

Absent And Unaccounted For: Coping With School Refusal

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Pulling Together. Succeeding Together.

SCHOOL REFUSAL

▪ POINT

- I remember all those thousands of hours that I spent in grade school watching the clock, waiting for recess or lunch or to go home. Waiting: for anything but school. My teachers could easily have ridden with Jesse James for all the time they stole from me.
 - “The Memories of Jesse James”
 - Richard Brautigan

SCHOOL REFUSAL

▪ COUNTERPOINT

“The way to despair is to refuse to have any kind of experience.”

Flannery O'Connor

SCHOOL REFUSAL

- It has been estimated that school avoidance or school refusal affects between 5% and 28% of school-aged children at one point or another. School avoidance affects both genders equally.

SCHOOL REFUSAL

- School avoidance has been broken down into four categories:
 - Initial Occurs over a brief period and resolves itself
 - Substantial Occurs for a minimum of two weeks
 - Acute Occurs anywhere from two weeks to one year
 - Chronic Persists for two or more years

ETIOLOGY OF SCHOOL REFUSAL

- School refusal often occurs for one of the following reasons:
 - 1. To **avoid school situations that cause anxiety, depression or physiological symptoms**
 - 2. To **escape uncomfortable peer interactions and/or academic performance situations** such as oral presentations or test taking
 - 3. To **receive attention from parents** or significant others
 - 4. To pursue *la dolce vita*.

ETIOLOGY OF SCHOOL REFUSAL

- One study found the following with respect to primary psychiatric disorders among youths with school refusal behavior:

▪ Separation anxiety disorder	22.4%
▪ Generalized anxiety disorder	10.5%
▪ Oppositional defiant disorder	8.4%
▪ Major depression	4.9%
▪ No diagnosis	32.9%

ETIOLOGY OF SCHOOL REFUSAL

- Three primary theories regarding etiology of school refusal:
 - 1) **Psychoanalytic theory**, in which “mother-child relationships are responsible”
 - 2) **Psychodynamic theory**, which considers “a dysfunctional relationship between the parent and the child” as the cause
 - 3) **Behavioral Theory**, which “focuses on positive and negative reinforcement as being the causal factor”

POSSIBLE CONTRIBUTING FACTORS

- Abdication of parental responsibility
- Pediatricians and therapists who translate routine adolescent concerns, worry or reluctance into diagnoses of anxiety

TREATMENT APPROACHES

- **Cognitive Behavior Therapy:** The goal is to correct the student's maladaptive behavior.
- **Systematic Desensitization:** The student's school-related distress is targeted in an attempt to neutralize it sufficiently to permit him or her to return to school.
- **Exposure therapy:** The student's exposure to school is gradually increased – while he or she is concurrently being encouraged to modify his or her maladaptive behavior – with the hope of building up his or her tolerance for school.
- **Operant Behavioral Techniques:** The student is rewarded for working towards a return to school.

TREATMENT RESULTS

- One study on school refusal **claimed a startling level of success** in resolving school avoidance:
 -
 - 12.9% of cases were resolved in less than one month
 - 34.6% of cases were resolved within one-to-three months
 - 34.6% of cases were resolved within four-to-six months
 - 5% of cases were resolved within seven-to-nine months
 - 3.8% of cases were resolved within ten-to-twelve months
 - 8.4% of cases were resolved within thirteen-to-24 months
 - 3.4% of cases took more than 25 months to resolve

TREATMENT RESULTS

- Meanwhile, back on earth



INITIAL BOARD RESPONSE



A LITTLE BACKGROUND - - ABSENTEEISM

Excused v. Unexcused Absences

Under Connecticut law, **absences one through nine** are considered **excused** when the student's parent or guardian approves such absence and submits appropriate documentation.

A LITTLE BACKGROUND - - ABSENTEEISM

The tenth absence and all absences thereafter are considered excused for the following reasons:

- **student illness** (all student illness absences must be verified by an appropriately licensed medical professional to be deemed excused, regardless of length of absence);
- student's observance of **religious holidays**;
- **death in student's family or other emergency** beyond the control of student's family;

A LITTLE BACKGROUND - - ABSENTEEISM

- **mandated court appearances** (additional documentation required);
- **lack of transportation** that is normally provided by a district other than the one the student attends (no parental documentation is required for this reason); or
- **pre-approved** “extraordinary educational opportunities”

A LITTLE BACKGROUND - - ABSENTEEISM

- Up to ten absences will be considered excused for students to visit with parents or guardians who are active members of the **armed forces** and have been called to duty for, are on leave from, or have immediately returned from deployment to a combat zone or combat support posting.
- School districts may grant additional excused absences for such purposes.

A LITTLE BACKGROUND - TRUANCY

- **“Truant student”** – any enrolled student five to eighteen years of age who has four unexcused absences from school in any one month or ten unexcused absences in any school year.
- **“Habitual truant”** – child age five to eighteen who is enrolled in a public or private school and has twenty unexcused absences within a school year.
- **“Unexcused absence”** - absence that does **not** meet the criteria for an excused absence (including proper documentation) or a disciplinary absence.

A LITTLE BACKGROUND - TRUANCY

- At beginning of each school year (or upon enrollment during year), parents of every student under the age of 18 must be notified in writing of legal obligation to ensure their child attends school.
- In the notification, parents will be requested to provide the school in which their child is enrolled with a telephone number or some other means of contacting them during the school day.
- Parents will also be informed of their responsibility to contact the school office when their child is absent from school and provide a reason for the absence if they want the absence to be excused.

A LITTLE BACKGROUND - TRUANCY

- The Board shall adopt and implement policies and procedures concerning truants.
- The Board must hold a meeting with the parent or guardian of each child who is a truant to review and evaluate the reasons for the child being a truant, provided such meeting **shall be held not later than** ten school days after the child's fourth unexcused absence in a month or tenth unexcused absence in a school year.

A LITTLE BACKGROUND - TRUANCY

- At the meeting, school personnel shall be designated to coordinate services with and referrals of children to community agencies providing child and family services if appropriate.
- **GOOD PRACTICE:** In reviewing and evaluating the reasons for the student's truancy, the participants of the meeting should consider appropriateness of referring the student to a "Student Assistance Team" -- or its equivalent -- or to a Planning and Placement Team.

ATTENDANCE REVIEW TEAMS

- “Chronically absent child” is a child whose total number of absences at any time during a school year is equal to or greater than 10% of the total number of days the student has been enrolled that year;
- “Absence” is an excused or unexcused absence, disciplinary absence, or an in-school suspension;
- “District chronic absenteeism rate” is the total number of chronically absent children in the previous school year divided by the total number of students for such school year; and
- “School chronic absenteeism rate” is the total number of chronically absent children for a school in the previous school year divided by the total number of children enrolled in such school.

ATTENDANCE REVIEW TEAMS

- Each school district that (1) has a district chronic absenteeism rate of 10% or higher shall establish an attendance review team for the school district, (2) has a school with a school chronic absenteeism rate of 15% or higher shall establish an attendance review team at such school, (3) has more than one school with a school chronic absenteeism rate of 15% or higher shall establish an attendance review team for the school district or at each such school, or (4) has a district chronic absenteeism rate of 10% or higher and one or more schools with a school chronic absenteeism rate of 15% or higher shall establish an attendance review team for the district or at each such school.

ATTENDANCE REVIEW TEAMS

- Any such team may consist of school administrators, guidance counselors, school social workers, teachers and representatives from community-based programs who address issues related to student attendance by providing programs and services to truants and chronically absent children and their parents or guardians. Each team shall be responsible for reviewing the cases of truants and chronically absent children, discussing school interventions and community referrals for such truants and chronically absent children and making any additional recommendations for such truants and chronically absent children and their parents or guardians. Each team shall meet at least monthly.
- **GOOD PRACTICE:** Special education or Section 504 personnel should be part of the Attendance Review Team.

CHRONIC ABSENTEEISM PREVENTION AND INTERVENTION PLAN

- State Department of Education required to develop a chronic absenteeism prevention and intervention plan for use by school districts to reduce chronic absenteeism.
- Plan shall include, but need not be limited to: (1) Information that describes a) chronic absenteeism, and its causes, such as poverty, violence, poor health and lack of access to transportation, b) effect of chronic absenteeism on academic performance, and c) how family and school partnerships with community resources, including family resource centers and youth service bureaus, can reduce chronic absenteeism; and
- (2) a means of collecting and analyzing data relating to student attendance, truancy and chronic absenteeism for purpose of a) disaggregating data by school district, school, grade and subgroups, and b) assisting school districts in i) tracking chronic absenteeism over multiple years and for the current school year, ii) developing indicators to identify students who are at risk of being chronically absent children, iii) monitoring students' attendance, and iv) making adjustments to interventions as they are being implemented.

CHRONIC ABSENTEEISM PREVENTION AND INTERVENTION PLAN

- Plan may include, but need not be limited to (1) research-based and data-driven mentorship model that addresses and attempts to reduce chronic absenteeism through the use of mentors, such as students, teachers, administrators, intramural and interscholastic athletic coaches, school resource officers and community partners, and (2) incentives and rewards that recognize schools and students that improve attendance and reduce the school chronic absenteeism rate.

LOCAL JUSTICE

- A town may adopt ordinances concerning “habitual truants” and children between the ages of five and eighteen years wandering about its streets or public places, having no lawful occupation and not attending school, and may make such ordinances regarding such children as shall conduce to their welfare and to public order, imposing penalties not exceeding \$20 for each breach.
- The police in any town, bailiffs and constables shall arrest all children found anywhere beyond the proper control of their parents or guardians, during the usual school hours of the school terms, and may stop any child under eighteen years of age during such hours and ascertain whether such child is a truant from school, and, if such child is, shall send such child to school.

THE GENERAL ASSEMBLY SPEAKS!

- Prior to August 15, 2017, school boards could file a Family with Service Needs [“FWSN”] complaint. That is no longer the case.
- In Public Act 16-147 -- “An Act Concerning the Recommendations of the Juvenile Justice Policy and Oversight Committee” – the General Assembly **eliminated truancy as a ground for filing a FWSN complaint.**

THE GENERAL ASSEMBLY SPEAKS!

- Public Act 16-147 also **eliminated the following requirements:**
- 1) school notices pertaining to unexcused absences for K-8 students must contain a warning that a specified number of such absences may lead to a FWSN complaint; and
- 2) superintendents must file a FWSN complaint after a parent a) fails to attend a meeting with school officials to discuss the child's truancy or b) otherwise fails to cooperate in addressing child's school absences.

THE GENERAL ASSEMBLY SPEAKS!

Also pursuant to Public Act 16-147:

State Department of Education was to identify, and to make available by August 15, 2017, effective truancy intervention models for implementation by school districts.

Schools with a disproportionately high truancy rate are required to implement this intervention model by August 15, 2018.

School districts must also then revise their truancy policies to reflect this intervention model.

ONE RESULT OF PUBLIC ACT 16-147

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IS THERE AN ALTERNATIVE?

- Conn. Gen. Stat. §10-198a states that its provisions do not preclude a local or regional board of education from adopting policies and procedures which exceed the requirements of the law.
- Thus, while the **mandate** to file a FWSN was eliminated on August 15, 2017, **could a school district still file an educational neglect complaint with the Department of Children and Families [“DCF”]?**

▪ **YES**

EDUCATIONAL NEGLECT COMPLAINT

- **QUERY ONE**

- Will DCF respond effectively to the educational neglect complaint?

- **QUERY TWO**

- Will the DCF referral irreparably damage the district's relationship with the parents?

EDUCATIONAL NEGLECT COMPLAINT

- **QUERY THREE**

- Ultimately, are the answers to Queries One and Two relevant?

IT'S NOT ZEN, BUT IT'S CLOSE

- School districts should always follow two imperatives:
 - 1. Implement best educational practices.
 - 2. Implement best “**defensive education**” practices.
- School districts should be guided by the following mantra:
 - Do not mistake the humane for the legal, for **no good deed goes unpunished!**

EDUCATIONAL NEGLECT COMPLAINT

- When dealing with school avoidance, there is a simple mathematical formula: **i = d** (inaction equals disaster).

- 1. Keep in mind that an educational neglect filing is **not the district's first recourse**, but one that it may ultimately be required under the principles of “defensive education” – and be willing under the mantra of “no good deed” – to do.
- 2. DCF may intervene and therefore provide helpful services to the student and to his or her family.
- 3. Even if DCF does not intervene, the district will be on record as having taken action.

EDUCATIONAL NEGLECT COMPLAINT

- 4. This is important, because a school district's failure to act leaves the district susceptible to allocation of fault.
- 5. A district's failure to act undercuts its credibility in any subsequent proceeding.
- 6. With respect to damaging the district-parent relationship, if the district is at the point of filing an educational neglect complaint, there may not be much worth preserving.

OTHER CONSIDERATIONS

- Excessive absenteeism is a basis for a referral to special education -- and possibly Section 504.
- For a child who already is receiving special education services, inaction may lead to out-placements (typically residential placement).
- Evaluations, eligibility determinations, and appropriate interventions must be considered.

CHILD FIND

- Looming in nearly every case involving school refusal is potential identification under the Individuals with Disabilities Education Act, 20 U.S.C. §§1400, *et seq.* [“IDEA”] or under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 [“Section 504”].
- Under the IDEA, districts have an affirmative duty to “ensure that . . . [a]ll children with disabilities . . . who are in need of special education and related services, are identified, located, and evaluated.”
- 34 C.F.R. §300.111(a)
- Connecticut’s State Department of Education considers excessive absenteeism to be a catalyst for a district’s child find obligations.

IMPEDIMENTS TO INITIATING CHILD FIND

- School administrators sometimes dismiss excessive absenteeism as volitional and therefore do not initiate child find.
- While parent and therapist proclamations should not be accepted as gospel, **district staff *must* avoid prejudgment!**
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- **Be skeptical, but not dismissive.**
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- Administrators should consider that they may eventually have to justify their failure to pursue child find.
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- How does one prove a negative?
-

THE REFERRAL PROCESS

- District could convene a Child Study Team ["CST"] or Student Assistance Team ["SAT"] meeting as precursor to Planning and Placement Team ["PPT"] meeting.
-
- **ADVANTAGES**
- CST or SAT can usually convene with more alacrity.
- CST or SAT can obtain written authorization to speak with student's pediatrician and/or therapist so that PPT will have that information prior to its meeting.
-
- **DISADVANTAGES**
- Limited efficacy of a CST or SAT, particularly when the student is not attending school
- Potential delay
- The IDEA's child-find provisions contemplate PPT involvement.
-

THE REFERRAL PROCESS

- In the face of chronic absenteeism, the district should, as part of child find, convene a PPT meeting. At that meeting, the PPT should:
 - 1. Request written authorization to speak with student's pediatrician and/or therapist unless it has already been obtained;
 -
 - 2. Consider appropriate assessments, including a psychiatric evaluation;
 -
 - 3. Consider, but do **not** rely solely upon reports or evaluations provided by parents.
 -

PURPOSE OF PPT MEETING

- The formal purpose of the PPT process is to ascertain whether the student who is engaging in school avoidant behavior has a disability and as a result thereof requires specialized instruction.
- 34 C.F.R. §300.111; 34 C.F.R. §300.8(a)
- More precisely, the PPT should be attempting to ascertain whether the student's conduct is the result of a disabling condition or whether it is volitional. In short, **is the student emotionally disturbed or conduct disorder?**
- Some parent attorneys have rejected the term "School Refusal" as connoting volition, preferring "School Avoidance," which they feel suggests anxiety or phobias.

EVALUATIONS

- Districts have the right to conduct its own evaluations.
- Districts also have the right to choose who will conduct its evaluations.
- This is equally applicable to “outside” evaluations, such as neuropsychological and psychiatric evaluations.

▪ **NEVER** refer to “**outside evaluations**” as “**independent evaluations!**”

EVALUATIONS

- **NEVER** agree to rely upon the parents' evaluations.
- You have to consider them, but you are not bound by them.
- You will, however, be bound by them if you do not conduct your own assessments.

EVALUATIONS

- School Refusal Assessment Scale Revised for Children and Parents [“SRAS-R-C” & “SRAS-R-P”]
- Fear Survey Schedule for Children-Revised [“FSSC-R”]
- Revised Children’s Manifest Anxiety Scale [“RCMAS”].
- The Child Behavior Checklist (CBCL)

PARENTAL REFUSAL TO CONSENT

- **Eligibility cannot occur without evaluations, and placement cannot occur without eligibility.** Therefore, if parents refuse to consent to evaluations recommended by the PPT (or at least by the district members of the PPT), the district has no further obligation to proceed with the referral process.
- Regular education interventions would still be applicable.

RETAINING DISTRICT EXPERTS

- Professional consultants – such as the district’s legal counsel – who are retained to advise the district on an ongoing basis do not require parental permission to review student records.
- Districts should maintain outside experts, such as psychiatrists, on a retainer to provide advice and assistance on an ongoing basis. Doing so would permit the district to have a psychiatrist it trusts to review the student records and any assessments provided by the parents and to either evaluate the student or, in the face of parental refusal, at least advise based upon the written record.

RETAINING DISTRICT EXPERTS

- A qualified therapeutic consultant can undertake an environmental assessment of the school setting and suggest possible modifications to the student's school routine.
- Such an expert can also speak with the student's physician in the context of determining homebound instruction

ETIOLOGY OF SCHOOL AVOIDANCE

- Remember these statistics?
 - Separation anxiety disorder 22.4%
 - Generalized anxiety disorder 10.5%
 - Oppositional defiant disorder 8.4%
 - Major depression 4.9%
 - **No diagnosis 32.9%**

RETAINING DISTRICT EXPERTS

- School avoidance is not – in and of itself -- listed as a clinical disorder; rather, it is often characterized as a symptom of underlying emotional issues such as:
 - Separation Anxiety Disorder
 - Social Phobia
 - Conduct Disorder (which typically does not give rise to a diagnosis of emotional disturbance)

RETAINING DISTRICT EXPERTS

- If there is no underlying diagnosis, then there would appear to be no basis for identifying a student who is engaging in school refusal under either the IDEA or Section 504.
- Again, the advice of the district's own trusted expert, such as a psychiatrist or a clinical psychologist, could prove particularly helpful in such situations.

ALREADY IDENTIFIED STUDENTS

- When confronted with school refusal by students who have already been identified under the IDEA, the PPT must still promptly convene in order to determine the etiology of the student's conduct and consider whether the student's truancy is volitional or is being triggered by an underlying emotional or medical impairment.

ALREADY IDENTIFIED STUDENTS

- The same protocols with respect to evaluations and parental consent that apply to students who are starting the referral process apply in situations involving already-identified students.
- Remember, **districts are not obligated** to:
- Speculate as to what is causing the student's behavior
- Accept the parents' contentions or the evaluations they obtained as dispositive
- Make determinations without proper evaluative bases (i.e. in cases of parental refusal to consent to evaluations)

PARENT AND STUDENT RESPONSE

- School refusal behavior will be extraordinarily difficult – if not impossible – to resolve if the parents do not cooperate with the district.
- The dynamic among parents, the school district and the student in special education matters is akin to a triangle – interrelated but with three different perspectives.
- School refusal cases, however, often bring an additional and complex dimension than most other fractious special education matters, as the student plays a direct and more active role.
- If you thought things were tough when the *parents* were driving the case

PARENT AND STUDENT RESPONSE

- Keep in mind that **the IDEA identifies “Parent counseling and training” as a related service.** 34 C.F.R. §300.34(c)(8)
- This related service includes: **“Helping parents to acquire the necessary skills that will allow them to support the implementation of their child’s IEP.”** 34 C.F.R. §300.34(c)(8)(iii)
- In school refusal cases, PPT should strongly consider whether the provision of such “counseling and training” is a necessary element of returning the student to school.

COMMON JUSTIFICATIONS FOR SCHOOL AVOIDANCE

- Typically, parents and students will allocate blame for school avoidance on the district.
- The **primary justifications** articulated by families for school-avoidant behavior are:
 - **Bullying**
 - Feeling overwhelmed by size of school
 - Feeling overwhelmed by academic demands
 - Feeling inadequate and low self-esteem
- Not surprisingly, the term “malingering” is not a favorite among parents.
-

ADDRESSING FAMILY'S JUSTIFICATIONS -- BULLYING

■ GENERAL OBLIGATIONS

- District must ensure both that it has anti-bullying policies in place and that it enforces them.
-
- Title IX grievance procedures must be adequately publicized and enforced.
-
- Section 504 grievance procedures must be adequately publicized and enforced.

CONNECTICUT'S ANTI-BULLYING LAW

- **Connecticut General Statutes § 10-222d** defines bullying and requires school districts to create and implement a Safe School Climate Plan;
- **Connecticut General Statutes § 10-222g** requires school districts to have and implement an intervention strategy to address matters of bullying and teen dating violence;
- **Connecticut General Statutes § 10-222k** requires the Superintendent to appoint a district-wide safe school climate coordinator who is responsible for implementing the safe school climate plan and to identify, prevent, address and respond to bullying issues;

CONNECTICUT'S ANTI-BULLYING LAW

- **Connecticut General Statutes § 10-222k** also requires schools to create a safe school climate committee who shall review completed bullying reports, identify patterns of bullying and make recommendations to the districts safe school climate coordinator based upon the collection of data
- **Connecticut General Statutes § 10-222l** establishes legal immunity for school employees, students, parents and boards of education that make good faith efforts to report, investigate and respond to bullying.

WHAT IS BULLYING?

“**Bullying**” is defined as:

(A) the **repeated** use by one or more students of a written, oral or electronic **communication**, such as cyberbullying, **directed at or referring to another student** attending school in the same school district,

-or-

(B) a **physical act or gesture** by one or more students **repeatedly** directed at another student attending school in the same school district,

that:

BULLYING

- Causes physical or emotional harm to such student or damage to such student's property
- Places such student in reasonable fear of harm to himself or herself, or of damage to his or her property
- Creates a hostile environment at school for such student
- Infringes on the rights of such student at school
- Substantially disrupts the education process or the orderly operation of a school

BULLYING

“**Bullying**” includes a communication or physical act or gesture based on any actual or perceived **differentiating characteristic**, such as:

race

color

national origin

ancestry

religion

gender

sexual orientation

*gender identity or
expression*

*mental, physical,
developmental or
sensory disability*

Socio-economic status

academic status

physical appearance

or by association with an individual or group who has or is per-ceived to have one or more of such characteristics

BULLYING IS PROHIBITED...

- On school grounds or at a school sponsored activity;
- Off school grounds if the bullying activity:
 - Creates a **hostile environment** at school for the student against whom such bullying was directed
 - or
 - **Infringes on the rights** of the student against whom such bullying was directed at school
 - or
 - **Substantially disrupts** the education process or the orderly operation of a school

SAFE SCHOOL CLIMATE PLANS

- Safe school climate plans must address the following issues, amongst others:
 - Anonymous student reporting;
 - Annual notice of plan to students/parents & staff (+ website, handbooks)
 - Process for written reports from parents and guardians;
 - Mandated reporting to safe school climate specialists by school employees;
 - Prompt investigation of bullying reports;
 - Bullying prevention and intervention strategies;
 - Student support plans;
 - Parent notification and meeting procedures;
 - Documentation and reporting procedures for verified acts of bullying;
 - Annual training for all school employees.

STUDENT-SPECIFIC STEPS

- Administrator, case manager or therapeutic related-service staff should be designated as individual to which student can bring any concerns regarding bullying.
-
- Designee should review with student district's anti-bullying policies and, if appropriate, the Title IX and/or Section 504 grievance procedures.
-
- Designee should review with student specific incidents student characterizes as bullying. If credible, administration should follow up on them.
-
- Designee should serve as primary contact for parents.
-
- If warranted, designee or paraprofessional with whom the student is comfortable should meet student in front of school in the morning.

ADDRESSING FAMILY'S JUSTIFICATION -- ANXIETY

- Remediating student's claims of being overwhelmed can prove more difficult than those related to bullying.
- In such situations, it is critical that the district obtain an evaluation of the student, preferably by a psychiatrist or, in the alternative, a clinical psychologist.
- This is a situation when, again, it would be helpful to have such therapeutic professional on retainer.

HOMEBOUND INSTRUCTION

- Homebound instruction can be counterproductive as it can encourage and reward school-avoidant behavior.

HOMEBOUND INSTRUCTION

- Section 10-76d-15(a)(1) of the Connecticut General Statutes sets forth the requisite conditions upon which homebound instruction is typically provided. The first requirement is that the student's treating physician provide a written statement **directly** – **and thus not by way of the parent** – to the Board on a form provided by such Board, identifying the student's diagnosis **“with supporting documentation.”**

HOMEBOUND INSTRUCTION

- The student's treating physician must also include the following on this form:
 -
 - 1. The **treating physician has consulted with the Board's supervisory medical personnel** and determined that school attendance even with reasonable accommodations is not feasible.
 - 2. The child has a verifiable medical reason that renders him or her unable to attend school.
 - 3. The student will be absent for school for at least ten consecutive days.
 - 4. The child is expected to return to school **by a specific date.**

HOMEBOUND INSTRUCTION

- **Without this information, the Board can decline to provide homebound instruction.**
- At the same time, Section 10-76d-15(d) notes that should there be a dispute “regarding the basis upon which the child’s treating physician has asserted the need for instruction,” the Board must provide instruction pending review of the treating physician’s written statement by the district’s “medical advisor or other health professional employed by the board of education who is qualified to review the information submitted.”
- **NOTE:** Even in such situations, the obligation to provide instruction is dependent upon the provision of the written statement. In other words, the “dispute” is a disagreement over the written statement. Thus, if the treating physician has failed to provide the statement, there is, again, **no** legal obligation to provide the homebound instruction.

HOMEBOUND INSTRUCTION

▪ OTHER CONSIDERATIONS

- If the Board asks its medical advisor to review the treating physician's written statement, Section 10-76d-15(d) also provides: "The parent of such child shall provide consent for the school medical advisor or other qualified health professional employed by the board of education to consult with the child's treating physician to assess the need for instruction."
- **The board "is not required to begin instruction until such consent is provided."**

HOMEBOUND INSTRUCTION

- Should the parent provide consent, but there continues to be disagreement after the Board's medical advisor speaks with the treating physician, the Board can offer, at its expense "a review of the child's case by a qualified independent medical practitioner."
- If the Board makes this offer, but the parent "fails to make the child available for such review," **the obligation of the board to provide homebound instruction "shall end."**
- Therefore, even if the treating physician provided a written statement that complied with the requirements of Section 10-76d-15(a)(1), and even if the parent consented to the district's medical advisor speaking with the treating physician, if the district still disputed the need for homebound instruction and offered a third-party assessment by a "qualified independent medical practitioner," and the parent refused to make the student available for such assessment, the Board could stop the homebound instruction.

OTHER CONSIDERATIONS REGARDING HOMEBOUND

- If a student is deemed eligible for special education due to school avoidance, then the disability triggering the school refusal is also the disability that the district should be addressing.
- If the district provides the student with homebound instruction, then, is it failing in its obligation to address the student's emotional disturbance?
- How does district reconcile its obligation to prepare the student for transition into post-secondary world by failing to educate in the mainstream setting?

THE LONG AND COSTLY ROAD

- Only the most enabling (i.e. dysfunctional) of parents would consider homebound instruction to be an appropriate long-term placement.
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- At the same time, if the student is not pushed to get back on the bus and return to public school, he or she most likely will continue to exhibit school avoidant behavior.
-
- If a student is permitted to perpetuate his refusal to attend his neighborhood school, it's also likely that he will not get on the bus to attend a therapeutic day placement.
-
- Therefore, what is left? Of course, a **residential placement**
-

THE LONG AND COSTLY ROAD

- “If institutionalization is required due to a child's emotional problems, and the child's emotional problems prevent the child from making meaningful educational progress, the Act requires the state to pay for the costs of the placement.” Mrs. B. v. Milford Board of Educ., 103 F.3d 1114, 1122 (2nd Cir. 1997).
- It is, therefore, absolutely crucial that the district move aggressively to return student to school.

REINTEGRATION INTO SCHOOL

- The most successful approach to reintegrating a student into school generally involves a graduated return to school, such as:
 -
 - A shortened day
 - A combination of homebound instruction and school attendance
 - Provision of tutoring at the school
 - Use of same tutor upon partial transition back to school
 - Staggered arrival and departure times
 - Staggered class pass times
 -

REINTEGRATION INTO SCHOOL

- This approach is particularly effective when combined with:
- Appropriate pharmacological interventions;
- Incentives for attending school
- Placement in social skills groups
-

REINTEGRATION INTO SCHOOL

- The final component of successful integration consists of the parents taking a firm stance, a non-negotiable stance with their children.
- A parent's failure to do so, or to otherwise cooperate with district efforts to reintegrate the student into school might be the juncture at which the district makes a referral to DCF for educational neglect.

REINTEGRATION INTO SCHOOL

- Remember, though, the IDEA identifies “Parent counseling and training” as a related service.
- 34 C.F.R. §300.34(c)(8)
- Thus, should parents prove obstinate or uncooperative or ineffective in dealing with their child, before considering DCF, the PPT may consider recommending “counseling and training” for the parents.

WHEN IN DOUBT – CONSULT WITH YOUR LEGAL COUNSEL!!!

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