



Advancing the human and civil rights of people with disabilities

SELF-ADVOCACY ASSISTANCE ★ LEGAL SERVICES ★ DISABILITY RIGHTS EDUCATION ★ PUBLIC POLICY ADVOCACY ★ ABUSE INVESTIGATIONS

SENT VIA U.S. MAIL AND EMAIL

January 29, 2021

Dr. Carmen I. Ayala
Illinois State Board of Education
Special Education Compliance Division
100 North First Street
Springfield, IL 62777-0001

Ms. Marsha Kelley
Illinois State Board of Education
Special Education Compliance Division
100 North First Street
Springfield, IL 62777-0001

RE: Class Complaint Against Chicago Public Schools for Its Failure to Comply with Federal and Illinois State Laws in Its Home and Hospital Instruction Program.

Dear Dr. Ayala and Ms. Kelley:

Class Complaint Against Chicago Public Schools Home and
Hospital Instruction Program's Policies and Practices

Equip for Equality, Inc. ("EFE"), as the Governor designated Protection and Advocacy System for the State of Illinois, is entrusted with representing people with disabilities, including a number of students enrolled at Chicago Public Schools ("CPS"). EFE, along with Legal Aid Chicago and Legal Council for Health Justice, submits this Complaint¹ against CPS to the Illinois State Board of Education ("ISBE"). Our three organizations have represented dozens of students with regard to homebound services provided by CPS's Home and Hospital Instruction Program ("HHIP") and request that ISBE make findings that its policies and practices violate the Illinois Administrative Code (the "Code"), 23 Ill. Adm. Code § 226 et seq. and the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq.

A school district must provide a free appropriate public education to its students with disabilities and allow for those students to be educated in their least restrictive environment. 20 U.S.C. § 1412(a)(1)(A), (a)(5). To the greatest extent possible, students with disabilities should be educated with students who are not disabled unless the nature or severity of the student's disability prevents education in the general classroom setting. 20 U.S.C. § 1412(a)(5)(A). School districts must ensure that a "continuum of alternative placements is

¹ EFE, Legal Aid Chicago, and Legal Council for Health Justice have firsthand knowledge of the HHIP practices that fail to meet the IDEA and state requirements. We submitted a FOIA request to CPS on November 23, 2020 requesting data on the CPS Home and Hospital Instruction Program. On December 7, 2020, CPS requested that we narrow our FOIA request. We submitted a revised FOIA request on December 11, 2020. CPS rejected the revised FOIA request as well. Please see the attached FOIA requests and CPS responses for your reference. We are concerned with CPS's refusal to produce any data regarding the Home and Hospital Instruction Program, and we encourage ISBE to seek this same data in their investigation.

THE INDEPENDENT, FEDERALLY MANDATED PROTECTION & ADVOCACY SYSTEM FOR THE STATE OF ILLINOIS

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available to meet the needs of children with disabilities for special education and related services.” 34 C.F.R. § 300.115(a); 23 Ill. Adm. Code § 226.300. This continuum includes placements for home and hospital instruction. 34 C.F.R. § 300.115(b)(1). For those students who have an Individualized Education Program (“IEP”), a statement should be included in the IEP explaining the extent to which the student will be educated in or outside of the regular classroom setting. 20 U.S.C. § 1414(d)(1)(A)(i).

Home and hospital instruction are the most restrictive environments on the continuum. When a student has a medical condition that will cause an absence from school for two or more consecutive weeks or absences on an ongoing intermittent basis, the student’s IEP team must consider the need for home or hospital services. 23 Ill. Adm. Code § 226.300(b). According to the Illinois School Code, “ongoing intermittent basis” means that “the child’s medical condition is of such a nature or severity that the child will be absent from school due to the medical condition for periods of at least 2 days at a time multiple times during the school year totaling at least 10 days or more of absences.” 105 ILCS 5/14-13.01(a-5). A student’s eligibility for home or hospital instruction is based upon a written statement from a physician that specifies the student’s medical condition, the impact of the condition on the student’s ability to participate in education, and the anticipated duration or nature of the student’s absence from school. 23 Ill. Adm. Code § 226.300(b).

CPS has developed a procedural manual — Guidance on Providing Education and Related Services to Students with Disabilities Pursuant to the Individuals with Disabilities Education Act for the 2019-2020 School Year (“Procedural Manual”) — for special education services that outlines the provision of homebound services. The one page referring to HHIP within the Procedural Manual coincides with the requirements under the IDEA and the Code. However, CPS has developed a Frequently Asked Questions (“FAQ”) document for the HHIP program that fails to meet the requirements set forth in the IDEA and the Code. Beyond these guidance documents, CPS’s practice with respect to HHIP fails to comply with the IDEA and Code and regularly denies students a free appropriate public education (“FAPE”) by:

1. Limiting HHIP services to a maximum of five hours per week.
2. Requiring approval from the Manager of HHIP to change a student’s least restrictive environment to homebound instruction, effectively preventing the IEP team from deciding the student’s placement.
3. Preventing the IEP team from deciding the unique nature (frequency, duration, etc.) of the homebound services that a student receives.
4. Denying direct related services to homebound students.
5. Only providing homebound services after regular school hours and before 7:00 p.m. without consideration for the student’s needs and ability to participate in afterschool hours.
6. Failing to make up missed homebound hours due to student illness and teacher cancellations.

I. CPS Improperly Limits HHIP Services to a Maximum of Five Hours Per Week.

The amount of instructional time provided to students through homebound services must “be determined in relation to the child’s educational needs and physical and mental health needs.” 23 Ill. Adm. Code § 226.300(c)(1). Unless a physician recommends otherwise, the amount of instructional time “shall not be less than five hours per week.” 23 Ill. Adm. Code § 226.300(c)(2). The Code makes it clear that while instructional services provided to homebound students should be based on that student’s educational needs and health, the minimum should generally be no less than five hours of instruction per week.

In practice, CPS treats the five-hour rule as a ceiling and not as a floor by limiting HHIP instruction services to a maximum of five hours per week. In the FAQ, parents are told that, “[b]ased on a regular five-day school week, your child will receive one hour of instruction.” Though unclear in the FAQ, in practice CPS provides just one hour of instruction *per school day* for in-person learning.² CPS fails to consider any individual need

² During the COVID-19 pandemic and remote learning, CPS has reportedly been providing two hours of homebound instruction per school day. It is believed that this shift is due to their obligations under 23 Ill. Adm. Code § 1.520(c). However, this complaint focuses on CPS’s policy and practices that precede the pandemic and which will continue once remote learning is over.

for greater instructional time or additional services. Although the Procedural Manual parrots the five-hour minimum rule laid out in the Code, in practice, five hours per week is the maximum amount of instructional time a CPS student will receive. Only through legal intervention have parents been successful in obtaining more instructional time in some individual cases.

Summarily limiting instructional services to five hours per week violates the Code and the IDEA, and routinely denies the most vulnerable students a FAPE. Five hours should be the minimum amount of instruction, and IEP teams should make individualized determinations whether to exceed five hours based on each student's needs. Because five hours of instruction is CPS's default maximum given in every situation, CPS fails to determine the amount of instructional time based on each student's unique educational and health needs in violation of the law. *See In re: Student with a Disability*, 117 LRP 48756, at 18 (SEA IL Sept. 23, 2017) (Independent Hearing Officer found error where a student's "homebound services were based upon the District's HHIP only" and there was "no discussion in the IEPs regarding the appropriate number of hours for tutoring."); *Renton School District*, 111 LRP 72136, at 11 (SEA WA Nov. 10, 2011) ("The duration of instruction in the homebound setting must be based on an individualized determination, not a pre-set amount for all homebound students."); *Trico Community Unit School District 176*, 108 LRP 42817, at 15 (SEA IL Apr. 1, 2008) (finding that a student's FAPE required more than five hours per week of tutoring in order to learn "an increasingly rigorous curriculum").

CPS's limit to five hours per week of instruction for homebound students denies students a FAPE.

II. CPS's Written Policy Requiring Approval from the Manager of HHIP to Change the Student's IEP Placement to Homebound Denies Students a FAPE Because the HHIP Manager Supplants the Role of the IEP Team in the Placement Decision.

Under the IDEA, a student's parents, general and special education teachers, a qualified representative of the district, and other individuals with knowledge or special expertise regarding the student are members of that student's IEP team. 20 U.S.C. § 1414(d)(1)(B). In developing an IEP, the IEP team must consider, among other factors, the concerns of the parents for enhancing their student's education, results of the most recent evaluation, and the academic, developmental, and functional needs of the student. 20 U.S.C. § 1414(d)(3)(A). The IEP team must review and revise the IEP as appropriate to address the student's needs. 20 U.S.C. § 1414(d)(4)(A). The decision about a student's placement must be based on the student's IEP and take into consideration her least restrictive environment. 34 C.F.R. § 300.116(a), (b). The IDEA and accompanying federal regulations indicate that a student's IEP and the IEP team are an integral part in determining the student's least restrictive environment, including the decision of whether a student should receive homebound instruction.

The Code requires a student's IEP team to be involved in deciding whether homebound services are needed. If a student with an IEP has a medical condition that may make her eligible for homebound instruction, it is the IEP team that is responsible for considering homebound instruction. 23 Ill. Adm. Code § 226.300(b). Per the Procedural Manual, CPS requires that a nurse and the Manager of HHIP be members of the IEP team to determine the HHIP placement decision (see p. 71). Generally, the Manager of HHIP is not a member of the IEP Team; she does not work with students directly or have any special knowledge about an individual student's needs. In practice, the Manager of HHIP must be present at the IEP meeting in order to approve homebound instruction. Not only does she need to be present, the HHIP Manager is the only person who can remove a block in the CPS's IEP software system called SSM before placement can be changed to homebound instruction. In our collective experience, we have seen this policy/practice create situations where an IEP team, including a District Representative, decided that homebound placement was necessary for a student to receive a FAPE. However, since the Manager of HHIP was not present, the IEP meeting had to be reconvened in order

Also, CPS's provision of the minimum of two hours during remote learning constitutes the same violations of the IDEA and the Code as outlined throughout this complaint, namely: providing the legal minimum to all students regardless of need, and substituting the IEP team's decision-making power with a universal policy based on administrative convenience.

to finalize the homebound placement. This policy/practice and the block it creates in SSM impedes and frequently delays or denies the ability of the IEP team that regularly works with the student from making appropriate placement determinations.

Furthermore, it is illegal for only one person, namely an individual unknown to the student, to have the sole discretion to approve homebound instruction service, especially when the IEP team has already made the decision that the student needs the service. *See In re: Student with a Disability*, 117 LRP 48756, at 18 (SEA IL Sept. 23, 2017) (an IEP team should determine and develop a homebound program based on the student's unique needs); *City of Chicago Public School District 299*, 109 LRP 72740, at 35 (SEA IL Aug. 8, 2009) (the District violated IDEA when an IEP team was not involved in a student's homebound determination and instead the decision was made by the home/hospital department whose only information about the student came from a "one page, fill in the blank form"). ISBE similarly determined in the 2018 Public Inquiry Report that requiring a District Representative or the principal to approve the provision of services, such as a paraprofessional aide, delayed or denied students a FAPE. ISBE then found that such an approval process would "prevent the IEP team from serving its proper function as the decision-maker for services and placement. It would also prevent parents from participating in decision-making as required by the IDEA." Memorandum from the Public Inquiry Team to the State Superintendent of Education and General Counsel, Final Report of Public Inquiry (April 18, 2018). ISBE should make the same finding regarding the HHIP Manager as the only authorized person to make homebound placement decisions. The Manager of HHIP should not be able to prevent an IEP team from serving its proper function as the decision-maker for whether homebound instruction is the appropriate placement for a student. This CPS practice violates the Code and the IDEA and denies students a FAPE.

III. CPS's HHIP Prevents the IEP Team from Considering the Unique Instructional Needs of Each Student.

If a student requires homebound services, the IEP team should then decide the nature and amount of the homebound instruction and services based on each student's unique needs. As discussed above, CPS policy and practice prevents the team's proper decision-making function. Due to CPS's policy of requiring the Manager of HHIP to approve all homebound requests and the practice of limiting services to one hour per school day (for in-person, or two hours per day for remote), the homebound services, if approved, are the same for every student – namely five hours per week of instruction. The IEP team is thus prevented, by CPS policy and practice, from determining what services the student requires during homebound instruction.

According to the Code, a student's IEP team must consider home or hospital instruction when the student has a medical condition that may make him eligible. 23 Ill. Adm. Code § 226.300(b). If such services are necessary, the student's IEP must be implemented unless the IEP team determines that modifications are necessary. 23 Ill. Adm. Code § 226.300(c). The Code anticipates that a student's IEP team will be a part of not only determining whether home or hospital services are needed, but also in determining the services to be provided and revising the IEP when necessary to effectively implement those services.

The FAQ does not indicate that an IEP team is part of the decision. Instead, the FAQ states that the "CPS Office of Diverse Learner Supports and Services' Home and Hospital Instruction Program determines eligibility for homebound instruction." The FAQ goes on to tell parents that if they want to request homebound instruction for their student, they must submit a referral form for review and consideration to the HHIP Manager. The form makes no mention of convening an IEP meeting nor discussing the determination with the student's IEP team. Rather, the entire process is regularly completed *without* convening an IEP meeting at all.

The FAQ further tells parents that within five school days of the referral, the School Homebound Coordinator will contact the parent to arrange an Education Planning Meeting. The purpose of the meeting is to design a plan of instruction for the student, including curriculum, accommodations or modifications to the curriculum, classwork, and grading. Often no such meeting occurs and when a teacher is available, the teacher begins providing academic instruction to the student five hours per week.

The Code requires an IEP team to determine whether an eligible student requires homebound services and to modify the IEP as necessary to implement those services. 23 Ill. Adm. Code § 226.300(b), (c). The IDEA requires placement decisions to be made by a student’s parents and other individuals knowledgeable about the student, evaluation data, and placement options. 34 C.F.R. § 300.116(a). The IDEA also requires placement decisions to be based on a student’s IEP. 34 C.F.R. § 300.116(b)(2). State and federal law require an IEP team to be involved in the placement decision and to ensure that necessary services based on a student’s IEP are included with that decision. *See In re: Student with a Disability*, 117 LRP 48756, at 18–19 (SEA IL Sept. 23, 2017) (a student was denied a FAPE because “homebound services were based upon the District’s HHIP only” and “the HHIP guidelines used for the homebound services for this Student were not designed to meet the unique needs of the Student”). The HHIP process fails to follow these guidelines by excluding the IEP team from participating in homebound placement and instruction minute decisions. Without convening an IEP meeting, the Manager of HHIP solely decides whether a student will receive homebound services and, if not denied, defaults to providing every student five hours of instruction with no related services. This process occurs without input from the student’s IEP team and without considering which services a student may need based on her IEP and unique needs. As a result, by excluding the IEP team, CPS violates the Code and the IDEA and denies a FAPE to students who receive homebound instruction.

IV. CPS Fails to Provide Direct Related Services to Homebound Students.

Under the Illinois School Code, special education and related services required by a student’s IEP “must be implemented as part of the child’s home or hospital instruction” unless the IEP team determines modifications are necessary due to the student’s condition. 105 ILCS 5/14-13.01(a-5). The amount of related services that a student receives through homebound instruction is determined according to the student’s educational, physical, and mental health needs. 23 Ill. Adm. Code § 226.300(c)(1). *See Cincinnati City School District*, 111 LRP 67197, at 14 (SEA OH Aug. 30, 2011) (“If the IEP team believes the student requires [certain related services, then] the IEP team must include these services regardless of the student’s placement on home instruction.”). Accordingly, the IEP team should make determinations regarding related services in a homebound setting.

As a matter of practice, CPS does not offer direct related services to students who receive homebound instruction. Parents are routinely told that students cannot receive related services when placed in a homebound setting. There is no mention of related services in the FAQ or in the Education Planning Meeting description.³ By failing to provide direct related services as a practice to students participating in HHIP, CPS violates federal and state regulations and denies students a FAPE. The advocates submitting this complaint have been able, in isolated client matters, to obtain direct related services during homebound instruction, but these cases are the exception. CPS’s clear practice is to refuse to provide any direct related services during homebound instruction, despite a student’s IEP requiring such services for the provision of FAPE.

V. CPS’s Policy to Provide Homebound Services Only After Regular School Hours and Before Seven in the Evening Denies Students a FAPE.

One of the purposes of the IDEA is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs.” 20 U.S.C. § 1400(d)(1)(A). Every student has different needs, and not only requires but is entitled to an individualized plan. CPS only provides homebound services to students during a limited timeframe. Even though the Procedural Manual allows for some flexibility, a student’s individual needs are never actually considered. CPS’s practice follows the FAQ, which states that homebound instruction is “provided after regular school hours before 7:00 PM and it is provided only on days when CPS school is in session.” Rather than convene an IEP meeting and discuss the student’s individual needs for services, CPS’s practice mandates a rigid and limited timeframe in which homebound instructional services will be provided.

³ The Procedural Manual makes a cursory mention of related service time: “the amount of instructional and related service time will not be less than five hours per week.”

CPS has determined for ease of administration of the HHIP that it will only provide afterschool hours to students due to its use of full-time classroom teachers to provide homebound services. The IDEA requires a school district to base educational service decisions on what is appropriate for each student given her unique needs, not on what is administratively convenient for the district. *See In re: Student with a Disability*, 117 LRP 48756, at 18–19, 24 (SEA IL Sept. 23, 2017) (Independent Hearing Officer found that the “strict times” for when homebound tutoring was provided “were not specially designed to meet the unique needs of the Student” and ordered that future homebound sessions be provided between 9 a.m. and 3 p.m.). CPS must be able to provide homebound instruction during regular school hours if it is going to meet students’ unique needs. CPS’s strict timeframe violates the IDEA’s FAPE requirement that educational services be “specially designed to meet the unique needs” of a student with a disability, “supported by such services as are necessary to permit the child ‘to benefit’ from the instruction.” *Murphysboro Comm. Unit Sch. Dist. No. 186 v. ISBE*, 41 F.3d 1162, 1166 (7th Cir. 1994) (citing *Board of Educ. v. Rowley*, 458 U.S. 176, 188–189 (1982)). Not every student will receive a FAPE from homebound instruction only in the afternoon and evening hours. CPS failing to take each homebound student’s unique needs into consideration denies students a FAPE.

VI. CPS Fails to Make Up Missed Homebound Instruction Due to Teacher Cancellations and Student Illness, which Denies Students a FAPE.

If a student misses homebound instruction services due to an illness or to a teacher’s absence, the Code requires the school district to work with the student’s parents and the IEP team to make up the number of hours missed, as long as it is medically advisable. 23 Ill. Adm. Code § 226.300(c)(2). Neither the Procedural Manual, nor the FAQ, nor in practice, does CPS explain how makeup instruction due to teacher cancellations or student illnesses will be determined. According to the FAQ, if a student misses homebound sessions, CPS will not make up more than five hours per week of instruction. However, the Code requires missed instruction to be made up as long as it is medically advisable and does not provide for other limitations, such as the one CPS currently has in place. In practice, CPS fails to make up necessary instruction hours. CPS further restricts a student’s ability to receive makeup instruction by requiring that makeup hours be completed during the homebound teacher’s same pay period. Such a restriction violates the Code and significantly limits a student’s access to necessary instruction based upon administrative convenience rather than providing the student a FAPE.

CPS’s inadequate and restrictive policy for making up missed homebound instructional hours due to teacher cancellations and student illness violates the Code and denies students a FAPE.

VII. Relief Requested for CPS’s Violations of the Code and IDEA

As described in this complaint, certain CPS HHIP policies and practices violate the Code and the IDEA and deny a FAPE to students receiving homebound instruction. Therefore, EFE, Legal Aid Chicago, and Legal Council for Health Justice request that ISBE:

1. Conduct an investigation into CPS and its policies and practices regarding homebound instruction.
2. Require CPS to revise its Procedural Manual and FAQ to align with the Code and IDEA.
3. Require CPS to convene an IEP meeting whenever homebound instruction is requested for a student with an IEP to determine on an individual basis the provision of services including the number of hours of instruction.
4. Require CPS to remove the Manager of HHIP from her gatekeeping role and allow IEP teams to serve their proper function as decisionmaker.
5. Require CPS to offer homebound services during regular school hours.
6. Require CPS to provide direct related services in a homebound setting as described in students’ IEPs and as medically advisable.
7. Require CPS to create and implement a clear policy for making up missed instructional hours due to teacher cancellations and student illness.

8. Monitor CPS regularly to review data on the number of hours of homebound instruction given to individual students, the time of day of this instruction, the type and amount of related services provided, and the number of make-up hours of missed instruction due to teacher cancellation and student illness.

Please feel free to contact Olga Pribyl at 312 995-3849 with any questions.

Sincerely,

/s/Olga Pribyl
Vice President Special Education and Pro Bono
Equip for Equality

/s/Melanie Grant
Supervising Staff Attorney
Equip for Equality

/s/Julie Harcum Brennan
Program Director
Legal Council for Health Justice

/s/Shira Baron
Staff Attorney
Legal Aid Chicago

CC Marlene Fuentes, Senior Assistant General Counsel
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Equip for Equality

Legal Aid Chicago

Legal Council for Health Justice

FOIA request submitted to CPS November 23, 2020

We are requesting “public records” (as defined by 5 ILCS § 140/2) pertaining to the provision of homebound educational services by Chicago Public Schools District 299 (“CPS”) to students with disabilities.

- A. Where we use the term “homebound” below, this includes instruction provided in the student’s home setting. This includes services provided in the home as contemplated in the Illinois School Code section on Home and Hospital Instruction (105 ILCS 5/14-13.01). This includes services provided in the home via CPS’s Home and Hospital Instruction Program (“HHIP”). We do not include in the term “homebound” services provided in the hospital setting. If considering CPS’s Referral for Adjustment of Educational Program form, we include in the term “homebound” all services under the categories of Home Based and Intermittent Home Teaching.

Under 5 ILCS § 140/1.2, all records in the custody of a public body are presumed to be open to the public, and CPS has the burden of showing that a particular record is exempt. This request is submitted to assist our office in accessing and disseminating meaningful information about the legal rights of students with disabilities. A waiver of fees is in the public interest pursuant to 5 ILCS § 140/6(c).

We are requesting the following information:

1. Policy and Practice Documentation:
 - a. Provide all CPS documents and materials, including, but not limited to: policies, procedures, guidelines, trainings, process documents, SSM help guides, reports, etc. regarding the Home and Hospital Instruction Program.
2. Amount of Approved Hours:
 - a. For those students receiving homebound services, provide the total number of students for each of the below categories as of May 6, 2019:
 - i. Approved to receive 1 to 5 hours per week
 - ii. Approved to receive 6 to 10 hours per week
 - iii. Approved to receive over 10 hours per week
 - b. For those students receiving homebound services, provide the total number of students for each of the below categories as of December 2, 2019:
 - i. Approved to receive 1 to 5 hours per week
 - ii. Approved to receive 6 to 10 hours per week

- iii. Approved to receive over 10 hours per week
- 3. IEP Placement:
 - a. Provide the total number of students whose Least Restrictive Environment (“LRE”) placement, according to Section 12 of their Individualized Education Program (“IEP”), was homebound services:
 - i. As of May 6, 2019
 - ii. As of December 2, 2019
- 4. Related Services:
 - a. Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of May 6, 2019 from
 - i. A speech therapist (ST)
 - ii. An occupational therapist (OT)
 - iii. A social worker (SW)
 - iv. A physical therapist (PT)
 - b. Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of January 13, 2020 from
 - i. A speech therapist
 - ii. An occupational therapist
 - iii. A social worker
 - iv. A physical therapist
 - c. Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of May 6, 2019 from
 - i. A speech therapist
 - ii. An occupational therapist
 - iii. A social worker
 - iv. A physical therapist
 - d. Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of January 13, 2020 from
 - i. A speech therapist
 - ii. An occupational therapist
 - iii. A social worker
 - iv. A physical therapist
 - e. Produce redacted Office of Diverse Learner Supports and Services (“ODLSS”) HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in May 2019.
 - f. Produce redacted ODLSS HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in January 2020.
- 5. Time of Day:
 - a. Provide the total number of students receiving homebound instruction through HHIP as of January 13, 2020.

- b. Provide the total number of students receiving homebound instruction through HHIP as of May 6, 2019.
 - c. Provide the exact hours for each day (for example, 10a.m. on January 13, 2020, 3p.m. on January 15, 2020, etc.) in January 2020 that each homebound instructor in the HHIP provided instruction to a student.
 - d. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in January 2020.
 - e. (ALTERNATIVELY): Provide the number of students receiving homebound instruction outside the hours of 8am-3pm in January 2020.
 - f. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in May 2019.
 - g. (ALTERNATIVELY): Provide the number of students receiving homebound instruction outside the hours of 8am-3pm in May 2019.
 - h. Provide the exact hours for each day (for example, 10a.m. on May 6, 2019, 3p.m. on May 14, 2019, etc.) in May 2019 that each homebound instructor in the HHIP provided instruction to a student.
 - i. Produce redacted Office of Diverse Learner Supports and Services (“ODLSS”) HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in January 2020.
 - j. Produce redacted ODLSS HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in May 2019.
6. Make Up:
- a. For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of May 2019:
 - i. Received fewer than 5 hours per week
 - ii. Received more hours per week than the amount the student was approved for
 - b. For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of January 2020:
 - i. Received fewer than 5 hours per week
 - ii. Received more hours per week than the amount the student was approved for
 - c. Produce any and all documents detailing the make-up of HHIP homebound instructional hours *when a child/family cancels a session* for health reasons, including, but not limited to, entry codes, internal guidance, and any documentation regarding pay periods.
 - d. Produce all documents concerning the make-up of HHIP homebound instructional hours *when a teacher cancels a session*, including entry codes, internal guidance, and any documentation regarding pay periods, and providing a substitute teacher.

Non-Commercial FOIA Request :: N008982-112320

Chicago Public Schools FOIA Center <cps@mycusthelp.net>

Mon 12/7/2020 3:30 PM

To: Sarah Hess <SHess@legalcouncil.org>

--- Please respond above this line ---

Dec. 7, 2020

RE: N008982-112320

Dear requester,

On Nov. 23, 2020 you requested: *Policy and Practice Documentation: Provide all CPS documents and materials, including, but not limited to: policies, procedures, guidelines, trainings, process documents, SSM help guides, reports, etc. regarding the Home and Hospital Instruction Program. Amount of Approved Hours: For those students receiving homebound services, provide the total number of students for each of the below categories as of May 6, 2019: Approved to receive 1 to 5 hours per week Approved to receive 6 to 10 hours per week Approved to receive over 10 hours per week For those students receiving homebound services, provide the total number of students for each of the below categories as of December 2, 2019: Approved to receive 1 to 5 hours per week Approved to receive 6 to 10 hours per week Approved to receive over 10 hours per week IEP Placement: Provide the total number of students whose Least Restrictive Environment ("LRE") placement, according to Section 12 of their Individualized Education Program ("IEP"), was homebound services: As of May 6, 2019 As of December 2, 2019 Related Services: Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of May 6, 2019 from A speech therapist (ST) An occupational therapist (OT) A social worker (SW) A physical therapist (PT) Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of January 13, 2020 from A speech therapist An occupational therapist A social worker A physical therapist Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of May 6, 2019 from A speech therapist An occupational therapist A social worker A physical therapist Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of January 13, 2020 from A speech therapist An occupational therapist A social worker A physical therapist Produce redacted Office of Diverse Learner Supports and Services ("ODLSS") HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in May 2019. Produce redacted ODLSS HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in January 2020. Time of Day: Provide the total number of students receiving homebound instruction through HHIP as of January 13, 2020. Provide the total number of students receiving homebound instruction through HHIP as of May 6, 2019. Provide the exact hours for each day (for example, 10a.m. on January 13, 2020, 3p.m. on January 15, 2020, etc.,) in January 2020 that each homebound instructor in the HHIP provided instruction to a student. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in January 2020. (ALTERNATIVELY): Provide the number of students receiving homebound instruction outside the hours of 8am-3pm in January 2020. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in May 2019. (ALTERNATIVELY): Provide the number of students receiving homebound instruction*

outside the hours of 8am-3pm in May 2019. Provide the exact hours for each day (for example, 10a.m. on May 6, 2019, 3p.m. on May 14, 2019, etc.) in May 2019 that each homebound instructor in the HHIP provided instruction to a student. Produce redacted Office of Diverse Learner Supports and Services ("ODLSS") HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in January 2020. Produce redacted ODLSS HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in May 2019. Make Up: For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of May 2019: Received fewer than 5 hours per week Received more hours per week than the amount the student was approved for For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of January 2020: Received fewer than 5 hours per week Received more hours per week than the amount the student was approved for Produce any and all documents detailing the make-up of HHIP homebound instructional hours when a child/family cancels a session for health reasons, including, but not limited to, entry codes, internal guidance, and any documentation regarding pay periods. Produce all documents concerning the make-up of HHIP homebound instructional hours when a teacher cancels a session, including entry codes, internal guidance, and any documentation regarding pay periods, and providing a substitute teacher.

RESPONSE:

The Freedom of Information Act office reviewed your request and determined it is unduly burdensome pursuant to 5 ILCS 140/3(g). This request is categorical in nature and would require a search for and review of large volumes and categories of records spanning multiple departments. Currently, this request asks for all policies and protocols regarding home bound services, requests the creation of at least ten different reports, and includes an ask for over a year of time sheets which would need to be reviewed and redacted because they are records that contain student information.

Further, many of these requests for information require combining data from multiple record sources and combining them to answer your questions. To fulfill this request would take hours of dedicated staff and resources, and - for certain portions - require the creation of records not ordinarily maintained by CPS.

An undertaking of this volume would require the dedication of staff and resources for multiple days. As written, the burden in performing this search outweighs the public interest in this information and it would impede the Freedom of Information Act office's ability to respond to other Freedom of Information Act requests and perform its other duties in a timely fashion.

This is not an automatic denial of your request. The District is extending this opportunity for you to narrow your request. You may narrow your request by narrowing the asking for specific records or some other manner of your choosing.

Please narrow this request in writing within five (5) business days. If you choose not to narrow, this response is a denial pursuant to 5 ILCS 140/3(g) and will be closed after 5 business days.

Pursuant to 5 ILCS 140/9.5(a) you may file a Request for Review of a Denial with the Public Access Counselor (PAC):

Public Access Counselor

Office of the Attorney General; 500 South 2nd Street
Springfield, IL 62706.

1-877-299-FOIA
(1-877-299-3642)
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court, 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Thank you for your interest in Chicago Public Schools.

Best,

Elyssa Shull
Freedom of Information Act Officer
Chicago Public Schools

Re: Non-Commercial FOIA Request :: N008982-112320

Sarah Hess <SHess@legalcouncil.org>

Thu 12/10/2020 4:04 PM

To: Chicago Public Schools FOIA Center <cps@mycusthelp.net>

Cc: Melanie Grant <Melanie@equipforequality.org>; Ashley Fretthold (afretthold@legalaidchicago.org)

<afretthold@legalaidchicago.org>; Julie Brennan <JBrennan@legalcouncil.org>; Barbara Cohen <bcohen@legalcouncil.org>

Please find our narrowed response below.

We are requesting “public records” (as defined by 5 ILCS § 140/2) pertaining to the provision of homebound educational services by Chicago Public Schools District 299 (“CPS”) to students with disabilities.

Where we use the term “homebound” below, this includes instruction provided in the student’s home setting. This includes services provided in the home as contemplated in the Illinois School Code section on Home and Hospital Instruction (105 ILCS 5/14-13.01). This includes services provided in the home via CPS’s Home and Hospital Instruction Program (“HHIP”). We do not include in the term “homebound” services provided in the hospital setting. If considering CPS’s Referral for Adjustment of Educational Program form, we include in the term “homebound” all services under the categories of Home Based and Intermittent Home Teaching.

Under 5 ILCS § 140/1.2, all records in the custody of a public body are presumed to be open to the public, and CPS has the burden of showing that a particular record is exempt. This request is submitted to assist our office in accessing and disseminating meaningful information about the legal rights of students with disabilities. A waiver of fees is in the public interest pursuant to 5 ILCS § 140/6(c).

We are requesting the following narrowed information:

1. Policy and Practice Documentation: Provide all CPS documents and materials, including, but not limited to: policies, procedures, guidelines, trainings, process documents, SSM help guides, reports, etc. regarding the Home and Hospital Instruction Program.
 - Produce any and all documents detailing the make-up instruction of HHIP homebound instructional hours when a child/family or when a teacher cancels a session, including, but not limited to, entry codes, internal guidance, any documentation regarding pay periods, and obtaining a substitute teacher.
2. Amount of Approved Hours: For those students receiving homebound services, provide the total number of students for each of the below categories as of December 2, 2019:
 - Approved for up to 5 hours per week
 - Approved for more than 5 hours per week
3. Provide the total number of students whose Least Restrictive Environment (“LRE”) placement, according to Section 12 of their Individualized Education Program (“IEP”), was homebound services as of December 2, 2019.
4. Related Services:

- Provide the number of students receiving homebound instruction who received **DIRECT** (in-person) service the week of December 2, 2019 from a speech therapist (ST) or an occupational therapist (OT)
 - Provide the number of speech therapists (ST) or occupational therapists (OT) who provided **DIRECT** (in-person) services to students receiving homebound instruction the week of December 2, 2019.
 - (ALTERNATIVELY) Produce redacted ODLSS HHIP December 2019 Time Sheets for all speech and occupational therapists who provided direct services through HHIP in December 2019.
5. Provide the number of students receiving homebound instruction between 8am-3pm AND the number of students receiving homebound instruction outside the hours of 8am-3pm in December 2019.
- (ALTERNATIVELY): Produce redacted Office of Diverse Learner Supports and Services ("ODLSS") HHIP Teacher December 2019 Time Sheets for all teachers who provided homebound instruction through HHIP in December 2019.

Best,

Sarah Hess

Sarah Hess, Senior Staff Attorney

Pronouns: she/her

Legal Council for Health Justice

17 N State St., Suite 900, Chicago, IL 60602

Phone: 312-605-1984 | Text: 773 669-4219 | Fax: 312 427-8419

SHess@legalcouncil.org | legalcouncil.org

   

We use the power of the law to secure dignity, opportunity, and well-being for people facing barriers due to illness or disability.

From: Chicago Public Schools FOIA Center <cps@mycusthelp.net>

Sent: Monday, December 7, 2020 3:30 PM

To: Sarah Hess <SHess@legalcouncil.org>

Subject: Non-Commercial FOIA Request :: N008982-112320

--- Please respond above this line ---

Dec. 7, 2020

RE: N008982-112320

Dear requester,

On Nov. 23, 2020 you requested: *Policy and Practice Documentation: Provide all CPS documents and materials, including, but not limited to: policies, procedures, guidelines, trainings, process documents, SSM help guides, reports, etc. regarding the Home and Hospital Instruction Program. Amount of Approved Hours: For those students receiving homebound services, provide the total number of students for each of the below categories as of May 6, 2019: Approved to receive 1 to 5 hours per week Approved to receive 6 to 10 hours per week Approved to receive over 10 hours per week For those students receiving homebound services, provide the total number of students for each of the below categories as of December 2, 2019: Approved to receive 1 to 5 hours per week Approved to receive 6 to 10 hours per week Approved to receive over 10 hours per week IEP Placement: Provide the total number of students whose Least Restrictive Environment ("LRE") placement, according to Section 12 of their Individualized Education Program ("IEP"), was homebound services: As of May 6, 2019 As of December 2, 2019 Related Services: Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of May 6, 2019 from A speech therapist (ST) An occupational therapist (OT) A social worker (SW) A physical therapist (PT) Provide the number of students receiving homebound instruction who received DIRECT (in-person) service the week of January 13, 2020 from A speech therapist An occupational therapist A social worker A physical therapist Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of May 6, 2019 from A speech therapist An occupational therapist A social worker A physical therapist Provide the number of students receiving homebound instruction who were provided with indirect (consultation minutes) service the week of January 13, 2020 from A speech therapist An occupational therapist A social worker A physical therapist Produce redacted Office of Diverse Learner Supports and Services ("ODLSS") HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in May 2019. Produce redacted ODLSS HHIP Time Sheets for all related service providers (ST, OT, PT, SW) who provided homebound instruction through HHIP in January 2020. Time of Day: Provide the total number of students receiving homebound instruction through HHIP as of January 13, 2020. Provide the total number of students receiving homebound instruction through HHIP as of May 6, 2019. Provide the exact hours for each day (for example, 10a.m. on January 13, 2020, 3p.m. on January 15, 2020, etc.,) in January 2020 that each homebound instructor in the HHIP provided instruction to a student. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in January 2020. (ALTERNATIVELY): Provide the number of students receiving homebound instruction outside the hours of 8am-3pm in January 2020. (ALTERNATIVELY): Provide the number of students receiving homebound instruction between 8am-3pm in May 2019. (ALTERNATIVELY): Provide the number of students receiving homebound instruction outside the hours of 8am-3pm in May 2019. Provide the exact hours for each day (for example, 10a.m. on May 6, 2019, 3p.m. on May 14, 2019, etc.,) in May 2019 that each homebound instructor in the HHIP provided instruction to a student. Produce redacted Office of Diverse Learner Supports and Services ("ODLSS") HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in January 2020. Produce redacted ODLSS HHIP Teacher Time Sheets for all teachers who provided homebound instruction through HHIP in May 2019. Make Up: For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of May 2019: Received fewer than 5 hours per week Received more hours per week than the amount the student was approved for For those students receiving homebound instruction in the Home and Hospital Instruction Program (HHIP), provide the total number for each of the below categories, during the month of January 2020: Received fewer than 5 hours per week Received more hours per week than the amount the student was approved for Produce any and all documents detailing the make-up of HHIP homebound instructional hours when a child/family cancels a session for health reasons, including, but not limited to, entry codes, internal guidance, and any documentation regarding pay periods. Produce all documents concerning the make-up of HHIP*

homebound instructional hours when a teacher cancels a session, including entry codes, internal guidance, and any documentation regarding pay periods, and providing a substitute teacher.

RESPONSE:

The Freedom of Information Act office reviewed your request and determined it is unduly burdensome pursuant to 5 ILCS 140/3(g). This request is categorical in nature and would require a search for and review of large volumes and categories of records spanning multiple departments. Currently, this request asks for all policies and protocols regarding home bound services, requests the creation of at least ten different reports, and includes an ask for over a year of time sheets which would need to be reviewed and redacted because they are records that contain student information.

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Public Access Counselor

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(1-877-299-3642)

Fax: 217-782-1396

E-mail: publicaccess@atg.state.il.us

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Thank you for your interest in Chicago Public Schools.

Best,

Elyssa Shull
Freedom of Information Act Officer
Chicago Public Schools

Non-Commercial FOIA Request :: N008982-112320

Chicago Public Schools FOIA Center <cps@mycusthelp.net>

Fri 12/18/2020 4:38 PM

To: Sarah Hess <SHess@legalcouncil.org>

--- Please respond above this line ---

Dec. 18, 2020

RE: N008982-112320

Dear requester,

On Dec. 10, 2020 you narrowed your request.

RESPONSE:

CPS has reviewed your narrowed request and determined it is still unduly burdensome pursuant to 5 ILCS 140/3(g) because it requires creation of records, pulling documentation from multiple departments, and reviewed extensive amounts of documents. An undertaking of this volume would require the dedication of staff and resources for multiple days. As written, the burden in performing this search outweighs the public interest in this information and it would impede the Freedom of Information Act office's ability to respond to other Freedom of Information Act requests and perform its other duties in a timely fashion. Therefore, this request is denied.

Best,

Elyssa Shull
Freedom of Information Act Officer
Chicago Public Schools