



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”<sup>1</sup> [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.”<sup>2</sup> 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.

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<sup>1</sup> 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>

<sup>2</sup> 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.”<sup>3</sup> 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.”<sup>4</sup>

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.<sup>5</sup>

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

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<sup>3</sup> 34 CFR. § 300.322(a)

<sup>4</sup> 34 CFR. § 300.328

<sup>5</sup> 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

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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.*