



February 6, 2025

The Honorable Bill Cassidy, M.D.
Chairman, Senate HELP Committee
455 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Bernie Sanders
Ranking Member, Senate HELP Committee
332 Dirksen Senate Office Building, Washington,
D.C. 20510

Dear Chairman Cassidy, Ranking Member Sanders, and members of the Senate Health, Education, Labor and Pensions Committee,

The undersigned members of the Consortium for Constituents with Disabilities (CCD) Education Task Force write in advance of the nomination hearing for Linda McMahon for United States Secretary of Education, to share our views on the importance of the U.S. Department of Education (Department) to students with disabilities. We urge you to facilitate and engage in an informed dialogue that includes the nominee's vision and goals for the Department in carrying out the Secretary of Education's responsibilities under the Individuals with Disabilities Education Act (IDEA) – which serves more than 8 million children, youth and young adults – and Section 504 of the Rehabilitation Act of 1973 (Section 504) – which supports nearly 1.5 million students across the U.S. To fulfill her role, the Secretary must agree to provide the leadership and oversight necessary to fully support students with disabilities and promote their rights and opportunities to achieve the same meaningful education and employment outcomes as their peers.

The CCD Education Task Force is the largest coalition of national organizations working together to monitor federal legislation and regulations that address the educational needs of the children and youth with disabilities and their families, including regulatory efforts under federal laws such as the IDEA, the Every Student Succeeds Act (ESSA), Section 504, and the Americans with Disabilities Act (ADA). With that focus in mind, we would like you to consider the following issues as you seek a qualified candidate to serve as the United States Secretary of Education.

A General Education System for All Students

Students with disabilities are general education students. To reach the goal of ensuring every student is taught to state-set standards in reading, math, and science, held to high expectations, and given every chance to achieve a high school diploma, the Secretary of Education must provide oversight, guidance, and technical assistance to states under the Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA) and support Congress' intent to further align ESEA and the IDEA.

Under ESSA, states must implement strong accountability systems. States, districts, and schools must raise achievement for all groups of students and must make more progress for groups of students who

may struggle to meet state-set standards, including students with disabilities. The accountability system must also be transparent so the outcomes for all students are clear and attainable thus making it possible for families, community members, teachers, and school leaders to determine the impact of educational practices and track their effectiveness. Universal Design for Learning (UDL) and digital accessibility that is interoperable with assistive technology provide a crucial framework to support the flexible design of learning environments created to support the goal for every student to graduate with a regular diploma, transition to career training and/or post-secondary education, become employed, and live independent and meaningful lives. To advance these essential outcomes for students with disabilities, including students with the most significant cognitive disabilities, the Administration must promote models of PreK-12 inclusive educational practices and provide technical assistance to states and districts to provide the best possible instruction for students with disabilities in the least restrictive educational placement that is most appropriate for each student. The Administration must also monitor state use of alternate assessments on alternate achievement standards (AA-AAS) to ensure districts limit AA-AAS to only those students with the most significant cognitive disabilities, not to exceed more than 1% of the overall student population.

A Strong IDEA

IDEA ensures that students with disabilities receive a free, appropriate public education (FAPE) in the least restrictive environment (LRE) with the protection of due process procedures. Since IDEA was first established in 1975, tens of millions of children with disabilities have received education services tailored to meet each child's unique needs. The importance of IDEA cannot be overstated; indeed the purpose of IDEA, as stated in the 2006 IDEA regulations, illustrates this perfectly:

- to ensure that all children with disabilities have available to them a “free appropriate public education” that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- to ensure that the rights of children with disabilities and their parents are protected;
- to help States, localities, educational service agencies, and Federal agencies provide for the education of all children with disabilities, which may also include school-based services that may be paid for by Medicaid, and
- to assess and ensure the effectiveness of efforts to educate children with disabilities.

As a result of this law, and its supported and robust enforcement, graduation rates for students with disabilities have risen, and dropout rates have lowered. The Secretary of Education must work with and through the Department to continue this progress by supporting IDEA and its implementation in the states.

A Well-Resourced Public Education System

As stated above, IDEA requires public schools to provide services to eligible students at no cost to their parents and provides families and students with important rights to ensure students receive an education. The intersection of IDEA with vouchers and choice programs is legally complex however, as noted by the [National Council on Disability](#), due to a longstanding interpretation by the U.S. Department of Education “the use of vouchers constitutes a ‘parental placement’ leaving the [IDEA-eligible] child with no individual entitlement to free appropriate public education (FAPE), including special education and related services in connection with those placements.” This means that unless the policy explicitly

requires federal laws to apply, *for the majority of children* whose families opt for a school voucher/voucher mechanisms to attend a private [or religious] school, these students must relinquish their rights under IDEA, including the right to assessments paid by the school district, an IEP, FAPE, least restrictive environment (LRE), and procedural due process protections. (See: [School Choice Series Choice & Vouchers—Implications for Students with Disabilities. National Council on Disability. 2018.](#))

Private schools can also reject any student – before or after enrollment for any reason, even a disability. Thus, when parents use vouchers, education savings accounts or other private choice mechanisms, unless explicitly protected, they forfeit important rights, legal protections, and services guaranteed by IDEA, often without their knowledge. CCD has a longstanding position that Federal funds directed toward or in support of education must adhere to IDEA, the Rehabilitation Act of 1973, the Americans with Disabilities Act, and other civil rights laws. Specifically, Federal dollars should not be used for any voucher, or voucher-like programs unless these Federal laws apply to the use of the funds.

Additionally, the overwhelming majority of students with disabilities are served in public schools that rely upon federal IDEA funds. To date, states offset the underfunding of IDEA by more than \$30 billion annually to ensure school leaders, teachers and specialized support personnel are trained to meet the educational needs of students. Therefore, we believe increasing investments in IDEA and Title I is critical to ensuring each school district can educate students with disabilities. Any new policy that diverts funding away from these important programs would negatively impact every student with disability.

A Strong Office for Civil Rights

The Department, and in particular, the Office for Civil Rights (OCR), has played a critical role in ensuring access, equity, and opportunity for all students, including those with disabilities. By providing oversight, guidance, monitoring, and technical assistance, the OCR has helped to ensure that millions of students with disabilities have access to the general curriculum in the regular classroom, are held to high achievement standards, are not harmed by the abusive exclusionary discipline practices such as seclusion and restraint, and that teachers and school leaders are provided with resources and tools so they can teach students with diverse learning needs. Additionally, the data provided by the Civil Rights Data Collection through OCR is critical in ensuring transparency about the status of students with disabilities in our nation's schools and helping parents, educators, and communities to improve public education for all students. The essential functions carried out by OCR must continue.

Education is the backbone of our society and provides the basis and gateway to employment, independent living, and other meaningful societal outcomes. The undersigned feel strongly that it is the duty of a Secretary of Education to ensure that ALL our students receive an education that promotes their educational access and opportunity and provides essential civil rights protections for children and their families.

Signing Organizations:

Access Ready Inc.

Allies for Independence

American Foundation for the Blind

American Music Therapy Association

American Occupational Therapy Association

American Therapeutic Recreation Association

Association of People Supporting Employment First (APSE)
Autism Society of America
Autistic Self Advocacy Network
Autistic Women & Nonbinary Network
Bazelon Center for Mental Health Law
Children and Adults with Attention-Deficit/Hyperactivity Disorder
Council for Learning Disabilities
Council of Parent Attorneys and Advocates (COPAA)
Council of State Administrators of Vocational Rehabilitation (CSAVR)
Disability Belongs
Disability Rights Education & Defense Fund
Division for Learning Disabilities of the Council for Exceptional Children
Learning Disabilities Association of America
Muscular Dystrophy Association
National Association of School Psychologists
National Center for Learning Disabilities
National Disability Rights Network (NDRN)
National Down Syndrome Congress
School Social Work Association of America
Teacher Education Division of Council for Exceptional Children
The Advocacy Institute
The Arc of the United States
The Center for Learner Equity

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Senator Susan Collins (R-ME)
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Senator Markwayne Mullin (R-OK)

Senator Roger Marshall (R-KS)
Senator Tim Scott (R-SC)
Senator Josh Hawley (R-MO)
Senator Tommy Tuberville (R-AL)
Senator Jim Banks (R-IN)
Senator Jon Husted (R-OH)
Senator Ashley Moody (R-FL)
Senator Patty Murray (D-WA)
Senator Tammy Baldwin (D-WI)
Senator Chris Murphy (D-CT)
Senator Tim Kaine (D-VA)
Senator Maggie Hassan (D-NH)
Senator John Hickenlooper (D-CO)
Senator Ed Markey (D-MA)
Senator Andy Kim (D-NJ)
Senator Lisa Blunt Rochester (D-DE)
Senator Angela Alsobrooks (D-MD)