



May 21, 2018

Re: Opposition to Amendment #487 to H.R. 5515 unless IDEA rights and ESSA accountability requirements are applied to participating private schools

Dear Representative:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) Education Task Force write to oppose the inclusion of an amendment to the National Defense Authorization Act (NDAA) FY2019 that would create a pilot voucher program. In particular, we oppose Amendment #487 which was filed by Representative Hunter to create a \$10 million scholarship program for military dependent children with special education needs that can be used for private and public schools.

The scholarships created by amendment #487, like other types of vouchers, would divert public funding to pay for tuition, fees, transportation, and other expenses. Our concerns relate primarily to the use of scholarship funds for private schools as neither the rights under the Individuals with Disabilities Education Act (IDEA) nor the accountability under the Every Student Succeeds Act (ESSA) apply to students that are placed by their parents in private schools.

IDEA rights

Under the IDEA, public schools are required to provide for evaluation, free appropriate public education, individualized education plans (IEPs), least restrictive environment, parent participation, and procedural safeguards (known as “due process”) to challenge school decisions. The loss of IDEA protections is particularly troubling for military families who face frequent relocations. To begin with, private schools have no legal obligation to accept a student with disabilities for admission, unlike public schools (referred to as the “zero reject” principle in IDEA).

Assuming the student is admitted to a private school, the school does not have to accept the student’s IEP or provide special educational and related services (such as speech therapy, assistive technology, and transportation). Military families would be saddled with paying out-of-pocket for these and other services as this scholarship program - capped at \$7,500 per year - would not cover the average cost of

private school tuition (about \$10,000 per year¹) and would not come close to covering the cost of tuition for private schools that specialize in educating students with disabilities (which can exceed \$60,000 per year schools for specialized schools for students with autism). This inequity would result in the program being available only to families who are the most well off financially.

Accountability

Under the ESSA, public schools are held accountable for how students—including the subgroup of students with disabilities—learn and achieve. Schools must measure and publicly report academic achievement, academic progress, English language proficiency, and high school graduation rates.

ESSA requires that schools look at the performance for all their students, as well as at the performance of the disability subgroup, to see if long-term goals and interim measures of progress are being met. This means that the performance of students with disabilities is not be masked by school averages. And, most importantly, ESSA requires that schools take action if students with disabilities consistently underperform in:

- 1) Annual assessments of academic achievement in reading, math, and science.
- 2) English language proficiency;
- 3) For elementary and middle schools, a “measure of student growth” or other academic indicator that allows for meaningful differentiation in student performance;
- 4) High school graduation rates.

The disability community fought for many years to ensure that students with disabilities were included in this robust accountability system. Any type of voucher program should be required to offer the same level of accountability for students with disabilities.

Relocation Support

In addition, this scholarship program is impractical for military students with disabilities. Military children will, on average, attend between six and nine schools from grades K-12. The high mobility rate of this population makes the implementation of a voucher impractical for both students and school districts. The difficulty of ensuring that dollars are captured and recouped when students leave a school year mid-year is amplified for students with disabilities who, studies of voucher programs show, often are forced to return to the public schools because the private schools they attend cannot properly meet their needs.

The Military Interstate Children’s Compact was created to address the challenges of such frequent relocations. This is an agreement among states and school districts to coordinate enrollment, placement, attendance, eligibility, and graduation. The Compact, adopted by all 50 states and DC, does not extend to private schools.

Conclusion

¹ According to 2014 data from the Nation Center for Education Statistics, the average price of a year of private elementary school is \$7,770, and the average annual cost of private high school is \$13,030.

Military families already make great sacrifices for our country. Regardless of the type of school voucher program, they should not be asked to forfeit the rights and limit accountability for their children with disabilities. Therefore, unless full IDEA rights and ESSA accountability provisions are added to amendment #487, we oppose the inclusion of the amendment in the NDAA.

Sincerely,

The Advocacy Institute
American Dance Therapy Association
American Physical Therapy Association
The Arc of the United States
Association of University Centers on Disabilities
Autism Society
Council of Administrators of Special Education
Disability Rights Education & Defense Fund
Learning Disabilities Association of America
Military Family 360 Support @ SPAN Parent Advocacy Network
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Disability Rights Network
National PTA
School Social Work Association of America
TASH