



May 7, 2020

The Honorable Mitch McConnell
Majority Leader, U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker, U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader, U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader, U.S. House of Representatives
Washington, DC 20515

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, and Leader McCarthy:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) Education Task Force and allies submit this letter in response to the directive that the Secretary of Education submit, within 30 days of enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act a report to Congress with recommendations on any additional waivers the Secretary deems necessary under the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 (Rehabilitation Act) and other education laws. The undersigned organizations are unwavering in our pursuit of educational equity and stand unified in the strong conviction that **NO ADDITIONAL waivers are necessary under either the IDEA or Section 504 of the Rehabilitation Act.**

Importantly, the U.S. Secretary of Education submitted the report on April 27th and recommended only minimal waivers under both the IDEA and the Rehabilitation Act. In fact, the Secretary declared her intent to protect the “core tenets” of IDEA and Section 504 of the Rehabilitation Act of 1973 and her belief that “schools can, and must, provide education to all students, including children with Disabilities.” Thus, Congress need not open this issue for further consideration. It is evident that the Secretary can and will continue to work cooperatively with schools and districts to ensure that children with disabilities are served in accordance with the intent of IDEA and the Rehabilitation Act.

To be clear, we recognize that during this unprecedented global crisis brought on by COVID-19, communities and families across the country are reckoning with the new reality that schools are closed and shelter in place orders have been issued. Indeed, education looks vastly different than it did just weeks ago. Educators and families are hard at work finding new ways to provide students with educational opportunities while also ensuring basic health and safety needs are met.

The undersigned firmly believe that students with disabilities are always best served when school leaders, teachers, specialized instructional support personnel, parents, students and advocates work as a team to address complex issues. While challenging, this crisis is not different.

It is clear that during this rapidly evolving crisis, flexibility, patience, and innovation will be needed. Indeed, families and teachers and specialized support personnel are reporting about both the challenges and the opportunities to collaborate together. Given all of this, we especially appreciate the clarification provided to schools by the Secretary that “provision should be made to maintain education services”¹ [for students eligible under the IDEA or the Rehabilitation Act] and the emphasis further reflected that “federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities.”² Given that IDEA offers flexibility by design and states, districts, communities, and families are working together to find solutions to the problems they face in the next several months, we firmly believe that this is not the time to roll back civil rights protections for students with disabilities. **Federal education laws must be protected. There is NO need for Congress to provide waiver authority to the U.S. Secretary of Education under the IDEA or Rehabilitation Act.**

The U.S. Department of Education must enforce and Congress must uphold the following principles:

1. LEAs must continue to provide Free Appropriate Public Education (FAPE) to students with disabilities.

The obligation to provide a free, appropriate, public education to students with disabilities remains, even in the face of a public health emergency. This means that special education and related services must continue. It also means that schools must consider how the needs of students with disabilities -- including the accommodations, specialized instruction, and related services they need -- will change as they learn from a distance, in their home, and in an online setting.

Existing federal disability laws allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency, and schools may not be able to provide the same services in the same manner they did in the past. FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students. In some cases, this may mean that schools provide 1:1 instruction and services virtually or telephonically. In others it may mean that schools send materials and activities home for students with instructions and supports for families in their language. In all cases, schools must be evaluating which compensatory services may be needed and plan to provide those services as soon as possible.

¹ Office for Civil Rights (March 16, 2020) “Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students.” U.S. Department of Education: Washington, DC. Available at: <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>

² Office for Civil Rights & Office of Special Education & Rehabilitative Services (March 21, 2020). “Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities.” U.S. Department of Education: Washington, DC. Available at: <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

2. Teams responsible for student Individualized Education Programs (IEPs) must involve parents in all decisions.

IDEA includes robust provisions calling for parent participation in special education, including within the IEP process. Specifically, IDEA calls for public agencies to “take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate.”³ IDEA anticipates that parent participation may not always be possible in-person and allows for parents and public agencies to “agree to use alternative means of meeting participation, such as video conferences and conference calls.”⁴

There may be a situation where a school team feels the need to make amendments to a student’s IEP given the emergency situation they are in and because students are learning from a distance. In such a situation, IEP provisions within IDEA already allow for amendments to an IEP without an IEP meeting as long as the parent and district agree to those amendments and a written document is created and attached to the IEP.⁵

It is clear that IDEA has numerous provisions that provide the needed flexibility for parents and schools to work together -- even remotely -- during this time. No additional waivers or flexibility are needed. IDEA’s key tenet of parent participation must remain and no changes may be made to an IEP without parent notice *and* consent. As time has passed, more teacher-parent communications are occurring via email and other remote means. Now, more than ever, parents must be a part of any decisions regarding their child.

3. Parents’ due process rights must remain intact.

Given the inherent flexibility within IDEA and the focus on parent-school partnerships, there is no reason to weaken or revoke parents’ due process protections. Instead, schools and IEP teams should spend time planning for and engaging in meaningful communication with parents and proactively addressing issues related to service provision and accessibility. Frequent and clear communication, collaboration, and partnership between schools and families will be necessary during this time.

Where due process complaints proceed, much can be done in preparing for a due process hearing or investigating a state complaint without an in-person meeting. We also are aware of hearings that are occurring virtually.

4. Use of Federal education funds must adhere to the IDEA, the Rehabilitation Act, the Americans with Disabilities Act and other civil rights laws.

Federal dollars should not be used for any voucher, voucher-like, or scholarship programs unless participating schools are required to adhere to all federal education and civil rights laws. All students

³ 34 CFR. § 300.322(a)

⁴ 34 CFR. § 300.328

⁵ 34 CFR. § 300.324(a)(4)

should be able to attend a high-quality public school that meets their needs while maintaining all of their rights under the IDEA and other civil rights statutes.

Finally, there is no doubt that some districts and states are better equipped to pivot quickly and support students virtually and in order to achieve this in more communities, schools must be better supported to build the capacity to serve students with disabilities and their families under these new circumstances. Therefore, instead of waivers, we urge Congress to protect the civil rights of students and provide robust funding to states and school districts so they can make every reasonable effort to educate students with disabilities during this national emergency.

We urge you to support our request to keep the laws intact and protect the civil rights of students with disabilities. We must work together to ensure schools and families collaborate in support of every student with a disability.

Sincerely,

National Organizations

Academy of Pediatric Physical Therapy
The Advocacy Institute
Alliance for Excellent Education
Alliance for Strong Families and Communities
American Association of Colleges for Teacher Education
American Council of the Blind
American Council on Rural Special Education (ACRES)
American Foundation for the Blind
American Music Therapy Association
American Muslim Health Professionals
American Occupational Therapy Association
American Physical Therapy Association
American Psychological Association
American Therapeutic Recreation Association
The Arc of the United States
Association for Education and Rehabilitation of the Blind and Visually Impaired
Association of People Supporting Employment First
Association of Programs for Rural Independent Living
Association of University Centers on Disabilities
Autism Society of America
Autism Speaks
Autistic Reality
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Bazelon Center for Mental Health Law
CAST, Inc.
Center for American Progress
Center for Disability Rights

Center for Public Representation
Child Welfare League of America
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Children's Advocacy Institute
Clearinghouse on Women's Issues
Coalition on Human Needs
Collaboration to Promote Self-Determination
CommunicationFIRST
Community Options, Inc.
Council for Learning Disabilities
Council of Parent Attorneys and Advocates
Deaf Queer Resource Center
Disability Rights Education & Defense Fund
Division for Learning Disabilities of the Council for Exceptional Children
Division on Autism and Developmental Disabilities of the Council for Exceptional Children
Easterseals
Education Law Center
Education Reform Now
The Education Trust
Epilepsy Foundation
Equal Justice Society
Equal Rights Advocates
Family Equality
Feminist Majority Foundation
First Focus on Children
Girls Inc.
Higher Education Consortium for Special Education
Hispanic Federation
Institute for Educational Leadership
International Dyslexia Association
Japanese American Citizens League
The Jewish Federations of North America
Kairos Center for Religions, Rights, and Social Justice
The Leadership Conference on Civil and Human Rights
Learning Disabilities Association of America
Lutheran Services in America
MomsRising
Muslim Caucus Education Collective
NAACP
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Councils on Developmental Disabilities
National Association of State Head Injury Administrators
National Center for Learning Disabilities
National Center for Lesbian Rights
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Center for Special Education in Charter Schools
National Center for Transgender Equality
National Center for Youth Law

National Coalition of Parent Centers
National Consortium for Physical Education for Individuals with Disabilities (NCPEID)
National Council of State Agencies for the Blind
National Council on Independent Living
National Disability Institute
National Disability Rights Network
National Down Syndrome Congress
National Indian Education Association
National Partnership for Women & Families
National PTA
National Urban League
National Women's Law Center
Network of Jewish Human Service Agencies
New America, Education Policy Program
NMD United, Inc.
Not Dead Yet
Not Without Us
OCA-Asian Pacific American Advocates
PACER Center
Partnership for Inclusive Disaster Strategies
Perkins School for the Blind
PFLAG National
Public Advocacy for Kids (PAK)
Registry of Interpreters for the Deaf
RespectAbility
School Social Work Association of America
SchoolHouse Connection
Southeast Asia Resource Action Center
SPLC Action Fund
Stand for Children
Tangata Group
Tash
Teacher Education Division of the Council for Exceptional Children
The Association for Successful Parenting (TASP)
The Coelho Center for Disability Law, Policy and Innovation
Tourette Association of America
True Colors United
UnidosUS
Union for Reform Judaism
United States International Council on Disabilities

State/Local Organizations

A+ Colorado
Ability360
Accessibility Center For Independent Living, Inc.
ACLU of Michigan

ADAPT Montana
AdvocacyDenver
Advocates for Children of New York
Agencies for Children's Therapy Services (ACTS)
AHRC New York City
Alabama Disabilities Advocacy Program
Alice Neeley Special Education Research & Service (ANSERS) Institute
Alliance Center for Independence
American Civil Liberties Union of Pennsylvania
American Civil Liberties Union of Washington
Ann Arbor Individual Disability Education Advocacy Services (A2IDEAS)
Association for Community Living in Boulder & Broomfield Counties
Autism Society Central Ohio
Autism Society Greater Baton Rouge
Autism Society Greater Cincinnati
Autism Society Greater Philadelphia
Autism Society Louisiana State Chapter
Autism Society of Baltimore-Chesapeake
Autism Society of California
Autism Society of Florida
Autism Society of Indiana
Autism Society of Iowa
Autism Society of Maine
Autism Society of Minnesota
Autism Society of North Carolina
Autism Society of Ohio
Autism Society of Oregon
Autism Society of Southeastern Wisconsin
Autism Society of Southern Arizona
Autism Society of Southern Illinois
Autism Society of Texas
Autism Society of the Bluegrass
Autism Society, Tidewater Virginia
Bronx Independent Living Services
California Association for Parent-Child Advocacy (CAPCA)
California Foundation for Independent Living Centers
CC=A (Citizens Coalition for Equal Access)
Center For Disability Rights-CT
Center for Independence of the Disabled, NY
Central Iowa Center for Independent Living
Child Advocacy LLC
Children in Placement - CT, Inc.
Children's Defense Fund-CA
Children's Home Society of Washington
Citywide Council for District 75
Climb Higher Colorado
Colorado Children's Campaign
Colorado Council for Learning Disabilities

Colorado EPFP
Community Inclusion & Development Alliance
Connecticut Cross Disability Lifespan Alliance
Connecticut Legal Rights Project, Inc.
Cornerstones of Care
CRIL
CT State Independent Living Council
DC Autism Society
Decoding Dyslexia Alabama
Decoding Dyslexia Alaska
Decoding Dyslexia Arizona
Decoding Dyslexia Arkansas
Decoding Dyslexia CA
Decoding Dyslexia CT
Decoding Dyslexia Florida
Decoding Dyslexia Georgia
Decoding Dyslexia IL
Decoding Dyslexia IN
Decoding Dyslexia Iowa
Decoding Dyslexia Kentucky
Decoding Dyslexia Louisiana
Decoding Dyslexia Maryland
Decoding Dyslexia Massachusetts
Decoding Dyslexia Michigan
Decoding Dyslexia Military
Decoding Dyslexia NJ
Decoding Dyslexia Ohio
Decoding Dyslexia Oklahoma
Decoding Dyslexia PA
Decoding Dyslexia South Carolina
Decoding Dyslexia Texas
Decoding Dyslexia TN
Decoding Dyslexia Virginia
Decoding Dyslexia Washington
Decoding Dyslexia West Virginia
Decoding Dyslexia Wisconsin
Democratic Disability Caucus of Florida
DFER-DC
Disabilities Resource Center of Siouxland
Disability Community Resource Center
Disability Law Center
Disability Law Center of Alaska
Disability Law Colorado
Disability Resource Center
Disability Rights Arkansas
Disability Rights California
Disability Rights Center - NH
Disability Rights Center of Kansas

Disability Rights Connecticut
Disability Rights Iowa
Disability Rights Maine
Disability Rights Maryland
Disability Rights Nebraska
Disability Rights New Mexico
Disability Rights North Carolina
Disability Rights Oregon
Disability Rights Pennsylvania
Disability Rights TN
Disability Rights Vermont
Disability Rights Washington
Disability Rights Wisconsin
Dyslexia Awareness Network
Education Law Center - PA
Education Reform Now Colorado
Education Reform Now CT
Education Reform Now LA
Education Reform Now, Massachusetts Chapter
embrella, Embracing & Empowering Families
Endeppendence Center
Endeppendence Center, Inc.
Equality California
Equality North Carolina
Equip for Equality
Family Connection of South Carolina
Family Service of Rhode Island
Hawaii Disability Rights Center
Howard County Autism Society
Idaho State Independent Living Council
Illinois Iowa Center for Independent Living
INCLUDEnyc
Inclusion for ALL
Independence Northweert, Inc.
Independence Unlimited
IndependenceFirst
Independent Living Resource Center of the Tri-Counties
Independent Living Resource Center San Francisco
Indiana Council for Children with Behavioral Disorders
Indiana Resource Center for Autism
Indiana Statewide Independent Living Council
Iowa Statewide Independent Living Council
Ivy's Mom Inc
Keep the Promise Coalition
KEEP THE PROMISE COALITION
Kentucky Protection and Advocacy
KMAdvocacy
Law Offices of Dana A. Jonson, LLC

League of Education Voters
Learning Rights Law Center
Legal Aid at Work
Legal Aid Justice Center
Legal Counsel for Youth and Children
LifeSpan, Inc.
Lincoln
Louisiana Center for Children's Rights
Maine Developmental Disabilities Council
Maine Parent Federation
Marcie Lipsitt LLC
Maryland Council for Learning Disabilities
MD Coalition of Families
Michigan Alliance for Special Education
Michigan Protection & Advocacy Service, Inc.
Minnesota Disability Law Center/Mid Minnesota Legal Aid
Montana Independent Living Project
Mount Pleasant Academy
Movement Potential Inc
Native American Disability Law Center
ND Protection & Advocacy Project
Neurobehavioral Consultants, LLC
Nevada Disability Advocacy & Law Center
New Haven Legal Assistance Association
New Mexico Autism Society
Oklahoma Disability Law Center, Inc
Open Doors for Multicultural Families
Options for Independent Living, Inc.
Oregon Council on Developmental Disabilities
Paraquad
Parents Reaching Out, New Mexico
Parity Coaching & Development, LLC
PEATC
Philadelphia Family Pride
Placer Independent Resource Services
Protection and Advocacy for People with Disabilities
Public Justice Center
RAMP Center for Independent Living
Resource Center for Accessible Living
Resources for Independence Central Valley
San Antonio Independent Living Services
SC Autism Society
SC Autism Society
SC Equality
Service Center for Independent Life
Silicon Valley Independent Living Center
Silver State Equality-Nevada
SKIL Resource Center

Southern Illinois Center for Independent Living
SPAN Parent Advocacy Network (SPAN)
Speaking Up For Us
Special Needs Advocacy Network Inc. (SPAN, Inc.)
Stand for Children Colorado
Student Advocacy Center of Michigan
Support for Families
Syracuse University School of Education
System for Education Empowerment and Success
Texas Council for Learning Disabilities
Texas Democrats with Disabilities
The Ability Center of Greater Toledo
The Arc - Jefferson, Clear Creek & Gilpin Counties
The Arc Mesa County, Inc
The Arc Minnesota
The Arc of Adams County
The Arc of Arizona
The Arc of Aruora
The Arc of Greater Pittsburgh
The Arc of King County
The Arc of Larimer County
The Arc of Shelby County Inc
The Arc of Southwest Colorado
The Arc of Spokane
The Arc of Union/Cabarrus
The Arc of Weld County
The Arc Tennessee
The Autism Society of Boulder County
The Autism Society of Minnesota
The Autism Society of Washington
The Dayle McIntosh Center
The IMAGE Center for People with Disabilities
The Parents' Place of MD
Transform Education Now
Tri-County Independent Living
University Center for Excellence on Developmental Disabilities, University of Oregon
Virginia Association of Centers for Independent Living
VT Statewide Independent Living Council
Washington State Developmental Disabilities Council
Washtenaw Association for Community advocacy
We All Rise
Western CT Association for Human Rights-WeCAHR
Wisconsin Coalition of Independent Living Centers, Inc.
Western Michigan University, Special Education & Literacy Studies

cc: The Honorable Bobby Scott
The Honorable Virginia Foxx
The Honorable Lamar Alexander
The Honorable Patty Murray

Education Task Force Co-Chairs:

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The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Education Task Force of CCD monitors federal legislation and regulations that address the educational needs of children and youth with disabilities and their families, including regulatory efforts under federal law such as the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). The Education Task Force advocates for high expectations for children with disabilities under these and other laws.