours of weekly instruction, delivered in two-hour blocks in the late afternoon, is reasonably calculated to assure meaningful progress for Student...."
 - That result is particularly true here, "given the significant physical conditions that adversely affect Student's strength and ability to attend to instruction."

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Who can provide Home Instruction?

- **Parent preference and home instruction service providers.** *Los Angeles Unified Sch. Dist., 54 IDELR 269 (SEA CA 2010).*
 - “Parents generally have no right to compel an assignment of particular teachers or other educational personnel to implement the IEP. These decisions are normally within the discretion of the school district.”
 - (Of course, schools can choose to change a provider at its discretion, if the situation is not working out).

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When the Home is not conducive to instruction

- **Staff safety in the home environment.** *Wake County (NC) Schs., 39 IDELR 273 (OCR 2003).*
 - “District records indicate that the Student has attended four different high schools and during this time was involved in at least nine incidents that resulted in him physically harming a staff person and/or student, breaking a staff person’s nose and slapping a visiting parent, etc.”
 - The school proposed a residential placement and immediately began to search for a facility.

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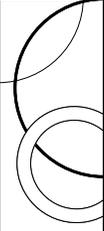


When the Home is not conducive to instruction

- **Staff safety in the home environment.** *Wake County (NC) Schs.*, 39 IDELR 273 (OCR 2003).
 - No home instruction was provided pending residential placement due to concerns over staff safety. Instead, the school offered compensatory education.
 - “[I]t appears that the District’s concerns about safety of staff and students, as well as the Student were reasonable, particularly given the incidents listed by the District.” No violation found.

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When the Home is not conducive to instruction

- **Parents disrupt homebound instruction and harass staff.** *Grasmick v. Matanuska Susitna Borough Sch. Dist.*, 64 IDELR 68 (D.Alaska 2014).
 - “The Grasmicks’ conduct was ‘willful interference with the District’s efforts to provide services to [AG].’ The Hearing Officer points out that the Grasmicks genuinely believe they are engaging in nothing more than advocacy for their son....”
 - “...but the ‘testimony of the providers was credible and remarkably consistent’ in their description of the ‘tremendous difficulty and, at times, impossibility of [providing services to AG] given [the Grasmicks’] conduct.’”

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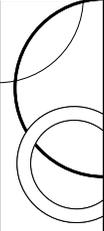


When the Home is not conducive to instruction

- The IDEA or Section 504 eligible student gets FAPE *somewhere*.
 - While the threat to staff safety can result in moves to more restrictive settings, or alternate locations for HB services, the school cannot simply stop IDEA services.
 - *Vincent v. Kenosha Unified Sch. Dist.*, 59 IDELR 242 (E.D. Wis. 2012) (“Though KUSD had wide discretion to place BV appropriately, the IDEA and FAPE require that she had to be placed somewhere.”).

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Technology & FAPE at Home

- **An important starting point...** *High v. Exeter Township*, 54 IDELR 17 (E.D. Pa. 2010).

“[A]lthough assistive technology will almost always be beneficial, a school is only required to provide it if the technology is necessary. Moreover, the failure to provide assistive technology denies a student FAPE only if the student could not obtain a meaningful educational benefit without such technology.”
- *Georgetown Indep. Sch. Dist.*, 45 IDELR 116 (SEA TX 2005). “The use of a web camera or video phone, *while desirable and enriching*, is not required to provide a free appropriate public education where, as here, the evidence shows significant educational progress by the student without the assistance of those devices.”

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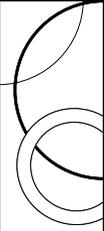


**Technology & FAPE at Home:
Webcams & Videoconferencing**

- *Eric H. v. Methacton Sch. Dist.*, 38 IDELR 182 (E.D. Pa. 2003).
 - The second-grade student qualifies as other health impaired due to acute lymphoblastic leukemia.
 - Because of his compromised immune system, the student has received no vaccinations and must miss school when the risk of infection to him is high.
 - Student's IEP identified a variety of goals to address social and behavioral needs.
 - Parents want video-teleconferencing (VTC) in order to work on socialization goals.

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**Technology & FAPE at Home:
Webcams & Videoconferencing**

- *Eric H. v. Methacton Sch. Dist.*, 38 IDELR 182 (E.D. Pa. 2003).
 - School wanted to provide instruction at home and eliminate socialization goals in the HB IEP that can't be done at home.
 - AVTC experiment was attempted with mixed results.
 - Student participated in classroom activities/routines, interacted with the teacher, enjoyed recess, made friends, and maintained friends better than in the past. BUT: "Some of his targeted social and behavioral conduct become worse when he is on VTC. He acts as if he is 'on stage,' gets off-task, breaks rules, and engages in attention-seeking behaviors."
 - Court: VTC not necessary for FAPE. "[W]e believe that he and the District have a significant opportunity to address these needs on the days when he is physically present in the classroom."

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Transition from Home Instruction Back to School

- **Home instruction is restrictive. What is the school doing to get the student back to school?** *Abington, supra.*

“It is difficult to understand how the District could have any realistic or reasonable goal for developing a less restrictive placement without addressing any of the significant issues that currently require a very restrictive placement for Student in order to receive even the minimal educational services the District has been providing.”

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Meaning, schools have to develop a plan to provide services designed to assist the transition back to school.

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Transition from Home Instruction Back to School

- **A fascinating doctor’s response to the question, “When can the student return to school?”** *Bellingham Pub. Schs., 41 IDELR 74 (SEA MA 2004).*

- “Dr. Henry stated (in his May 16th submission) that Student would be able to return to a school setting when he ‘achieves grade-level work’ presumably as a result of home tutoring. This is revealing in that Dr. Henry’s opinion is not, ultimately, that any of Student’s several diagnoses will keep Student from returning to school, but rather that it is only Student’s level of educational proficiency that ultimately will determine his return date.... Unfortunately for Parents, Dr. Henry’s educational opinions can provide no basis for Bellingham or me to conclude that Student is confined to his home for medical reasons.”

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Transition from Home Instruction Back to School

- **School phobia and homebound.** *Jason B. v. Floresville Indep. Sch. Dist.*, 114 LRP 51889 (SEA TX 12/09/93).
 - The IEPs were appropriate. By keeping their students at home, the parents had “denied the district the opportunity to implement the agreed upon measures.”
 - While parents’ concerns were understandable, “a risk-free school environment is neither attainable nor required. ... From the Hearing Officer’s perspective ... depriving children of educational services for such extended periods of time was not in their best interests.”

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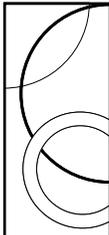


Transition from Home Instruction Back to School

- *Bradley v. Arkansas Dep’t of Educ.*, 45 IDELR 149, 443 F.3d 965 (8th Cir. 2006).
 - IEP team rejected a parent request for HB based on a one-page report from psychologist diagnosing student with school phobia.
 - Team believed that student’s socialization needs would not be met at home and that the home was not the LRE.
 - School asked for additional information and the opportunity to pursue a second opinion. Both requests were rejected by the parent who refused to send the student to school.

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Transition from Home Instruction Back to School

- *Bradley v. Arkansas Dep't of Educ.*, 45 IDELR 149, 443 F.3d 965 (8th Cir. 2006).
 - A truancy court ordered the parent to return the student to school. No retaliation found for the truancy filing, as the principal only did what state law required him to do.
 - The principal had actually delayed filing against the parent in order to try to work out the matter as the principal knew that a truancy filing would further sour the parent-school relationship.
- A truth of HB: The longer a student with school phobia remains away from school, the harder it will be to transition him back, if at all.

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