

## Home School or Homebound Instruction for Students with Disabilities

### Q & A During COVID-19

“Homebound” instruction” and “home school” are terms that are often confused or used interchangeably, yet they refer to two very distinct educational options for children.

“Homebound instruction” refers to the instruction provided by public schools, by licensed teachers, to a student who is unable to attend school either due to the nature or severity of a student’s disability (511 IAC 7-42-11) or because the student (with or without a disability) has been injured or has a temporary or chronic illness (511 IAC 7-42-12).

“Home school,” on the other hand, is a nonpublic, non-accredited educational program under the direction and control of the parent. If a parent chooses to home school a student, the parent is required to ensure that the student is provided with instruction equivalent to that given in public schools.

**Q 1: If our school offers all parents the option of in-school instruction or virtual instruction or offers only virtual instruction, but a parent of a student with a disability insists that we provide homebound instruction and send a teacher to the student’s home, are we required to do that?**

**A 1:** The case conference committee (CCC) will need to determine whether, based on the nature of the student’s disability, providing homebound instruction is the least restrictive environment (LRE) for the student under 511 IAC 7-42-11. Alternatively, if the student has been injured or has a temporary or chronic illness that will prevent the student from attending school for a minimum of 20 instructional days, as documented by a physician, then the school will be required to provide instruction during those anticipated days of absence under 511 IAC 7-42-12. If either of these sections of Article

7 is applicable, the CCC will need to review the placement at least every 60 instructional days.

However, even if neither 511 IAC 7-42-11 nor 511 IAC 7-42-12 apply, the CCC will still need to determine, on an individual basis, the special education and related services required to provide a free appropriate public education (FAPE) to the student. The virtual option and platform provided to the general education student population may not be sufficient to meet the needs of a student with a disability, and may not provide sufficient supports and related services to enable the student to benefit from the educational services provided. The CCC may need to ascertain that the student is able to access the instruction remotely, and may need to conduct an assistive technology evaluation. The CCC will need to determine whether all services, including instruction and the provision of related services, can adequately be provided virtually or remotely, or whether in-person services are needed.

**Q. 2: If a parent chooses to home school a student rather than participate in our virtual instruction, do we need to provide special education services?**

**A. 2:** Yes. Home school is a nonpublic, or private, school. As such, a public school must offer the student special education and related services under a service plan just as it would for any other parentally-placed student in a nonpublic school under 511 IAC 7-34. The CCC determines the services offered under a service plan (SP). The parent should be informed of the special education and related services that would be offered under the individualized education plan (IEP) so the parent can make an informed decision as to whether to keep the student enrolled in the public school, receiving services under the IEP or to home school with the option to receive services under a SP.

**Q. 3: If the parent chooses to home school but does not consent to the implementation of a service plan, does that mean the student is no longer considered a student with a disability?**

**A. 3:** No. While the public school must offer services to a parentally-placed nonpublic school student, there is no requirement that the parent of a student attending a nonpublic

school, including a home school, consent to the provision of services under a service plan. 34 CFR §134, *Letter to Wierda*, 213 IDELR 148 (OSEP June 6, 1988).

**Q. 4: If a parent does not consent to the provision of services to a homeschooled student, is that considered a revocation of consent for special education?**

**A. 4:** Not necessarily. Declining to accept, or consent, to services under a service plan, is not the same as actively revoking consent for special education and related services. When a parent provides consent, that means that the parent has been fully informed of all information relevant to the activity for which consent is sought and that the parent understands and agrees in writing to the activity for which consent is sought. Similarly, the revocation must be informed and in writing. If a parent does revoke consent in writing, the school is required to provide prior written notice to the parent that fully describes the services and activities to which the parent is revoking consent, notifies the parent that all special education and related services will cease after the expiration of 10 instructional days after the parent receives notice and that the student will no longer be eligible as a student with a disability and is not entitled to the protection of Art. 7. If, after revoking consent, the parent wants special education and related services for the student, the parent must request an initial educational evaluation.

**Q. 5: If a parent opts to home school a student during the fall semester, 2020-2021 without receiving services under a service plan, but then decides to re-enroll in the public school, must the school provide a FAPE under an IEP?**

**A. 5:** Yes. Unless the parent revoked consent for special education and related services, the student's re-enrollment in the school triggers the duty to offer the student a FAPE. If the parent had specifically revoked consent in writing, and the school provided the required notices, then the parent would need to request an initial educational evaluation to determine the student eligible for special education and related services.