

SHORTENED SCHOOL DAYS AND HOMEBOUND STUDENTS: WHEN ARE THESE PLACEMENTS APPROPRIATE?

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I. Overview

- A. A discussion of federal law, set forth in the Individuals with Disabilities Education Act (IDEA), requiring specific requirements for a “Free Appropriate Public Education” (FAPE) for students with disabilities.
- B. A discussion requiring specific requirements for the “least restrictive environment” (LRE) for students with disabilities.
- C. A discussion of when it might be appropriate to consider a shortened school day for a particular student.
- D. A discussion of when it appropriate to consider homebound instruction for a particular student.

II. Free Appropriate Public Education (FAPE)

- A. A “free appropriate public education” is statutorily defined as special education and related services that:
 - 1. “Special Education” is defined as specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. 20 U.S.C. § 1402(25); 34 CFR 300.39.
 - 2. “Specially Designed Instruction” is defined as adapting, as appropriate, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child’s disability and to ensure the child’s access to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that applies to all children. 20 U.S.C § 1401(29); 34 CFR 300.39(b)(3).

3. “Related Services” is defined as transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation; early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling; orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. Exception: Services that apply to children with surgically implanted devices, including cochlear implants. 34 C.F.R. § 300.34.

III. Least Restrictive Environment (LRE) Requirements

- A. The IDEA provides that states must have procedures to ensure that, to the maximum extent appropriate:

children with disabilities, including children in public or private institutions or other care facilities, are 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. 20 U.S.C. § 1412(5)(A).

- B. The federal regulations pertaining to least restrictive environment provides:

1. Each public agency shall ensure –
 - a. That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
 - b. That 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 is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R. § 300.114.
2. Each public agency shall ensure that:
 - a. The placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;

- b. The educational placement of each child with a disability –
 1. Is determined at least annually;
 2. Is based on his or her IEP; and
 3. Is as close as possible to the child’s home.
 - c. The various alternative placements are available to the extent necessary to implement the IEP for each child with a disability.
 - d. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled.
 - e. In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. 34 C.F.R. § 300.116.
 - f. The 1997 Amendments to the IDEA changed the IEP statement requirement concerning LRE from “a statement of . . . the extent that the child will be able to participate in regular education programs” to an “*explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class. . . .*” 20 U.S.C. § 1414(d)(1)(A)(iv).
3. The overriding requirement is that placement decisions must be made on an individual basis and consist of the least restrictive environment. Each public agency must have various alternative placements (continuum of alternative placements) available in order to ensure that each child with a disability receives an education that is appropriate to his or her individual needs.
 4. The analysis of the regulations for Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. part 104, Appendix, Paragraph 24) includes several points regarding educational placements of children with disabilities that are pertinent to this federal regulation:
 - a. With respect to determining proper placements, the analysis states: “. . . it should be stressed that, where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore, regular placement would not be appropriate to his or her needs. . . .”
 - b. With respect to placing a child with a disability in an alternate setting, the analysis states that among the factors to be considered in placing a child is the need to place the child as close to home as possible.

School districts are required to take this factor into account in making placement decisions.

- c. The parents' right to challenge the placement of their child extends not only to placement in special classes or separate schools, but also to placement in a distant school, particularly in a residential program. An equally appropriate education program may exist closer to home; and this issue may be raised by the parent under the due process provisions of this subpart.
5. Nonacademic settings:
 - a. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in the federal regulation, school districts must ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child. The school district must ensure that each child with a disability has the supplemental aids and services determined by the IEP team to be appropriate and necessary for the child to participate in nonacademic settings. 34 C.F.R. § 300.117.

IV. Shortened School Days

- A. Shortened school days for medical or educational reasons.
 1. General Rule: Districts must offer students with disabilities the same amount of instructional time as his/her nondisabled peers, unless the IEP team determines the student's needs warrant a shortened school day. *Arcadia (CA) Unified School District*, 115 LRP 17613 (OCR 12/22/14) (Dismissing middle school students with disabilities five minutes early to beat the crowds violated Section 504).
 2. A decision that a shortened school day is appropriate must be made on an individualized basis.
 3. The nature of a student's disability may limit his/her availability for instruction. The IEP team should consider any physical or mental factors that may impede the student's instruction when determining the scheduling and duration of homebound services.
 4. *Andrew* requires IEP teams to "offer a cogent and responsive explanation of their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances."

5. A comprehensive evaluation may be necessary in order to show that a student needs shortened school days for medical or educational reasons.
- B. Shortened school days for disciplinary reasons.
1. The use of short-term disciplinary measures, including shortened school days, “*if implemented repeatedly* could constitute a disciplinary removal from the current placement” (emphasis original) and trigger the IDEA’s disciplinary protections, including the right to a manifestation determination review. *Letter to Mason*, 72 IDELR 192 (OSEP 7/27/18).
 2. The IDEA provides that the removal of a student with an IEP from his current educational placement for more than cumulative 10 days in a school year requires that the student receive educational services and a functional behavioral assessment, including behavioral interventions and modifications.
 3. The removal of a student disciplinary reasons could be “a pattern of office referrals, extended time excluded from instruction (e.g., time out), or extended restrictions in privileges.” *Dear Colleague Letter*, 116 LRP 33108 (OSERS 8/1/16).
 4. Actions that could rise to the level of a disciplinary remove include “repeatedly sending children out of school on ‘administrative leave’ or a ‘day off’ or other method of sending the child home from school; repeatedly sending children out of school with a condition for return, such as a risk assessment or psychological evaluation; or regularly requiring children to leave the school early and miss instructional time (e.g., via shortened school days).” *Dear Colleague Letter*, 116 LRP 33108 (OSERS 8/1/16).
 5. The use of exclusionary disciplinary measures are not considered to be disciplinary removals from a student’s current placement, so long as children with disabilities are afforded the opportunity to continue to be involved in and make progress in the general education curriculum, receive the instruction and services specified in their IEPs, and participate with nondisabled children to the extent they would have in their current placement.” *Dear Colleague Letter*, 116 LRP 33108 (OSERS 8/1/16).
- C. Shortened school days for administrative reasons.
1. Any decision to shorten a student’s school day due to administrative reasons, such as budgetary concerns, staffing shortages, scheduling conflicts, or other non-student driven reasons is not appropriate and is typically a denial of FAPE.

2. Having a policy or practice of allowing students with mobility impairments leave early from the last class of the day so the students have time to safely board buses with wheelchair lifts before the other students were dismissed resulted in a denial of equal educational opportunity and FAPE. *Castaic (CA) Union Elementary School District*, 58 IDELR 234 (OCR CA 2011).
3. Districts may consider student safety and costs when planning out the logistics of transporting students with disabilities to and from school. However, the IEP team must determine whether a student needs a shortened school day for educational or medical reasons, and the shortened school day must be identified on the student's IEP.

V. Selected Shortened School Days Cases

A. *In re: Student with a Disability*, 70 IDELR 137 (SEA WI 6/27/17).

1. A complaint was filed alleging the shortened school day and homebound placements that occurred during the student's senior year resulted in a violation of IDEA.
2. The student anticipated graduating with a regular diploma at the end of the 2016-17 school year.
3. In late February 2017, the student was suspended for 1.5 days. On the day the student returned to school, the student had a conversation with school staff that led to concerns about the student's well-being. Based on further information, staff determined the student's behavior was potentially threatening.
4. The school contacted the police, who searched the student's home and found no concerns.
5. Staff requested the student remain at home until the IEP team could meet to discuss the next steps. The student remained at home for 3 school days.
6. The IEP team met on March 7, 2017. After considering several options the team determined that the student's heightened anxiety warranted a reduced day program at the high school. Because the student met most graduation requirements, the team determined it was not appropriate to transition the student back to a full-day schedule.
7. On April 11, 2017, the student gave staff information that caused concern about the student's wellbeing. The student left school at the assigned dismissal time but was suspended from school the following day.

8. On April 18, the IEP team met and determined the student would receive his instruction outside of the school building for the remainder of the school year.
9. In mid-May the student enrolled in another school district and completed all graduation requirements. He graduated with a regular high school diploma.
10. The complaint investigator determined the student was removed for 6.5 days in the school year during which time no educational services were required. The changes in placement (shortened school day and homebound) were not for disciplinary reasons but were made by the IEP team based on individualized student needs.
11. Given the unique circumstances in this case, the complaint investigator found the district did not inappropriately shorten the school day of a student with a disability.

B. *Millennium Community School*, 116 LRP 11957 (SEA Ohio 3/25/16).

1. A complaint was filed alleging a public charter school violated the IDEA when it shortened a student's school day for disciplinary reasons.
2. The student was suspended for 10 days during the 2014-15 school year, and the student had 8 unexcused absences.
3. Beginning in the spring, the student was on reduced days because of his behavior issues in the afternoon. The determination was made by the parent, a special education representative and an administrator.
4. The complaint investigator found the student was suspended for 10 school days, during which time the school was not required to provide services, and a manifestation determination was not required.
5. The student's school day was reduced to half days based on the student's behaviors, but his IEP was not amended to reflect this change or address how the student would receive all required services. A manifestation determination review was not conducted.
6. The reduction of school hours, outside the scope of an IEP meeting where the parent consents to a change of placement constitutes a constructive removal. The school should have conducted a manifestation determination review, obtained consent for any change of placement and created a plan to ensure the student received all required services. The school was found out of compliance.

C. *Arcadia (CA) Unified School District*, 115 LRP 17613 (OCR 12/22/14).

1. OCR investigated a complaint that students in a special day class were being discriminated against because the district treated the students differently by providing them with a shorter school day than their non-disabled peers during the 2013-14 school year.
2. The middle school had two self-contained special day classes. The classes were open to students who lived in the area, as well as other students who were placed in the classes through their IEP.
3. The students left their classroom on average five minutes before the end of the school day so they could walk through the hallways before it became overcrowded with other students. Many of the students had difficulty walking through crowded hallways due to their disabilities. Some students became anxious, others exhibited behavior issues.
4. Some of the students had long bus rides and needed to use the restroom before boarding the bus.
5. Teachers did not consider the five minutes loss of instructional time because the students were provided with ongoing instruction as to how to navigate the campus and practice social and behavioral skills.
6. OCR determined the district was not in compliance with Section 504 and Title II when it failed to provide students in the special day classes with an equal number of instructional minutes as the students in the general education classes, without making individualized decisions that this was necessary for the needs of specific students or providing other legitimate nondiscriminatory justification.
7. The district partially remedied the noncompliance by ending the practice and the district agreed to provide 15 hours of compensatory educational services to each student who was enrolled in a special day class.

D. *Cassia School District No. 151, 67 IDELR 162 (SEA ID 2/22/16).*

1. A due process hearing was filed alleging several issues, including that a student was denied FAPE due to a shortened school day during the 2014-15 and 2015-16 school year.
2. During the two school years at issue, the student was placed on the bus to go home in the afternoon 15 to 20 minutes earlier than other students. The total amount of school time missed by the student because of the busing schedule was 51.25 hours.
3. The hearing officer ordered an hour-for-hour award of 51.25 hours of compensatory education to be provided over a two-week period during June,

2015. The compensatory education was required to be based on the student's then current IEP goals.

E. *K.F. v. Francis Howell R-III School District*, 49 IDELR 244 (E.D. Mo. 2008).

1. The parents of a child with disabilities filed a complaint against the school district with OCR. OCR found there was sufficient evidence to support a finding that the district failed to comply with Section 504 due to the shortened school day for disabled students. The district entered into a resolution agreement with OCR.
2. On October 9, 2007, the parents filed suit in federal district court, and alleged their child was denied over 200 hours of educational services in violation of Section 504 and the ADA. The parents alleged every Wednesday the district dismissed their daughter's special day class 3 hours earlier than it dismissed classes for nondisabled peers.
3. Parents alleged damages for the loss of educational services, including compensatory education, monetary damages, and attorney fees.
4. The court held that the parents were not required to exhaust their administrative remedies as the following exception applied: "an agency has adopted a policy or pursued a practice of general applicability that is contrary to the law."
5. The court refused to dismiss the case and allowed their claims, including seeking to recover the wages they lost as a result of the early dismissal policy, to proceed.

VI. Homebound Instruction¹

A. Homebound instruction for medical or educational reasons.

1. The IDEA mandates that a student with disabilities must be educated with their age-appropriate peers, to the maximum extent appropriate.
2. Homebound instruction is not appropriate when a student's needs can be met in a less restrictive setting.
3. Homebound instruction for a student with a disability is part of the continuum of educational placements.
4. A determination as to whether a student should receive homebound instruction must be made on a case-by-case basis by the student's IEP team.

¹For the purposes of this outline in most instances, "homebound instruction," "in-home instruction," and "home instruction" are used interchangeable and refer to "home instruction" as utilized by the IDEA. 34 CFR 300.115.

5. The amount of homebound services to be provided must be based on the student's unique needs.
6. Certain state laws may limit the length of time a student can be placed in a homebound setting and may require a doctor's note supporting homebound services. However, "homebound services" for all students, and "home instruction" for students with disabilities may be different.
 - a. If a state law requires a parent to provide medical documentation of a student's inability to attend school and the parent failed to provide the required documentation, the district does not violate the IDEA if it refuses to offer home instruction. *Cupertino Unified School District v. KA*, 64 IDELR 275 (N.D. Cal. 2014).
 - b. If a student is determined by his IEP team to be in need of a homebound placement based on district evaluation data, the lack of medical documentation from the parent does not excuse the district from offering homebound services.
7. Students with disabilities have the same right to homebound services that nondisabled students would have under the same circumstances, although a district has additional obligations pursuant to the IDEA.
8. A letter or prescription from a physician indicating that a student "needs homebound services" is not sufficient for an IEP team to make a determination that homebound services are the least restrictive environment for a student. *Gwinnett County Sch. Dist.*, 114 LRP 43625 (SEA GA 9/10/14).
9. The IEP team must convene to discuss the doctor's letter to change the student's placement and modify the contents of his/her IEP, if warranted. *Questions and Answers on Providing Services to Children with Disabilities During an H1N1 Outbreak*, 53 IDELR 269 (OSERS 2009). Further assessments may be warranted before making a homebound placement determination.
10. The IDEA does not require a district to provide a student with a full day of home instruction or provide the same amount of special education services the student would have received had the student attended school. *Renton Sch. Dist.*, 111 LRP 72136 (SEA WA 11/1/2011).
11. The amount and type of educational services provided to a student in a homebound setting is determined by the IEP team, based on the unique needs of the student. A district cannot unilaterally determine certain services will not be available because they are not available to students on home instruction.

12. Students receiving home instruction pursuant to the IDEA should have access to the content areas of the general education curriculum, as well as related services, if the IEP team determines the student requires such services.
 13. A student's disabilities may limit his/her availability for instruction. The IEP team should consider any physical or mental factors that may impede the student's availability and instruction when determining scheduling and duration of home instruction. *Abington Heights Sch. Dist.*, 117 LRP 16163 (SEA PA 3/13/12).
 14. A student receiving homebound instruction has the right to participate in district-sponsored activities to the extent he/she is able to do so. Students receiving home instruction must receive timely notice of extracurricular activities.
 15. A district has no obligation to provide noneducational services to a student on home instruction. *Renton Sch. Dist.*, 111 LRP 72136 (SEA WA 11/10/11) (A district was not required to pay for daytime supervision that a student with autism required when he wasn't receiving home instruction.)
- B. Homebound instruction for disciplinary reasons.
1. School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:
 - a. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;
 - b. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or
 - c. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA. 34 CFR 300.530(g).
 2. The determination as to the location of the IAES is determined by the IEP team and could be homebound instruction.
 3. Whether a student's home would be an appropriate IAES depends on the particular circumstances of an individual case such as the length

of the removal, the extent to which the child previously has been removed from his/her regular placement, and the student's individual needs and educational goals. *Questions and Answers on Discipline Procedures, 52 IDELR 231 (OSERS 6/1/2009).*

4. If home instruction is provided to a student removed from the school setting for disciplinary reasons, special care should be taken to ensure that the following can be properly provided:
 - a. The student continues to receive educational services, so as to enable the student to continue to participate in the general education curriculum, although in a homebound setting, and progress towards meeting the goals in the student's IEP; and
 - b. Received, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.
5. Districts may not limit an IEP team to only one option, consisting of home instruction, when determining the appropriate IAES for a particular student. *Questions and Answers on Discipline Procedures, 52 IDELR 231 (OSERS 6/1/2009).*

C. Homebound instruction for administrative reasons.

1. Lack of qualified staff to attend to a student's medical needs is not an appropriate reason to determine the student needs homebound services. *Lourdes (OR) Pub. Charter Sch., 57 IDELR 53 (OCR 2011).*
2. A homebound placement cannot be based solely on a parent's request for such services. *A.K. v. Gwinnett County Sch. Dist., 62 IDELR 253 (11th Cir. 2014), unpublished; cert. denied, 114 LRP 43723 (2014).*

D. Implementing a Homebound Program

1. The IEP team must determine the structure of a homebound program on a case-by-case basis.
2. The IEP team must consider all relevant information provided by the parents, including physician letters, but a physician's letter cannot be the sole documentation utilized by the IEP team in making a homebound placement decision.
3. The type of services may depend on whether the homebound instruction is anticipated to be short-term or long term, as well as on the health and

vitality of each student.

4. Determine whether the student could participate in the school setting through current technology such as Skype or videoconferencing.
5. Determine whether on-line courses might be appropriate for the student.
6. The use of various technologies, including robots, is being explored in the school setting.
 - a. Make sure a parent's request for certain technology in a homebound setting is researched and discussed by the IEP team before a decision is made to approve or deny the request.
 - b. If the request for technology is denied, the written notice provided to the parent must clearly set forth the grounds for the denial – cost should not be the factor for denial.
7. Determine the time of day that services will be provided. Consider whether there is a certain time of day when the student is most productive.
8. Make sure the classroom teachers are in regular contact with the homebound instructors.
9. It may be appropriate for the classroom teachers to be in contact on a routine basis (i.e., weekly at a set time by telephone or other means) with the student. This may be especially important if the homebound instructors are not certified teachers.
10. Monitor the progress of each student on homebound instruction on a regular basis. Make sure no student “falls through the cracks.”
11. Schedule IEP meetings to review the student's progress and discuss possible transition back to the school setting more often than annually.
12. If a student's IEP team determines a homebound setting is an appropriate IAES, ensure that all educational services required by the IDEA are met.

VII. Selected Home Instruction Cases

A. *Douglas County (CO) Sch. Dist.*, 116 LRP 52406 (OCR 8/29/16).

1. OCR received a complaint alleging that the district failed to provide the student with FAPE when it failed to evaluate the student prior to placing her on homebound instruction.

2. The student began the 2015-16 school year as a first grader and did not have an IEP or a 504 plan.
3. The parent emailed the student's teacher at the beginning of the school year to inform the teacher that the student was on the autism spectrum.
4. The classroom teacher did not refer the parent to the school psychologist or special education teachers but did talk with the school psychologist seeking suggestions about helping the student.
5. The parent contacted the special education coordinator on September 17, 2015 to request help with the student's anxiety, social skills, and resiliency.
6. A meeting was held on September 24, and the school received parent consent to conduct an evaluation. The evaluation was completed around November 2 and the student was found eligible for special education services.
7. On February 15, 2016, the parent pulled the student from school as she was concerned about the student's safety. The student's IEP was reviewed at a meeting held on February 23, 2016, at which time the IEP identified the LRE as the general education classroom for at least 80% of the day. However, the student did not return to school based on parent concerns.
8. Emails after the February 23 IEP meeting indicated that the school proposed providing services to the student in a public library, or a neutral location other than the home setting. However, no subsequent evaluation was conducted.
9. OCR concluded that although the school conducted an initial evaluation, it was obligated under Section 504 and Title II to reevaluate the student before changing his placement to a homebound setting.

B. *In re: Student with a Disability*, 71 IDELR 114 (SEA IL 2017).

1. Parents filed for a due process hearing over a dispute concerning the appropriate times the homebound services should be provided to the student. The parents alleged that the district refused to provide homebound tutoring outside the hours of 4-6 p.m.
2. The student was 15 years old and was eligible for special education under the categories of Other Health Impairment, Emotional Disability, and Specific Learning Disability. The student was diagnosed with Cyclical Vomiting Syndrome (CVS) and developed a chronic complex regional pain syndrome. In addition, the student suffered from a generalized anxiety disorder and status migrainous. The student also had a mood disorder known as sun downing, which caused the student to be angry and manifested itself later in the day. Due to the severity of her disabilities, the student was unable to attend school.

3. Late afternoon/early evening activities were difficult for the student due to her disabilities.
 4. The hearing officer cited to the *Andrews* case as requiring the district to offer an IEP that is reasonably calculated to enable the student to “make progress appropriate in light of the child’s circumstances.”
 5. The record showed the student was more alert during the day and the sun downing caused the student to be angry later in the day, making it harder for the student to focus.
 6. The hearing officer ruled that the district based the student’s homebound services on district guidelines, rather than his disability-related needs, in violation of the IDEA and order that homebound services were to be provided by a certified special education teacher between the hours of 9 a.m. and 3 p.m. on regular school days.
- C. *Rodriguez v. Independent Sch. Dist. of Boise City No. 1*, 63 IDELR 36 (D. Idaho 2014).
1. A 15-year-old student with autism and an anxiety disorder refused to attend school. The parents filed for a due process hearing alleging the district failed to evaluate the student for homebound instruction.
 2. The student’s doctor recommended he receive homebound services due to his fear of returning to school until he was evaluated further by another doctor and a concrete plan was developed for his schooling. When asked what benefits homebound services would provide the doctor responded: “Nothing, other than I thought that is what the family and school were desiring...”
 3. The hearing officer found for the school district, and the parents appealed to federal district court.
 4. The district court overturned the hearing officer’s decision and held that the school district had denied the student FAPE by rejecting the parents’ request for homebound services without adequately evaluating the student’s need for an alternative placement pending completion of an appropriate reintegration plan.
- D. *Grasmick v. Matanuska Susitna Borough Sch. Dist.*, 64 IDELR 68 (D. Alaska 2014).
1. The District Court upheld an administrative order prohibiting the parents from interfering with their son's in-home program during the district's search for a "neutral" location. The court found no fault with the IHO's finding that the parents' conduct prevented the district from providing the child FAPE.

2. Various staff members, including a special education teacher, an AT specialist, a physical therapist, and a provider of vision services, testified that the mother would express her frustrations about the district in an angry, agitated, and emotional manner while they were trying to work with the child.
 3. Seven staff members testified about behaviors that included barring providers from the home, verbally harassing providers, and occasionally threatening providers. "Their testimony provides substantial evidence that numerous providers did not feel comfortable and safe providing services to [the child] in the [family's] home, despite a dedication to and positive relationship with [the child]."
 4. Given the district's difficulties with providing services the IHO did not act unreasonably in ordering the parents to cooperate with the delivery of in-home services while the district investigated alternative locations.
- E. *S.P. v. Fairview School District*, 64 IDELR 99 (W.D. Pa. 2014).
1. Parents brought a civil rights action alleging disability-discrimination and denial of FAPE by a district against a former high school student who suffered refractory migraine headaches which prevented his regular attendance at school.
 2. The district argued the student did not have a disability pursuant to the IDEA and to the extent the student may have met the broader definition of disabled under Section 504 because of his incapacitating migraine headaches, the district provided all necessary accommodations with and without a formal Section 504 plan.
 3. Student began suffering frequent refractory migraines at age 4 to 5 and the migraines typically lasted 12 to 16 hours where the student was required to remain in a dark room away from noise.
 4. As a result of the migraines, student suffered a significant and increased rate of absences in throughout his school years.
 5. The evidence supported the finding that the student was unable to benefit from a school-based placement.
 6. Over time, the district reduced academic expectations and modified the student's schedule to help him complete his coursework, including allowing the student to arrive at school later in the day; complete work in the resource room as needed, providing extra help from teachers outside the school hours, and completion of certain courses online.
 7. Only when the student was unable to come to school for even part of the

day was the student placed in a “cyber school” program.

8. The court found the district made extraordinary efforts to accommodate the student in the regular education setting, gave him opportunities to participate in extra-curricular activities, and allowed him to attend school-based classes when the student was well enough to do so.

NOTE: This outline is intended to provide interpretations of law and a summary of selected cases. In using this outline, the presenter is not rendering legal advice. The services of a licensed attorney should be sought in responding to individual situations in a school district or charter school.