



Governor Signs Law Concerning Home and Hospital Instruction to Students

By Trisha Olson

On July 14, 2011, Governor Pat Quinn signed into law Public Act 97-0123 amending Section 5/14-13.01 of the *Illinois School Code* concerning home and hospital instruction for students. Prior to this amending Act, a student received home or hospital instruction when a physician certified that (1) the student had a medical condition causing that student to be unable to attend school for two or more consecutive weeks due to his or her condition, or (2) the student had a medical condition causing "ongoing intermittent" absences – a term that was not previously defined. If the student had an IEP, in response to ongoing intermittent absences, the student's IEP team was to consider the need for home or hospital services based upon the student's condition, the impact on the student's ability to participate in education, and the anticipated duration or nature of the student's absence from school.

Effective immediately, the amended Act completely alters the standards for determining home or hospital instruction. Now, a child qualifies for home or hospital instruction when a doctor anticipates that a student will be unable to attend school for two or more consecutive weeks due to a medical condition.

A child also qualifies if a doctor anticipates that a student's medical condition will cause ongoing intermittent absences. The Act defines the term "ongoing intermittent" absence to mean the student's medical condition is of such a nature or severity that the student is anticipated to be absent for periods of at least "two days at a time multiple times during the school year totaling at least 10 days or more of absences." There is no minimum number of days a student must be absent before he or she qualifies for home or hospital instruction.

Further, home or hospital instruction may begin as soon as the school district receives a doctor's statement, but not later than five days after receipt of a doctor's statement. In practice, the school district should commence home or hospital instruction immediately.

Finally, the amended Act specifies that special education and related services required by a student's IEP or Section 504 plan must be implemented as part of the student's home or hospital instruction. However, IEP and Section 504 teams may modify a student's receipt of special education and related services during home or hospital instruction.

Given the broad changes required under the amended Act, we anticipate forthcoming amendments to the *Illinois Administrative Code* and guidance from the Illinois State Board of Education. In the meantime, Illinois school districts will need to review and revise any applicable policies, procedures and internal practices on the delivery of home and hospital instruction, including the qualifications and availability of its home and hospital instructors.

Please do not hesitate to contact Scariano, Himes and Petrarca, Chtd., with any questions about the changes to home and hospital instruction, or other changes made during this legislative season.

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