



Advocates for Children of New York

Protecting every child's right to learn

April 3, 2020

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

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Dear Secretary DeVos:

I am writing on behalf of Advocates for Children of New York (AFC) to indicate our strong opposition to any waivers to the Individuals with Disabilities Education Act (IDEA) or the Rehabilitation Act of 1973 pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

For nearly 50 years, AFC has worked to ensure a high-quality education for New York students who face barriers to academic success, focusing on students from low-income backgrounds. As a federally funded Parent Training and Information Center (PTIC), we provide information and support to thousands of families of students with disabilities each year, helping them navigate New York City's complex special education system and teaching them what they need to know to advocate for their children's educational rights. Every day, we hear from parents struggling to get their children the services and supports they need to learn. And every day, we see firsthand the critical importance and impact of civil rights laws like the IDEA.

The current public health emergency poses immense and unprecedented challenges for state and local education agencies. We fully agree that districts and schools need additional resources and support as they navigate the transition to remote learning, and the federal government has a role to play in encouraging flexibility, innovation, and creative thinking as to how to best meet students' needs during this difficult time. However, the U.S. Department of Education also has an obligation to protect the civil rights of children with disabilities and to ensure that the most marginalized students are not left behind as collateral damage because a crisis demands quick action.

Across the country, students with disabilities are less likely to be reading proficiently, more likely to drop out of high school, and less likely to earn a diploma than their non-disabled peers—trends that long pre-date the novel coronavirus. Now, we are



already seeing school closures have a disproportionate impact on students with special education needs, who depend on schools for a range of services and therapies and who often struggle with abrupt transitions and changes to their daily routines. Simultaneously waiving the protections of the IDEA and the Rehabilitation Act would only further exacerbate existing disparities between students with disabilities and their peers, with potentially devastating and long-lasting consequences.

Moreover, there is no evidence that authorizing new waivers under IDEA or the Rehabilitation Act would remove actual barriers to serving students with disabilities effectively. As noted in the March 21 guidance issued by the Office for Civil Rights (OCR) and the Office of Special Education and Rehabilitative Services (OSERS), federal law *already* “allows for flexibility in determining how to meet the individual needs of students with disabilities.” Parents understand that many of the educational services their child receives at school cannot be perfectly replicated at home and are prepared to collaborate with their schools, teachers, and service providers to find workable solutions for the duration of the pandemic and develop plans for compensatory education when schools re-open. This work will no doubt be challenging, but waiving provisions of federal law would provide incentive for schools and districts to simply give up rather than make a good-faith effort to meet students’ needs.

As you prepare your report to Congress in the coming days, we strongly urge you to protect the civil rights of students with disabilities and keep the IDEA and the Rehabilitation Act intact. COVID-19 is not a justification for abandoning our national commitment to provide all children with an appropriate education.

Sincerely,

A handwritten signature in cursive script that reads 'Kim Sweet'.

Kim Sweet
Executive Director

cc: Mark Schultz, Acting Assistant Commissioner, OSERS
Laurie VanderPloeg, Director, Office of Special Education