



Students' Right to Home and
Hospital Instruction Act of 2020

Guidance and Procedural Manual

August 2023

Purpose

- To provide guidance for local education agencies (LEAs)¹ to establish a home and hospital instruction (HHI) program including, but not limited to, what constitutes a complete application and medical certification of need.
- To provide guidance to students and parents/guardians that request HHI, including appeal methods.

Introduction

All students have a right to public education, including when they may have a short-term medical situation that prevents them from attending school in person. To this end, the Students' Right to Home and Hospital Instruction Act of 2020, requires every LEA to adopt and implement a home and hospital instruction program beginning in the 2022-23 school year.²

An HHI program is designed to promote a participating student's academic progress by allowing the student to stay current with classroom instruction in core subjects, to the greatest extent possible. The delivery of home or hospital instruction fosters coordination between the classroom teacher and the home and hospital instructors to ensure that seamless reintegration into the classroom instruction can be achieved when the student returns to school.

LEA Home and Hospital Instruction Program

Each LEA must develop a written home and hospital instruction program policy that:

- Promotes a participating student's academic progress;
- Allows the student to stay current with classroom instruction in core subjects;
- Fosters coordination between the student's classroom teachers and home and hospital instructors;
- Facilitates the rapid reintegration into classroom instruction when the student returns to school;
- Provides content aligned to what is being provided in the student's classroom; and
- Assures alignment with student individualized education program (IEP), if necessary.

The LEA's home and hospital instruction program policy shall include:

- A process for a parent/guardian/student to apply for home and hospital instruction;
- Requirements for medical certification or recertification; and
- Appeal and mediation information.

Additionally, an LEA's home and hospital program policy must also be published online on the LEA's website, provided to a parent/guardian after they make an initial request, and again to the parent/guardian after a recertification request. Finally, each LEA must also designate at least one employee to manage the LEA's home and hospital instruction program. This position should be included on the website and in the materials sent to OSSE.

¹ As referenced in the guidance, local education agencies (LEAs) are the District of Columbia Public Schools and any individual or group of public charter schools operating under a single charter in the District of Columbia.

² D.C. Law 23-204; D.C. Official Code Sections 38-251.01 through 38-251.10

Home and Hospital Instruction Application for Initial Request

1. Parent/guardian's request for home and hospital instruction must be made through the LEA of enrollment.
 - a. A parent/guardian may make a verbal or written request but must ultimately submit a written application. A written request is the first formal step of the process.
 - b. Upon receipt of a parent/guardian's request and within **two** school days, the LEA shall document the parent/guardian's request in the student's record and provide the parent/guardian with a copy of the LEA's home and hospital instruction policy and a written application form/template.
 - c. If a student is eligible for an IEP, the LEA shall also:
 - i. Provide the parent/guardian with procedural safeguard notices under IDEA; and
 - ii. Consider whether the placement could impact the student's "least restrictive environment" and if so, convene a placement team to review and revise the student's IEP, as appropriate.

2. Parent/guardian's must submit the application to the school. An application must have the following:
 - a. Student's name and date of birth;
 - b. Name of LEA the student is enrolled in AND name of the student's current school of attendance;
 - c. Parent/guardian's name, address, phone number and email address;
 - d. A medical certification, as defined in the Medical Certification and Recertification section below;
 - e. Requested start date and duration of services;
 - f. Parental/guardian consent for disclosure of medical information; and
 - g. Parent/guardian's signature.

While not required, the LEA may wish to request in its application a request for the identity of advocate or representative information, if applicable.

3. The LEA will review the application for home or hospital instruction within **five** calendar days of receipt of the completed application.
 - All applications must be approved by the HHI program office before any services will be initiated.

Home and Hospital Instruction Approval Process

Upon receipt of a completed application, the LEA will:

1. Within **two** school days of receipt of the request,
 - a. Document a parent/guardian's request for home and hospital instruction in the student's record;
 - b. Ensure the parent/guardian has a written application; and
 - c. Provide information/support to the parent/guardian in completing the application and obtaining appropriate documentation.

2. Within **five** calendar days of receipt of the written application:
 - a. The LEA must review an application and issue a written decision approving or denying the HHI application; and

- b. The LEA must determine whether the student’s medical condition is verified by authorization of a licensed health care professional. The medical certification must be signed by a licensed physician, licensed nurse practitioner, licensed clinical psychologist, licensed mental health counselor or therapist, or physician assistant.
3. In the case of LEAs with multiple campuses, the LEA central office may need to communicate with the school regarding the status of the application.
 - a. The LEA will send a confirmation email to the school confirming the approval of the application. If additional information or clarification is needed, a school-based representative should contact the parent/guardian.
4. Issue a denial **only** if the application or medical certification of need is missing information or otherwise incomplete.
 - a. A doctor’s letter of medical certification is presumed to be accurate and should only be denied if it is missing information (See Medical Certification section below).
 - b. If a student with a disability is placed in home or hospital instruction in accordance with the Individuals with Disabilities Education Act (IDEA), the provision and duration of services shall be governed by the IDEA and any applicable District law or regulation governing IDEA rather than the standards in this chapter. Therefore, an LEA may deny an application based on the fact that the student has a special education plan that allows HHI and should be adjudicated under special education laws rather than the requirements of the Students’ Right to Home and Hospital Instruction Act of 2020.
5. Upon approval, the LEA is responsible for contacting the appropriate team members if the student has an IEP or Section 504 plan.
 - a. The IDEA supersedes all HHI requirements.
6. The LEA shall confirm application approval or denial in a written letter to parents/guardians.
 - a. Approvals should include:
 - i. A written plan for the delivery of home or hospital instruction;
 - ii. The services delivery location;
 - iii. Services to be delivered;
 - iv. Identification of virtual or in-person delivery as the method of services;
 - v. Number of hours per week of direct instruction; and
 - vi. The schedule for delivery of services.
 - b. Denials should include:
 - i. A clearly stated reason for the denial which should only be because the application or medical certification of need was missing information or incomplete;
 - ii. Specifics about what is missing and/or incomplete; and
 - iii. A copy of the appeal process and OSSE contact information for appeals.

Medical Certification and Recertification

A medical certification of need is a written statement that must include the following:

- Signatory’s license number;
- Certification of the student’s health condition;

- Explains how the health condition has caused or is anticipated to cause the student to be unable to attend in-school instruction for ten or more consecutive or cumulative school days in a year;
- A recommendation for HHI;
- The maximum number of direct instructional hours per week based on the student's health condition, if the health care professional determines that a maximum number of hours is necessary in light of the student's medical condition;
- The anticipated duration and frequency of the student's health condition, and the needed start date of services; and
- Whether this condition is anticipated to continue to cause continuous, partial, or intermittent absence from school.

The medical certification of need must be signed by one of the following:

- A licensed physician;
- Licensed nurse practitioner;
- Licensed clinical psychologist;
- Licensed mental health counselor or therapist; or
- Physician assistant.

It is important to note that the LEA shall ensure due deference to the medical opinions set forth in the medical certification of need. This includes any medical opinions regarding the return of student to in school instruction when medically feasible, including the use of accommodations or supports recommended by the medical professional.

Recertification of need must also be a written statement that meets the above requirements for medical certification **and**:

- Verifies the continued need for home and hospital instruction;
- Defines whether there is a maximum amount of direct instructional hours, based on the student's health; and
- States the anticipated duration and frequency of the student's health condition.

Duration of Services and Extension

The initial home or hospital application shall provide services for the duration of a student's medical condition or up to 60 calendar days, whichever is less.

A parent/guardian may request an extension for additional periods of no more than 60 calendar days with the following requirements:

- The extension must be submitted at least five days prior to the end of the current period. If a new application is not received, the LEA must terminate services. If a request for extension of services is received after termination of services, the number of hours that a student would have received if the extension were received timely will not be provided prospectively.
- The extension must include the number of days being requested, not to exceed 60 calendar days.
- Medical recertification (as defined above) is provided to the LEA.

Instructional Services

- The LEA must begin providing instructional services with **five** school days of an approved application.
- The LEA must identify and provide the minimum number of hours per week of direct instruction for an approved student, based on the medical certification or recertification of need.
- The LEA may adjust the minimum amount of direct instruction based on the student's schedule.
- Direct instruction shall be provided in -person by a home or hospital instructor. Direct instruction may be provided by home or hospital instructor via real-time videotelephony or asynchronous learning with the parent/guardian's consent or under specific public health emergencies and other exceptional circumstances which are defined as:³
 - During a public health emergency;
 - When the student has been diagnosed with a communicable disease;
 - When a household member has been diagnosed with a communicable disease, if the student is to receive instruction at home; or
 - When the LEA determines safety concerns prevent the delivery of in-person services.
- These services can be provided through current staff, contracting with private providers, contracting with other LEAs to provide the instructional services, or a combination of any of these options.
- An LEA shall maintain a student receiving home and hospital services on their regular attendance roll and count the student as medically excused except when the student is not available for home and hospital instruction, in which case, the student is marked absent.
- Upon return to in-school instruction, an LEA may propose accommodations to allow the student to remain in school, but such accommodations must be agreed upon in writing by the medical professional that signed the certification of need.

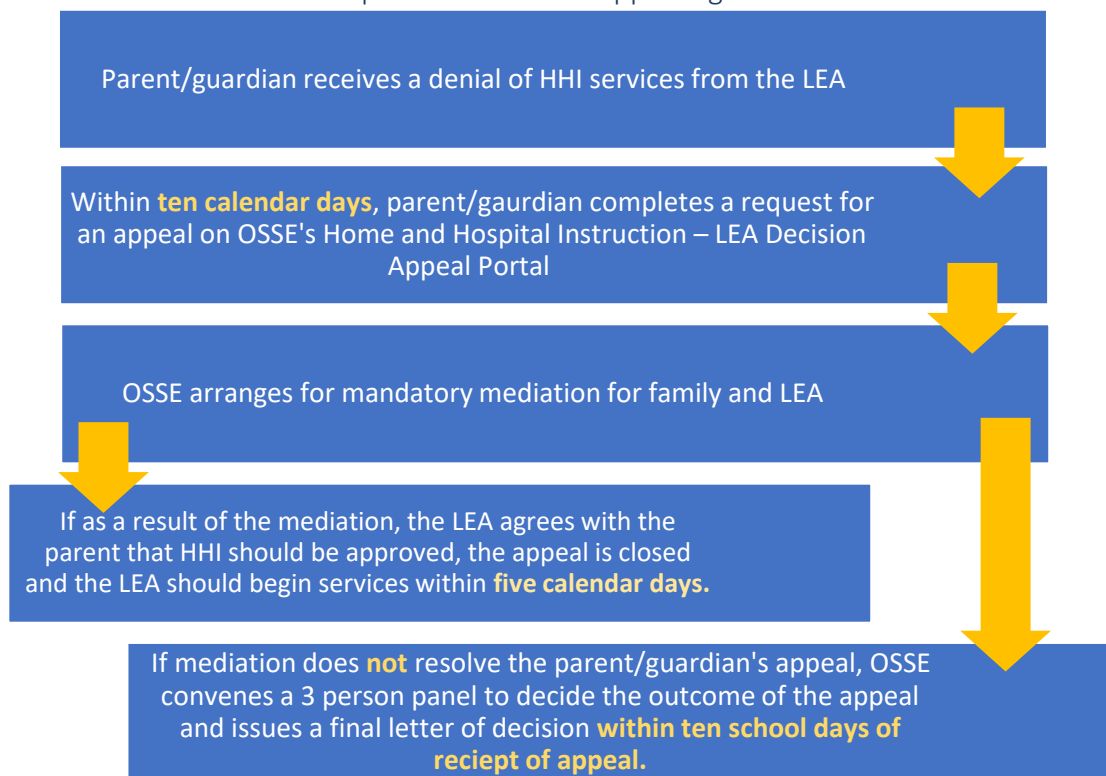
Mediation and Appeals

An LEA may deny an application for home or hospital instruction **only** if the application or a medical certification or recertification of need is missing or incomplete. Appeal requests shall **not** include an appeal of the LEA's written plan for implementation. Therefore, appeals are limited to instances where the parent/guardian asserts that:

- The application and medical certification or recertification are complete; and/or
- The LEA's decision was not made in accordance with the statute and/or regulations.

³ See 5-A DCMR Section 2508.5

Home and Hospital Instruction – Appealing an LEA Denial



1. A parent/guardian can appeal by submitting a written request for an appeal to OSSE.
 - Within 10 calendar days of receipt of the LEA decision denying the student home or hospital instruction, the parent/guardian must submit a written appeal to the [OSSE Home and Hospital Instruction – LEA Decision Appeal Portal](#).
 - Only appeals filed in accordance with this time frame shall be considered for appeal by OSSE.
 - An appeal must include all student information, the LEA's reason for denial (if given), a copy of the medical certification, and why the applicant believes the LEA's decision was not in alignment with the law or regulations.
 - An individual who is unable to submit a written request for appeal by email may contact the OSSE Division of Systems and Supports, K12, Special Populations and Programs office at OSSE.HHlappeal@dc.gov for further assistance.
2. OSSE will review and acknowledge the request for appeal. Parents/guardians will receive a confirmation email to confirm that OSSE is reviewing the request for appeal.
3. OSSE will refer each request for appeal to the OSSE Office of Dispute Resolution to coordinate mediation of the request for appeal.
 - Mediation is an automatic step in the appeal process.
 - The LEA shall participate in a mediation with the parents/guardians.
 - Parents/guardians shall be permitted by OSSE to request **one** change in date for mediation.
 - OSSE will deny the appeal if a parent/guardian fails to participate in the mediation

4. If, following receipt of the appeal and after completion of mediation, the LEA and the parent/guardian are unable to resolve the issues raised by the appeal, the appeal shall be reviewed by a three-member appeals panel within OSSE within **eight** school days of the final mediation session.
 - The parent/guardian may request an opportunity for oral argument before the appeals panel.
 - The parent/guardian shall have the burden of proof.
 - The presumption will be in favor of the medical opinion set forth in the medical certification or recertification. The LEA shall have the burden of proof in seeking to rebut this presumption.
 - The panel will consist of OSSE employees with appropriate expertise as determined by OSSE.
5. OSSE will issue a final decision within **10** school days following receipt of the appeal to the panel that indicates the findings of fact upon which the decision is based, and next steps.
6. In the case where the appeal is resolved in favor of the parent/guardian, the LEA must provide services no later than **five** calendar days following the issuance of the decision.

LEA Reporting

All LEAs must annually report to OSSE:

- A copy of their Home and Hospital Instruction Program and website link;
- All requests for home and hospital instruction, including student names, unique student identifiers, and dates of request;
- Approvals and denials made for each request;
- The reason for denial for each request that was denied;
- A list of names of each licensed medical professional that provided the medical certification of need; and
- How the instruction was provided (in person v. real-time videotelephony).

Definitions

Health Condition – 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.

Home or hospital instruction – academic instruction and support provided to a student participating in a home and hospital instruction program.

Home and hospital instruction program – a program that provides instruction and support to students who have been or are anticipated to be unable to attend in-school instruction, 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.

IDEA – the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1400 *et seq.*), and its implementing regulations.

IEP – an individualized education plan, which is a written plan that specifies 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)).

In School – Instruction that takes place when the student is either physically present in the school of attendance or when the student is receiving instruction remotely, excluding remote learning as part of a home instruction program pursuant to this chapter or in accordance with the IDEA.

LEA – Local education agency, which is the District of Columbia Public Schools and any individual or group of public charter schools operating under a single charter in the District of Columbia.

OSSE – the Office of the State Superintendent of Education established by the State Education Office Establishment Act of 2000, effective October 21, 2000 (DC Law 13-176, D.C. Official Code § 38-2601).

Parent – a parent, guardian, or other person who has custody or control of a student enrolled in a school or in an LEA, a student who is 18 years or older and for whom educational rights have transferred, or an emancipated minor.

More Information

For further information, please visit OSSE's [Home and Hospital Instruction website](#) or email OSSE's Home and Hospital office at OSSE.HHIappeal@dc.gov .