



## **More Guidance and Oversight Needed For Students on Homebound Instruction--An Issue Brief from the Office of the Child Advocate: November 2017**

In 2016, the Office of the Child Advocate (“OCA”) began a review of the use of “homebound instruction” to educate students with disabilities. As part of this review, the OCA examined data regarding the use of homebound instruction in seventeen (17) Connecticut school districts (collectively referred to as the “Districts”) and discussed homebound instruction with multiple stakeholders.<sup>1</sup> The OCA’s review was prompted, in part, by prior investigative work that identified concerns about the provision of homebound instruction. Homebound instruction is defined by law as the most restrictive and segregated setting for a child, with or without a disability. Consistent with federal law and state regulations, which require children to be educated in the least restrictive setting appropriate to their needs, state law provides that homebound instruction may only be used when a child presents with such profound or acute medical (including mental health) impairment or condition such that the child cannot be in any educational setting. OCA’s prior review raised questions about the adequacy of oversight for use of homebound instruction, and OCA published several recommendations to strengthen and improve oversight.<sup>2</sup>

The OCA found that, in the 17 sampled districts over a two year period, more than 500 students each year were placed on homebound status for at least part of the year, for either medical and non-medical reasons. Approximately half of the students on homebound were students with disabilities who had been found eligible for special education services. Many students remained on homebound status for several months or even longer.

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<sup>1</sup> The representative school districts selected for this review/investigation for the 2013-2014 and 2014-2015 academic years included schools of various sizes located throughout the state (both rural and urban) with diverse socio-economic populations of students.

<sup>2</sup> Office of the Child Advocate, *Shooting at Sandy Hook Elementary School—A Report of the Office of the Child Advocate*, Nov. 21, 2014, available on the web at: [www.ct.gov/oca/lib/oca/sandyhook11212014.pdf](http://www.ct.gov/oca/lib/oca/sandyhook11212014.pdf). Homebound instruction as a placement approved by the local school district is distinct from home-schooling wherein a parent exercises his or her right to provide equivalent instruction in the home environment. Districts are not obligated to provide educational services to home-schooled children. Conn. Gen. Stat. Section 10-184. State law provides that parents “shall cause [their] child to attend a public school regularly ... in the district in which such child resides... unless ... the parent ... is able to show that the child is elsewhere receiving equivalent instruction in the studies taught in the public school.”

The OCA discussed this issue brief with the State Department of Education, as well as other stakeholders, on multiple occasions and the OCA recognizes and appreciates the SDE's time and attention to these important issues. The SDE has communicated with OCA regarding its commitment to reviewing the use of homebound instruction for students, and ensuring that all students receive the most appropriate instruction in the least restrictive environment to meet their needs. This issue brief incorporates feedback from the SDE and other stakeholders regarding the OCA's findings and recommendations.

## The Office of the Child Advocate

The OCA is an independent oversight agency authorized to: (i) “[r]eview complaints of persons concerning the actions of any state or municipal agency providing services to children . . . through funds provided by the state,” “[e]valuate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state” and “[t]ake all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state.”<sup>3</sup>

## Methodology

The OCA engaged in the following activities to create this Issue Brief:

- Reviewed data from 19 school districts (only 17 districts' data was incorporated into this review due to data issues or lack of production) regarding use of homebound instruction for 2013-14 and 2014-15 school years. Districts were selected to ensure geographical and regional diversity.

Data requested included the following:

- ✓ Number of students placed on homebound status during the academic year.
- ✓ Grade of each student placed on homebound status.
- ✓ Duration of homebound status for each student/date of return.
- ✓ The reason for homebound status for each student.
- ✓ Whether medical authorization was obtained by the district for each student.
- ✓ Whether the student had an Individualized Education Program.<sup>4</sup>

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<sup>3</sup> Conn. Gen. Stat. § 46a-13*l*.

<sup>4</sup> Several districts provided information as to whether the student had a 504 Plan or IEP in place.

- Research regarding federal and state law governing provision of homebound instruction to students, including review of federal case law, state statute and regulations, and administrative complaint resolution decisions issued by the State Department of Education (SDE).
- Meetings and correspondence with individuals knowledgeable about the use of homebound instruction and/or the laws governing homebound instruction including lawyers representing children, surrogate parents, school district administrators, and representatives from state agencies including the State Department of Education, the Department of Children and Families and the Connecticut Judicial Branch Court Support Services Division.

This Issue Brief provides an overview of applicable state and federal law governing the provision of educational services to children, statistical findings and related conclusions drawn regarding the use of homebound placements for students in the sampled school districts, and recommendations for additional review, oversight and accountability. The Issue Brief does not answer all questions regarding the use of homebound instruction in the state, and the methodology did not include a review of student-specific education records. The OCA urges State and local education officials to pursue further review and conduct auditing of the use of homebound instruction for students to better understand the reasons children are placed on homebound instruction and prevent over-reliance or improper utilization of such placement whenever possible.

## What is Homebound Instruction?

Homebound instruction is the provision by a school district of one-to-one educational support to a student outside of a school or other educational setting, such as the child’s home or a local library.<sup>5</sup> Homebound instruction is provided in lieu of school-based instruction, but is typically provided for two hours per day, with one hour per day provided for younger children. In accordance with state law, before approving a child for homebound instruction, the school district must receive a statement from the student’s treating physician that attendance in a school *even with reasonable accommodations* is not feasible and that homebound instruction is the only viable and temporary alternative for a child. Despite these regulatory requirements, individuals who spoke to OCA as part of this review, including officials from the SDE, indicated that students have been placed on homebound for a variety of non-medical reasons including reasons related to a child’s disability, reasons related to the lack of an available continuum of placements and services within the district, and often by request of a parent who may be concerned about their child’s unmet needs, the safety of their child in school due to bullying or symptoms related to the child’s disability. Several individuals who spoke to OCA stated their opinion that an increase in anxiety disorders and school phobia has driven parents and children to seek homebound instruction in greater numbers.

The educational advocates, lawyers, administrators, and officials that OCA conferred with in the development of this issue brief had differing interpretations of when a child may be permissibly placed on homebound status based on current law and regulation. OCA’s report does recommend that the

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<sup>5</sup> Individuals knowledgeable about the delivery of homebound instruction to students and who spoke to OCA as part of this review stated that homebound instruction is often not actually provided in the home, but is provided in a public place such as a library or other setting.

regulatory framework and accompanying state guidance regarding the appropriate use of homebound instruction be further clarified to ensure children receive effective and individualized instruction in the least restrictive environment appropriate to his or her needs.

## Summary of Findings

The results of the OCA's homebound review are troubling due to the high numbers of students discovered to be placed on homebound status in the sampled districts, the number of students on homebound who have disabilities, and the lack of medical documentation/justification for many homebound students. OCA reviewed the use of homebound instruction in the sampled districts for two academic years: 2013-14 and 2014-15, with each year revealing approximately 550 students on homebound instruction in 17 school districts during each school year for non-disciplinary reasons.<sup>6</sup> Homebound instruction was provided to Connecticut students in kindergarten through high school (up to age 20), and a significant percentage of students on homebound placement were noted to be children with disabilities. The OCA found that proffered reasons for a child's homebound status included: ADD/ADHD; Autism; Intellectual Disability; Medical; Behavior; Emotional Disturbance; Anxiety; Depression; Headaches, Seizure Disorder; Pregnancy; IEP; and Safety. The numbers herein do not reflect students who were receiving homebound instruction for disciplinary reasons, i.e. expulsion.

Pursuant to a concurrent inquiry, OCA found that during a point-in-time review conducted by DCF educational staff in March, 2016 there were over 50 school-age children in DCF foster care who were on homebound status, with 62% of those children identified as eligible for special education services.<sup>7</sup>

State regulations provide that homebound instruction may only be used as an educational placement when there is *no other appropriate educational placement* due to a medical or mental health impairment and the student is unable to attend any school setting even with individualized modifications and accommodations.<sup>8</sup> Provision of homebound instruction must not run afoul of the Individuals with Disabilities Education Act ("IDEA"), which requires states receiving federal funds to provide disabled children with "a free appropriate public education" in the least restrictive appropriate environment, and school districts must abide with state regulations governing homebound instruction.

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<sup>6</sup> There 206 school districts in Connecticut. OCA sought data from 19 school districts as part of this review. OCA was not able to utilize data from 2 of the 19 school districts as part of this review. The data cited herein does not include reference to any students who are not in school due to expulsion.

<sup>7</sup> Correspondence between OCA and DCF's Superintendent of Schools, Christopher Leone, dated Mar. 16, 2016. Numbers were provided as an estimate, and DCF administration suspected the number of children actually on homebound was likely higher. These students are *not* part of OCA's original data request from 19 districts.

<sup>8</sup> The State Department of Education, consulted in the development of this report, provided OCA with its position that regardless of the availability or applicability of medical or mental health documentation, a student with a disability may still be placed on homebound instruction pursuant to the recommendation of a student's Planning and Placement Team. The OCA respectfully disagrees with the SDE's interpretation of applicable regulations and this issue brief will outline the reasons for this disagreement.

Based on the results of its review, the OCA has identified the following six (6) issues associated with Connecticut school districts' use of homebound placement that warrant further inquiry and oversight by local school district leaders, local boards of education, and the State Department of Education:

- (i) **Special Education and Related Services** - Approximately half of the children on homebound status for the 2013-14 and 2014-15 academic years from the sample group were previously found eligible to receive special education and related services.<sup>9</sup> The OCA reviewed data showing that certain children were placed on homebound status with the reason offered “Anxiety, “Autism,” or “Intellectual Disability.”
- (ii) **Extended Placement on Homebound** - A significant number of children (152 during the 2013-14 academic year and 202 for the 2014-15 academic year) were on homebound status for an extended period of time - exceeding a three (3) month period.
- (iii) **Young Children Also Placed Homebound Status** - A number of young children in grades 6 or lower were on homebound status, with approximately 143 younger students during the 2013-14 academic year and 119 younger students during the 2014-15 academic year placed on homebound in the sampled districts.
- (iv) **Lack of Written Medical Authorization** - Districts did not consistently secure a written note from each student’s physician indicating that homebound status is appropriate based on the student’s medical needs in accordance with state regulations.<sup>10</sup>
- (v) **Lack of Individualized Education Program (“IEP”) for Children with Psychiatric Conditions** – The OCA found a number of students who received homebound instruction for an extended period of time where the stated reason was a psychiatric concern, such as anxiety or depression, but where students had not been identified as requiring special education services and which students did not have an IEP.<sup>11</sup>
- (vi) **Children in Foster Care Served Via Homebound Placement**—The OCA, concurrent to requesting data from school districts, asked DCF’s Superintendent of Schools for information about how many students in DCF care were placed on homebound. DCF conducted a point-in time review and reported to OCA that on March 1, 2016 there were 53 students in DCF foster care that were on homebound status, and the majority of those children were identified as children who were eligible to receive special education and related services.

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<sup>9</sup> This does not include those children who were on a 504 Plan.

<sup>10</sup> This requirement was added in July of 2013. OCA examined data from the next two school years. A present day sampling of district policies regarding homebound instruction revealed a lack of uniformity from school system to school system, with certain districts’ policies not confirming to state regulatory requirements.

<sup>11</sup> OCA’s review of data does not provide information regarding *why* these children were not identified as receiving special education services, including whether evaluations had been offered or declined by parents, or whether students were evaluated and found not eligible for services. However a student may be found eligible for special education and related services due to a psychiatric disability that impairs their ability to make progress in the general education curriculum.

## State and Federal Laws Regarding Homebound Instruction

### Individuals with Disabilities Education Act (“IDEA”)—The Right to An Appropriate Education in the Least Restrictive Environment

The Individuals with Disabilities Education Act (“IDEA”) “mandates federal grants to states to provide disabled children with ‘a free appropriate public education’ **in the least restrictive appropriate environment**.”<sup>12</sup> The purpose 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 and prepare them for further education, employment, and independent living.”<sup>13</sup>

Per a recent decision from the United States Supreme Court, *Andrew F. v. Douglas County School District* (March 22, 2017), a child’s Individual Educational Plan: “[M]ust be **appropriately ambitious in light of his circumstances... [and] every child should have the chance to meet challenging objectives.**”<sup>14</sup>

The Supreme Court’s language in *Andrew* is especially important in light of what the Court noted to be the underlying reasons for federal civil rights legislation involving children with disabilities, namely that IDEA was enacted “**in response to Congress’ perception that a majority of handicapped children in the United States were either totally excluded from schools or [were] sitting idly in regular classrooms awaiting the time when they were old enough to drop out.**”<sup>15</sup>

Courts have emphasized that children with disabilities must

“[t]o the maximum extent appropriate [be] educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily<sup>16</sup>... [The law

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<sup>12</sup> See 20 U.S.C. §§ 1400(d)(1)(A), 1401(8), 1411(a)(1) & 1412(a)(5)(A). See 20 U.S.C. §§ 1401(11), 1414(d).” *Polera v. Bd. of Educ. of Newburgh Enlarged City Sch. Dist.*, 288 F.3d 478, 483 (2d. Cir. 2002); *L. ex rel. Mr. F. v. N. Haven Bd. of Educ.*, 624 F.Supp.2d 163 (D. Conn. 2009).

<sup>13</sup> 20 U.S.C. § 1400(d)(1)(A).

<sup>14</sup> 580 U.S. \_\_\_\_ (2017)

<sup>15</sup> *Id.* citing *Board of Ed. Of Hendrick Hudson Central School Dist., Westchester Cty. v. Rowley*, 458 U.S. 176, at 179 (1982) (internal quotations omitted.)

<sup>16</sup> In accordance with 20 U.S.C. § 1414(d), “an IEP must include the following information: ‘a statement of the child’s present level of academic and functional performance, measurable annual goals, special-education and supplemental services, and any program modifications for the child, along with an explanation of the extent to which the child will not participate with non-disabled children in regular classes and activities, a projected date for the beginning of any special supplementary services or modifications, and the anticipated frequency, location, and duration of such services and modifications.’ . . . ‘In developing the IEP, the team must consider the child’s strengths, the concerns of the parents, the results of the most recent evaluation of the child, and the academic, developmental, and functional needs of the child, along with other ‘special factors,’ including the use

further requires] school districts to ensure that a continuum of alternative placements is available to meet the needs of children with disabilities, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. . . . 34 C.F.R. § 300.115(a), (b)(1). After considering an appropriate continuum of alternative placements, the school district must place each disabled child in the least restrictive educational environment that is consonant with his or her needs.”<sup>17</sup>

### Children’s Right to Education in the Least Restrictive Environment

It is important to emphasize that with respect to the “least restrictive environment” under the IDEA, “a disabled student's least restrictive environment refers to the least restrictive educational setting consistent with that student's needs, *not* the least restrictive setting that the school district chooses to make available.” *T.M. ex rel. A.M. v. Cornwall Cent. Sch. Dist.*, 752 F. 3d 145 (2d Cir. 2014) (emphasis added).

### Homebound Instruction for Children with Disabilities Appropriate In Limited Circumstances

Consistent with state and federal law, removing a child with a disability from the regular classroom setting to receive instruction in the home<sup>18</sup> is only appropriate in limited instances. Consistent with

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of behavior interventions and supports and whether the child needs ‘assistive technology devices.’ *Id.*; 20 U.S.C. § 1414(d)(3). The IEP must be reviewed ‘periodically, but not less frequently than annually’ to determine whether the goals are being achieved and whether the IEP must be revised to address a lack of progress, the results of any reevaluation, information about the child provided to or by the parents, and the child's anticipated needs. 20 U.S.C. § 1414(d)(4). The child's parents must be notified of any change in the child's educational program. *Id.* § 1415(b)(3).” *L. ex rel. Mr. F. v. N. Haven Bd. of Educ.*, 624 F.Supp.2d 163 (D. Conn. 2009).

<sup>17</sup> (Citations and internal quotation marks omitted.) *RB v. New York City Dept. of Educ.*, (Dist. Court, SD New York 2016); *see also T.M. ex rel. A.M. v. Cornwall Cent. Sch. Dist.*, 752 F.3d 145, 161 (2d Cir. 2014); *JS v. New York City Department of Education*, (Dist. Court, SD New York 2015)

<sup>18</sup> Referred to as “home instruction in the IDEA and associated federal regulations and “homebound instruction” in Connecticut’s state regulations. While the exact term “homebound instruction” is not specifically referenced in the IDEA, special education is defined to include “instruction conducted . . . in the home.” 20 U.S.C. § 1401(25)(A). In addition, “home instruction” is listed as an option in the continuum of alternative placements in the federal implementing regulations for a student receiving special education and related services. *See* 34 C.F.R. § 300.115(a), (b)(1); *see also* H.R.Rep. No. 108-779, at 186 (2004), (Conf. Rep.) (noting this requirement). Despite the different technical names sometimes used to describe instruction in the home (“home instruction” and/or “homebound instruction”), Federal courts use the terms “homebound instruction” and “home instruction” interchangeably when discussing alternative placement in the special education context. *See LK v. Sewanhaka Central High School District*, (2nd Cir. 2016); *RL v. Miami-Dade County School Bd.*, 757 F. 3d 1173 (11th Circuit 2014) (“IDEA clearly contemplates that a state might be required to place a student in one-on-one homebound instruction to meet the student's needs, evidenced by its definition of ‘special education’ to include ‘instruction conducted . . . in the home.’ 20 U.S.C. § 1401(29); *see also* 34 C.F.R. § 300.115 (listing home instruction as part of the continuum of alternative placements states must make available to students to comply with the IDEA”).

state regulations, courts have associated home instruction with *medical necessity*.<sup>19</sup> The IDEA “applies broadly to students who need special education, including those who need instruction conducted . . . in the home because they suffer from health impairments resulting in limited strength, vitality or alertness.”<sup>20</sup>

### State Regulations Provide That Homebound and Hospitalized Instruction Only Permitted Where a Medical/Mental Health Reason Leaves the Child Unable to Be Educated in the Classroom

Courts have recognized that federal education laws do not define the appropriate use of homebound or “home instruction,” and that States have the authority to regulate the use of such placements.<sup>21</sup> Accordingly, Connecticut law regulates the use of homebound instruction and permits homebound instruction to be used as an available option for students with or without a disability, only where a medical reason, including mental health issues, leave the student unable to be educated in a classroom even with reasonable accommodations.

State regulations, revised in 2013, provide several requirements that must be met in order to place a child on homebound status.<sup>22</sup>

#### **Hours of Homebound Instruction, by Age**

Grades Kindergarten through six: no less than one hour per day or five hours per week for children in grades kindergarten through six.

Grades Seven Through Twelve: no less than two hours per day or ten hours per week for children in grades seven through twelve.

Requirements may be increased or decreased upon the agreement of the parent and the board of education or upon a determination made by the PPT.

A key revision was to require that a child’s physician confer with school health staff regarding the child’s medical condition and the need for homebound instruction and provide a written statement that “**attendance at school with reasonable accommodations is not feasible,**” the child’s diagnosis and current condition supports the use of homebound instruction, and the child is expected to be out of school for at least ten consecutive school days.<sup>23</sup>

- Once approved for homebound instruction, a minimum number of hours of instruction depending on the age of the student, must be

<sup>19</sup> See *LK v. Sewanhaka Central High School District*, (2nd Cir. 2016).

<sup>20</sup> (Citations omitted; internal quotation marks omitted) *Id.*; see also *Weixel v. Bd. of Educ. of City of N.Y.*, 287 F.3d 138, 150 (2d Cir. 2002).

<sup>21</sup> See *Granite School District v. Shannon*, 787 F.Supp 1020 (D. Utah, 1992)(“[a]s the state level reviewing officer noted, the defendant is not, per state regulation, eligible for homebound education”); *Macomb County Intermediate School Dist. v. Joshua S.*, 715 F.Supp. 824 (E.D.Mich.1989)(in accordance with state regulations, the student was not eligible for homebound instruction). In Connecticut, homebound instruction requirements are contained within Regulations of Connecticut State Agencies § 10-76d-15.

<sup>22</sup> See Regulations of Connecticut State Agencies § 10-76d-15, which provides the criteria for “homebound and hospitalized instruction.”

<sup>23</sup> See Regulations of Connecticut State Agencies § 10-76d-15(a)(1)(A).

provided unless circumstances require modification (see insert).<sup>24</sup>

- Documentation required must also state the “expected date the child will be able to return to school.”
- For a child without a disability, homebound or hospitalized instruction must “maintain the continuity of the child’s regular program.”
- For a child *with* a disability, applicable regulations provide that the Planning and Placement Team (PPT) must “consider and make accommodation for the child’s [IEP] to be moved” to the home or hospital setting, and then “back to school when the child is able to return.” Where necessary, the PPT may “modify short-term instructional objectives,” but services should be provided to “enable the child to continue to participate in the general education curriculum and to progress towards meeting the goals and objectives in the child’s IEP.”

#### Disagreement among stakeholders as to appropriate interpretation of state law to children with disabilities

A key area of confusion and disagreement identified by OCA during the development of this report is whether state regulations governing the permitted use of homebound instruction provide the *only* means that a child may be placed on homebound, or whether, regardless of the submission of medical (or mental health) justification a child may be still be placed on homebound pursuant to a recommendation of the child’s Planning and Placement Team. SDE discussed these matters at length with the OCA over the past several months. Ultimately, the SDE stated that it “does not agree that the regulation limits the provision of homebound instruction to only those situations where the need for homebound is due to a medical reason. Rather, the Department’s position is that if a child requires homebound instruction due to a medical reason, the steps set forth in the regulation must be followed.... [while] a child’s PPT may [also] determine that the student requires homebound instruction in order to receive a free appropriate public education, [but] only after considering in-district supports and other least restrictive environment considerations, evaluation information, and input from any private supports.”<sup>25</sup> SDE emphasized that “[e]ven so, [homebound] placements should be rare, short term, and made only after careful consideration of the student’s individual needs and [Least Restrictive Environment] considerations.”

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<sup>24</sup> See Regulations of Connecticut State Agencies § 10-76d-15(e). State law further provides that “Instruction for a child who is unable to attend school for medical reasons shall begin no later than the eleventh day of absence from school, provided the board has received notice in writing that meets the requirements of subsection (a) of this section. If the board is provided with adequate notice prior to the child’s absence from school, instruction may begin earlier than the eleventh day of absence. If the child’s condition is such that the child cannot receive instruction, the child’s treating physician shall determine when instruction shall begin and shall, in writing, inform the board. (2) Instruction for a child with a disability who is medically complex shall begin no later than the third day of absence, provided such child is medically able to receive instruction.”

<sup>25</sup> Communication from SDE Special Education Bureau Chief Bryan Klimkiewicz, October 25, 2017, on file with author.

The OCA appreciates the opportunity to discuss the issues in this brief with multiple representatives from the SDE, the agency's close attention to these important issues as well as its sense of urgency regarding the need to further review the use of homebound instruction and ensure appropriate education for all children with or without disabilities. At this time, the OCA respectfully disagrees with SDE's interpretation of applicable homebound regulations for the following reasons: 1) federal law does not define home-instruction and states have authority to regulate use of home-instruction; 2) Connecticut regulations were promulgated to govern use of homebound instruction and specifically reference both students with an IEP and students without; 3) Connecticut regulations were revised in 2013 to delete language that required districts to provide homebound instruction "when recommended by the planning and placement team." Such language was replaced with a requirement that homebound instruction be justified by medical or mental health documentation and consultation with district officials. Given the state's authority to regulate home instruction and the removal in 2013 of language permitting districts to provide home instruction pursuant to PPT recommendations alone, OCA concludes that the current regulatory framework permits home instruction *only* where, as outlined in the regulation, a child is "unable to attend school due to a verified medical reason, which may include mental health issues." As discussed later in this report, the OCA received a 2017 complaint resolution decision from SDE regarding a student on homebound instruction, which decision contains interpretive language consistent with that of the OCA.

As stated above, the development of this issue brief made clear that many local and state education officials and advocates have varying interpretations of when the law permits a child to be placed on homebound status. In recognition of the need for further clarification and guidance, SDE wrote to the OCA that it "agrees that state guidance should be provided to local education agencies to clarify the interplay between the state regulation and the IDEA regarding the provision of homebound instruction and emphasize the critical importance of regular and periodic review of all homebound placements to ensure children are attending school in the LRE appropriate to their individual needs."<sup>26</sup>

## OCA FINDINGS--DISCUSSION

The total number of students who were placed on homebound status in the sampled districts was 545 during the 2013-14 academic year and 552 students during the 2014-15 academic year.

1. **Special Education and Related Services—lengthy homebound stays and often no medical authorization as required by law.**

Close to half of the children on homebound status from the sample group were children with disabilities who had been found eligible for special education and related services.<sup>27</sup> The OCA also found that many of these students were placed on homebound status without medical authorization

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<sup>26</sup> Id.

<sup>27</sup> During the 2013-14 academic year, 268 of the 545 students on homebound placement were receiving special education and related services. During the 2014-15 academic year, 263 of the 552 students on homebound placement were receiving special education and related services.

justifying the placement as required by state regulation, revised in 2013 to require such documentation.<sup>28</sup>

Homebound placement for students who were receiving special education services often *exceeded a three (3) month period*. In both school years reviewed by the OCA, approximately 40% of students were placed on homebound status and remained there for longer than 3 months, with over 60 students each year spending between *6 and 12 months on homebound*. Reasons for students to be placed on homebound status included emotional disturbance; medical; behavioral; anxiety; depression; social/emotional, psychiatric disorder and “pending placement.”

#### Question for Further Review

State and local officials should review what level of service is being provided to children with disabilities on homebound status, and whether these students are receiving appropriate accommodations and related services where required, such as speech and language support, social work support, occupational therapy, and assistive technology.

### 2. All Students (Whether or Not Receiving Special Education)--Homebound Status for an Extended Period of Time.

The OCA found that a significant number of all students placed on homebound status remained on homebound for more than 100 days.

During the 2013-14 academic year, 34 % of all students placed on homebound status remained on homebound for longer than three months, with 106 students remaining on homebound for six to twelve months.

During the 2014-15 academic year, 37 % of students placed on homebound status remained on homebound for longer than three months, with 112 of the students on homebound for six to twelve months and eight students on homebound for longer than a year.

#### Question for Further Review

A question for further review is whether districts are reassessing the need for restrictive homebound placements at periodic intervals and how such assessments are conducted.

### 3. Students in Grades 1 through 6 on Homebound Status.

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<sup>28</sup> Regulations of Connecticut State Agencies Sec. 10-76d-15. Older regulation in the state provided that a child may be placed on homebound instruction *either* when a physician has certified that the child is unable to attend school for medical reasons *or* when a child “has a handicap so severe that it prevents the child from learning in a school setting, or the child’s presence in school endangers the health, safety and welfare of the child or others,” *or* “a special education program recommendation is pending and the child was at home at the time of the referral.” Regulations were changed in 2013 to require medical justification for the utilization of homebound instruction in all cases.

Almost a quarter of students placed on homebound status for the 2013-14 and 2014-15 academic years were children in elementary school. During the 2013-14 academic year, 26 % of all students placed on homebound status were in grades 1-6 (143 students). During the 2014-15 academic year, 21 % of all students placed on homebound status were in grades 1-6 (119 students).

#### 4. **Absence of Medical Authorization for Homebound Placement for Many Students.**

As stated above, pursuant to current state law students placed on homebound status must have a medical reason (may include mental health) to justify such a placement. The physician's instructions to place the student on homebound status must be in writing.

Separate from this systemic review, in 2016 the OCA filed a complaint with the SDE on behalf of a student with developmental disabilities who was placed on homebound status for several months by her local school district despite a lack of medical justification. The SDE made the following findings on behalf of the student:

**Clinical treatment providers had observed the child “to be very motivated when learning opportunities are presented and [she] is eager to learn new concepts. She has been able to learn to ask for help when the task is difficult or when she needs a break... We strongly recommend, given her ability to participate in activities, she is able to receive education in a school setting. She has benefitted from a structured day.” Despite these clear recommendations, the child was placed on homebound status.**

**The SDE found that the child was denied an appropriate education and was not educated in the least restrictive environment. The SDE stated that homebound instruction “is intended to be provided when a student is ‘unable to attend school for verified medical reasons.’ It is not intended for provision as a long-term service or program... [and] there [was] no documentation to suggest that the student ever required homebound instruction for a verified medical reason.”<sup>29</sup>**

OCA respectfully notes that the above-referenced complaint resolution decision from SDE contains an interpretation of the applicable regulations that is consistent with OCA's interpretation that homebound instruction is *only* permitted if justified by a verified medical reason.

In the data that the OCA collected from the Districts, a variety of reasons, medical and non-medical, were listed as the basis for placing the student on homebound status, including the following most often cited reasons:

- Medical Basis: ADD/ADHD; emotional disturbance; anxiety; depression; headaches, seizure disorder and pregnancy;

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<sup>29</sup> Connecticut State Department of Education, Complaint Resolution No. 17-0447, dated June 7, 2017. Emphasis added. SDE required the district to conduct corrective actions and ensure its current policies and procedures relative to the provision of homebound instruction are compliant with state law.

- Non-Medical Basis: IEP; safety.<sup>30</sup>

In some instances, a medical diagnosis was listed for a particular student but “medical” was *not* the proffered reason for the homebound status.

**Question for Further Review**

**State and local officials should review cases where children are put on homebound for reasons that are not verified by a treating physician to determine reasons children are placed out of school and assist districts with meeting students unmet needs in less restrictive ways.**

The OCA found that in just under 40 % of cases each year, school districts failed to document any medical authorization to justify students’ homebound status.<sup>31</sup> State law requires that medical authorization be provided for all students placed on homebound status, including those students receiving special education and related services. Some individuals who spoke with OCA during the development of this Issue Brief reported that many professionals believe that the child’s IEP team/Planning and Placement Team may recommend homebound instruction even where there is no medical justification—and some district/board policies provide this information.

**5. Students with Psychiatric Concerns, Including Anxiety and Depression on Homebound with no Individualized Education Program. (“IEP”).**

The OCA found that a number of students who were placed on homebound status were identified as having psychiatric concerns, such as anxiety or depression, but were not identified as eligible for or receiving special education and related services. The OCA is concerned that a student would be identified as having such significant social-emotional impairments and mental health treatment needs that they are

**Question for Further Review**

**Local and state officials should sample cases where children are out of school due to significant psychiatric impairments but where students do *not* have an Individualized Education Plan to better understand the reasons a child is not receiving special education services, and to determine whether said child could be educated in a less restrictive environment with individualized services, supports and accommodations.**

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<sup>30</sup> The figures reflected in this Issue Brief do not include those students who were placed on Homebound status due to expulsion. One school district’s policies reviewed by OCA provide that a student may be placed on homebound instruction either due to medical justification or because the child “has a handicap so severe that it prevents the child from learning in a school setting, or the child’s presence in school endangers the health, safety, or welfare of the child or others.” Another school district’s policy provides that the district will deliver homebound instruction when a student is “unable to attend school for medical and/or mental health reasons when an absence from school is at least three weeks or longer, *as diagnosed by a medical doctor or Planning and Placement/504 Team.*” (Emphasis added.)

<sup>31</sup> School districts had only obtained medical authorization in 358 students (out of 545 students on homebound) during the 2013-14 academic year and 333 students (out of 552 students placed on homebound) in 2014-15.

not able to be in school and yet the child would not have an IEP responsive to such disability or impairment<sup>32</sup>.

Multiple school administrators who were interviewed by OCA as part of this review spoke about their concern regarding what they perceive to be a rising tide of anxiety among adolescent students. The increase in anxiety is attributed to trauma, bullying, the influence of social media and other cyber-activity that increases children's sense of isolation and fearfulness. One administrator speculated that this increase in anxiety is driving up the numbers of children on homebound status, but that is not something the district ever seeks, and that often the placement is sought by the child or family. When asked to offer suggestions to prevent homebound placement, one administrator stated that it was essential to ensure that the school has not only a faithfully executed framework for positive school climate, but also that the school have adequate resources to support children's emotional well-being, that parents and outside supports to the child and family are adequately engaged and that all members of the child's support system are knowledgeable about the child's needs and reinforcing positive interventions and strategies with the child.

#### **Connecticut Youth Risk Behavior Survey—High Numbers of Reported Anxiety**

In Connecticut the departments of Public Health and Education administer the Youth Risk Behavior Survey (YRBS) every two years to select high school students across the state. This is also a national study supported by the Centers for Disease Control (CDC). Highlights from the 2015 CT YRBS regarding adolescent behaviors in the *previous 12 months*<sup>33</sup>:

- 24.3% of students reported being teased or called names because of their weight, size, or physical appearance. Overall for this behavior, the prevalence is significantly higher among females (27%) than among males (21.5%).
- 18.6 % of students reported being bullied on school property during the past 12 months.<sup>34</sup>
- 29.8% percent of students reported that someone they were dating or going out with purposely tried to control them or emotionally hurt them one or more times during the past 12 months, and 8.0% of students reported experiencing physical dating violence.<sup>35</sup>
- 26.6% of students reported feeling so sad or hopeless almost every day or two or more weeks in a row that they stopped doing some usual activities.<sup>36</sup>
- 18.5% of students did something to purposely hurt themselves, such as cutting or burning themselves on purpose, without wanting to die, and 13.4% of

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<sup>32</sup> The OCA does not know whether such students (and their parents) were offered an opportunity to be evaluated for eligibility for special education services, or whether such opportunities were declined.

<sup>33</sup> 2015 Youth Risk Behavior Surveillance—Connecticut--State Department of Education and Department of Public Health. Full report can be found on the web at [http://www.ct.gov/dph/lib/dph/hisr/pdf/cshs\\_ycb2015\\_report.pdf](http://www.ct.gov/dph/lib/dph/hisr/pdf/cshs_ycb2015_report.pdf).

<sup>34</sup> Nationwide, the rate is 20.2%.

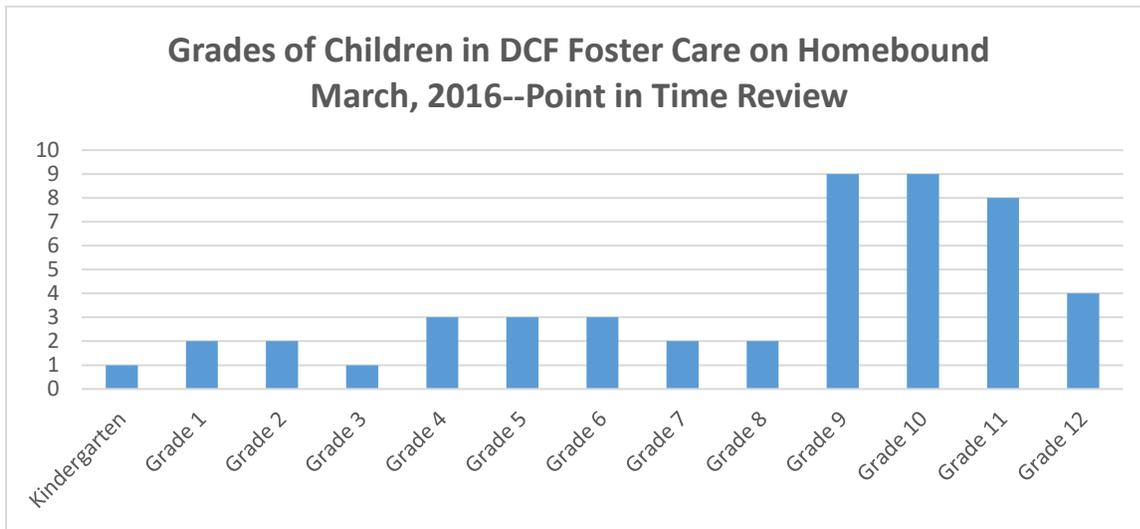
<sup>35</sup> Nationwide, the rate is 9.6%.

<sup>36</sup> Nationwide, the rate is 29.9%.

students seriously considered attempting suicide.<sup>37</sup> 7.9% of students reported that they attempted suicide one or more times during the past 12 months.<sup>38</sup>

**6. Children In Foster Care Also Served Via Homebound Placement**

During the course of this review OCA spoke at length to DCF’s Superintendent of Schools regarding concerns about the over-use of homebound students for children with disabilities. The Superintendent stated that DCF does not collect routine and reliable data regarding the placement of children in foster care on homebound status, but he made a follow-up effort to obtain data from regional social workers regarding children who were placed on homebound status at that time—March, 2016. The DCF Superintendent subsequently informed OCA that he determined that at least 53 children in DCF foster care, in grades Kindergarten through Twelve, were on homebound status at the time of his inquiry, and that the majority of these students (at least 63%) were children who had identified disabilities and who were eligible to receive special education services. Of the 48/53 children whose race or ethnicity was identified, 50% were black or Hispanic. The DCF Regional Education Consultants focused on addressing the concerns and in March, 2017 the Superintendent reported to OCA data showing that the number of children in foster care who were on homebound status was reduced by more than half.



National data has shown that children in foster care are significantly more at risk for poor academic outcomes due to transiency, multiple placements in foster care, trauma histories, and histories of significant neglect or abuse. State and federal laws have been passed in recent years that require increased attention, support and accountability for appropriately educating abused and neglected children in foster care.<sup>39</sup>

<sup>37</sup> Nationwide, this rate is 17.7%.

<sup>38</sup> Nationwide, this rate is 8.6%.

<sup>39</sup> Research has consistently shown that children in foster care are at-risk for inequitable educational opportunities. As a result state and federal legislation has been passed in recent years to improve educational outcomes for children in foster care. *See* Fostering Connections to Success and Increasing Adoptions Act of

## CONCLUSION

The OCA began this review after developing concerns about the provision of homebound students to children with disabilities or other specialized needs. Students with disabilities are entitled under state and federal law to appropriate and individualized instruction in the least restrictive environment, with federal law emphasizing students' rights to meaningful and research-based instruction and interventions designed to help them bridge the gap between their disability and the general educational curriculum. The recent holding from the United States Supreme Court in *Endrew F. v. Douglas County School District* makes clear that students are entitled to make meaningful progress with their education through the provision of appropriate and individualized supports and accommodations. The OCA recognizes the resource and funding constraints affecting school districts across the state, and the resulting challenges some districts face programming for children with disabilities. The OCA also notes that parents may also advocate for homebound services for their children, at times for health-related reasons but other times due to concerns over how the child has been treated in the school environment or anxieties and school phobia that the child has developed for a variety of reasons. To prevent unnecessary reliance on homebound placement, state and federal laws must be enforced and districts must be supported in efforts to harness local and regional expertise and build capacity within school environments so that children with disabilities can be meaningfully included whenever possible and whenever appropriate for the student. The OCA does not conclude that a medical problem would never justify the temporary provision of homebound instruction to a student, but there must be greater consistency and accountability with regard to the removal of any child from the classroom environment. Attention should be urgently given by state officials, in consultation with parents, advocates, and school districts, to clarifying the governing framework for the use of homebound instruction or any educational removal from the school setting.

## NEXT STEPS - RECOMMENDATIONS

Based on its review, the OCA makes the following recommendations:

1. State officials should, in consultation with all relevant stakeholders, including families, review and revise where necessary both the applicable homebound regulations as well as agency guidance for districts regarding the use of homebound instruction for children with and without disabilities. Additional consideration should be given to regulatory changes that would

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2008 which required state child welfare agencies to collaborate with school districts to ensure children were able to stay in their schools of origin; Uninterrupted Schools Act (2013) which amended the Family Educational Rights and Privacy Act (FERPA) to permit educational agencies to disclose, without parental consent or consent of student, education records of students in foster care to state child welfare agencies; the Every Student Succeeds Act (ESSA) (2015) emphasizes and supports the needs of children in foster care to educational stability. For more on the federal laws and guidance regarding improving outcomes for children in foster care, see The U.S. Department of Education technical assistance page regarding relevant initiatives, found on the web at: <https://www2.ed.gov/about/inits/ed/foster-care/index.html>.

allow required documentation of a medical or mental health condition to be provided by a duly licensed clinical professional working with the student and their family *or* a doctor.

2. State and local officials should engage in additional review and auditing of the use of homebound instruction for children to ensure that students are receiving appropriate educational services in the least restrictive environment as required by state and federal law. State education officials should collect data regarding the use of homebound instruction, including data regarding the age, grade, disability status, race/ethnicity of student, and whether the student is an English Language Learner. Collecting additional data will allow stakeholders and policy makers to make informed decisions regarding how to best support students with disabilities and their school districts.<sup>40</sup>
3. Homebound status should be, whenever possible, a temporary placement and reviewed on a regular and periodic basis by districts to determine whether the student may return to a less restrictive educational setting.
4. Districts should internally audit their use of homebound status, including the basis for homebound instruction, whether supporting documentation exists in the record, including medical authorization, and whether there is documentation regarding the student's anticipated date for return.
5. Attention must be paid to ensuring that all reasonable supports can be brought to bear to mitigate the reasons for the child's homebound placement, and no plan for homebound placement should be approved by a district unless documentation is provided regarding such efforts. IEPs that approve homebound plans should contain documentation that the planning team considered all benefits or consequences of such placement and why no alternatives were feasible. The SDE should create a worksheet for districts to support appropriate and limited use of homebound instruction for students with disabilities.
6. Districts should document whether a student has been evaluated for special education and related services prior to placing a child on homebound status, and if no evaluation was sought then the reasons the district did not think such evaluation was warranted.
7. Districts should be required to document that tutoring is occurring on a regular basis in accordance with state regulations for each student placed on homebound status. Such documentation should include identification of tutors, hours and curriculum materials used in tutoring sessions.
8. State regulations and corresponding guidance should establish criteria regarding how homebound instruction is delivered and the qualifications and accountability for delivered services. For example, instruction for special education students should be given by a credentialed special education tutor.

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<sup>40</sup> State law changes in 2012 that required SDE to collect data and publicly report regarding the number and nature of incidents of restraint and seclusion of children led to more training and prevention efforts to reduce the use of such harmful measures in schools.

9. For all students who are placed on homebound status, there should be documentation in the child's record regarding the basis for and expected duration of such status, the supports that were considered as an alternative to homebound placement, the supports that will be provided in accordance with the students' IEPs while the student is on homebound status, and when students will return to less restrictive settings. Year-end data corresponding to such information should be included in reports to SDE.
10. The Commissioner of the Department of Children and Families and the Department's Superintendent of Schools as well as the child's assigned social worker should be notified whenever a student in the care or custody of DCF is placed on homebound status. Such notification should include the student's age, grade, special education status, and the reason for the homebound placement.