



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

July 31, 2020

Amy Huber
U.S. Department of Education
400 Maryland Avenue, SW, Room 3W219
Washington, DC 20202

RE: Docket ID ED-2020-OESE-0091

Dear Ms. Huber:

The Consortium for Citizens with Disabilities (CCD) Education Task Force appreciates the opportunity to comment on the Interim Final Rule (IFR) addressing the *CARES Act Programs: Equitable Services to Students and Teachers in Non-Public Schools*. The CCD **strongly opposes this rule because it diverts critical federal education funds away from public schools, does not adhere to either the Coronavirus Aid, Relief, and Economic Security Act (CARES) or the Elementary and Secondary Education Act (ESEA), and will substantially harm students with disabilities from low-income families and the public schools that serve them.**

The IFR issued by the U.S. Department of Education directly contravenes the CARES Act which directs local school districts that receive K-12 funds to provide equitable services to non-public schools according to Section 1117 of the ESEA. The ESEA requires districts to calculate the required distribution to nonpublic schools based on the *number of low-income children in each participating non-public school in the district*. The IFR provides two options for districts to allocate funds to schools. These options would require districts to choose between sending a higher proportion of funds to private schools or losing flexibility in how to spend their funds. Importantly, neither option provided in the IFR accurately follows the requirements of ESEA nor Congressional intent under the CARES Act.

As advocates 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 CCD is extremely concerned about diverting federal education dollars to private schools. In particular, we are opposed to using funds from ESEA's Title I funding formula which is designed to support low-income children in the state and is based on the enrollment of low-income students, not on state total K-12 student enrollment. Also, students with disabilities do not have equal access to private schools and are often excluded through admission or other policies. Additionally, unlike public schools, private schools are not held accountable for providing a "free appropriate public education" to students with disabilities as required by the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act.

As written, the IFR will move a significant amount of federal funding away from public schools, where most students with disabilities are served. This will cause great harm at precisely the time our public schools desperately need an infusion of dollars to ensure they can address health and safety concerns as well as academic achievement during the global COVID-19 pandemic. Congress clearly understood that

private schools also need support for and provided such according to the Equitable Services provision of the ESEA as included in the CARES Act.

The CCD believes this IFR should be recalled so that states, districts, and schools can utilize the CARES Act funds as intended by Congress. We appreciate the opportunity to comment.

Sincerely,

American Association on Intellectual and Developmental Disabilities
American Music Therapy Association
American Occupational Therapy Association
American Physical Therapy Association
American Speech-Language-Hearing Association
American Therapeutic Recreation Association
Association of People Supporting Employment First
Association of University Centers on Disabilities
Autism Society of America
Bazelon Center for Mental Health Law
Brain Injury Association of America
Center for Public Representation
Children and Adults with Attention-Deficit/Hyperactivity Disorder
CommunicationFIRST
Council for Exceptional Children
Council for Learning Disabilities
Council of Parent Attorneys and Advocates
Disability Rights Education & Defense Fund
Division for Learning Disabilities of the Council for Exceptional Children
Easterseals
Learning Disabilities Association of America
National Association of Councils on Developmental Disabilities
National Association of School Psychologists
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment
National Center for Special Education in Charter Schools
National Disability Rights Network
National Down Syndrome Congress
National PTA
RespectAbility
School Social Work Association of America
The Advocacy Institute
The Arc of the United States

Education Task Force Co-Chairs:

Annie Acosta, The Arc of the United States
Amanda Lowe, National Disability Rights Network
Kim Musheno, Autism Society of America
Meghan Whittaker, National Center for Learning Disabilities
Laura Kaloi, Council of Parent Attorneys & Advocates and
Natl. Center for Special Education in Charter Schools

acosta@thearc.org
amanda.lowe@ndrn.org
kmusheno@autism-society.org
mwhittaker@nclld.org
lkaloi@stridepolicy.com

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 monitors federal legislation and regulations that address the educational needs of children with disabilities.