



By E-mail Transmission

April 1, 2020

Dr. Miguel A. Cardona, Commissioner
State Department of Education
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Hartford, Connecticut 06103-1841

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Dear Commissioner Cardona,

We appreciate the unprecedented challenges the State Department of Education ("SDE") currently faces due to the COVID-19 pandemic and we thank you for welcoming our input during this time. The Center for Children's Advocacy is a non-profit civil rights organization dedicated to fighting for the legal rights of low-income children throughout Connecticut. Thank you for your continued collaboration on behalf of our clients, who are among the most vulnerable children in the state. Our clients include, but are not limited to children in the child welfare and juvenile justice systems, children with a range of medical issues and disabilities, English language learners and undocumented children, and homeless youth.

We value the advocacy commenced by our colleagues across Connecticut, but also felt it was important to reach out on behalf of our unique client population, who will surely feel the burden of inequity even more acutely during this precarious time.

The following represents our comments on how the Bureau of Special Education's ("BSE") March 24 and 31 guidance will critically impact the lives of the children and parents we serve. We ask you to consider the following three points in your ongoing efforts to serve Connecticut students:

1. For the purposes of all relevant federal and state laws and regulations pertaining to special education, all "learning days" commencing on March 30th pursuant to Executive Order No. 7 should be considered "school days." It is inconsistent to provide students the opportunity to engage in "distance learning" or "continuing educational opportunities" for the purposes of earning credits and advancing school grades, while conversely deeming that these days are not "school days" in the realm of special education. Most importantly, when schools reopen, the days that schools are closed must be considered for the purposes of compensatory education owed to individual students. No matter the terminology, there cannot be an encroachment upon students' federally granted civil rights. While it is understandable to allow flexibility in timelines during this uncertain

time, Footnote 2 should not apply to all special education laws and regulations. We ask that you amend your guidance to provide this point of clarity.

2. BSE must ensure that school districts are holding PPTs at parents' request as much as possible, as well in all instances in which a student might be exited from an Approved Private Special Education Program ("APSEP"). The March 24 guidance indicates that PPTs need only occur in "unique instances," which is needlessly restrictive. The guiding questions are similarly restrictive of parent's rights to participation, e.g., "[w]ill holding a PPT meeting affect the continued educational opportunities being provided to the student?" While we appreciate the strong emphasis on individualized parental communication articulated elsewhere in the guidance, parents should be able to meet with their school team virtually within a formal PPT setting if they feel it is necessary to address issues of their child's learning during this time. We are most concerned for parents whose school districts have yet to offer any accessible virtual learning, and instead are handing out packets of worksheets to students. A parent should be able to raise a valid concern that mere supplemental work is not appropriate for their child. BSE must acknowledge that maintaining services "to the greatest extent possible" is going to look very different in the low-performing districts where students with limited means live. The least BSE can do is to provide a formal way for parents to provide input and participate in their child's interim program. Furthermore, if a change in placement occurs due to a district attempting to abruptly exit a student from an APSEP, BSE guidance must clarify that a PPT would be mandatory under such circumstances.

3. While we understand that this is an unprecedented and uncertain time, it is crucial that SDE, and specifically the BSE, demonstrate leadership and provide clear, responsive communication to the special education community, especially in the area of dispute resolution. The BSE should provide definitive answers as to how it intends to handle mediations, hearings, and other forms of dispute resolution during this crisis, including those already in process. It should intervene and provide facilitation in cases where there are pending disputes. It should provide clear communication about the availability of virtual means for mediations and other dispute resolution measures. It should clarify hearing timelines in light of the Governor's Executive order postponing administrative hearings. The recently released sets of guidance fail to address these issues, and we urge the BSE to update its guidance accordingly with the input of all stakeholders.

We again thank you for setting a tone of open communication and collaboration during this crisis. We hope you keep the needs of low-income children with disabilities at the forefront of consideration at SDE, and we are happy to serve as a resource to your team in any way possible. We can be reached at (860) 566-0764 (Marisa Halm) or (860) 944-4075 (Kathryn Meyer).

Sincerely yours,

/s/
Marisa Halm

/s/
Kathryn Meyer

/s/
Jay Sicklick

cc: Bryan Klimkiewicz, Special Education Division Director
Jessa Mirtle, Director of Legal and Governmental Affairs