CONSORTIUM FOR CONSTITUENTS WITH DISABILITIES

December 23, 2025

Internal Revenue Service
Room 5503
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: ID: Notice 2025-70/ IRS-2025-0466

Mr. Edward Waters:

The Consortium for Constituents with Disabilities Education Task Force (CCD) is writing to respond to the request for comment on the Individual Tax Credit for Qualified Contributions to Scholarship Granting Organizations. The CCD Education Task Force leads, advocates for, and monitors federal legislation and regulations that address the educational needs of the 9.5 million children and youth with disabilities and their families, including policy efforts affecting the funding and implementation of Federal laws such as the Individuals with Disabilities Education Act (IDEA), Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA).

CCD has long held the position that any Federal funds directed toward or in support of education must adhere to the IDEA, Section 504, the ADA, and other civil rights laws. Specifically, Federal taxpayer dollars should not be used for any private school choice or voucher/voucher-like programs unless Federal education, civil rights, and disability laws apply to the use of the funds.

Our concerns relate primarily to the shifting of taxpayer dollars through a tax credit to fund scholarships (aka vouchers) to any non-public school primarily because the recipient schools are not required to adhere to Federal education and civil rights laws, and are also known to reject admission to students with disabilities who may require specialized instruction, education services and supports, or accommodations to access an education. The recipient schools are also not required to assess whether students meet state-set standards in reading, math, science, and graduate with a regular diploma as expected for all other schools as required under ESSA.

H.R. 1 creates a new system that allows taxpayers to send money to a scholarship granting organization (SGO) instead of paying the equivalent amount in federal taxes, thereby incentivizing taxpayers to contribute to these organizations. While the Federal government may not be transferring taxpayer funds directly to SGOs, the effect is the same: the use of tax credits encourages private donations that reduce federal tax revenue and scholarship recipients are receiving funds made available through a federal tax offset. As a result, funds that would otherwise flow to the Federal Treasury are diminished, and U.S. taxpayers are effectively subsidizing the scholarship funds overseen and disbursed by SGOs.

The creation of this unprecedented, uncapped, dollar-for-dollar Federal tax credit program underscores the critical need for Federal and State oversight, particularly to ensure that other important governmental interests are preserved, including civil rights protections for students with disabilities. The U.S. Treasury also has an interest in ensuring the donor can make an informed choice about where to donate their funds, and parents have an interest in ensuring they can make an informed choice about the scholarships they accept and if/where they can use the funds. Without clear Federal regulation, explicit clarification of applicable rights and protections, and transparent data, we are deeply concerned that students with disabilities who receive scholarships through this new K–12 Federal tax credit program may lose the protections guaranteed to them under existing federal laws.

A.) The Department of Treasury should treat the schools and programs receiving scholarships from SGOs as de facto receiving Federal funds, therefore requiring them to guarantee and uphold the rights granted to students with disabilities and their families under federal civil rights laws— namely Title II of the ADA, IDEA, and Section 504 of the Rehabilitation Act. This includes in its admission and disciplinary policies.

> The intersection of IDEA with vouchers and school choice programs is legally complex. As the National Council on Disability explains, the U.S. Department of Education has long interpreted voucher use as a "parental placement," meaning IDEA-eligible students lose their individual entitlement to a free appropriate public education (FAPE) and related services in those settings. As a result, unless a policy explicitly applies federal protections, most students who use vouchers to attend private or religious schools must relinquish IDEA rights, including evaluations, an IEP, FAPE, least restrictive environment requirements, and procedural due process. Private schools may also reject students at any time, including on the basis of disability. Consequently, families who use vouchers, education savings accounts, or similar private choice mechanisms often forfeit critical IDEA rights and services—frequently without their knowledge. Without regulation and clarification of explicit rights and protections, we are concerned students with disabilities will be harmed by this tax credit.

B.) The Department of Treasury should require participating States to require SGOs to ensure transparency in the use of every dollar received and distributed. SGOs must compile and publicly share a list of all approved public and private and religious schools, vendors, and/or any education service/educational therapy provider. Additionally, SGOs must compile and publicly share annual disaggregated data about students who receive scholarships. For transparency purposes, reported information should include disaggregated data by socio-economic status, race, disability status, English Learner, and any other demographic data the State requires for all K-12 students [except where personally identifiable information would be revealed], regarding academic achievement, discipline, and other relevant outcomes.

> Given that the tax credit program will redirect millions—and potentially billions—of federal dollars to SGOs, schools, and vendors, Treasury should establish robust reporting and oversight requirements to safeguard program integrity. States and/or SGOs should be required to collect

and publicly disclose demographic information about participating students and schools. At a minimum, reported data should include students' race, ethnicity, gender, socioeconomic status, disability status, English learner status, and geographic location (rural, suburban, or urban). Public reporting of these data will allow states to monitor equitable access, support informed parental decision-making, and assess whether the program is advancing educational quality. These types of choices cannot be made if data is not made available to the public on at least an annual basis.

To strengthen transparency and oversight, Treasury regulations and guidance should require annual reporting by States that includes:

1. A list of participating SGOs, with changes from the prior year identified;

2. A comprehensive accounting of all SGO expenditures and disbursements to public, private or religious schools and vendors, categorized by qualified educational expense (e.g., tuition, tutoring, special education services);

3. The number of participating students, with data disaggregated by race, socio-economic, disability, English Learner status and total enrollment for each participating school;

4. If the schools / vendors that receive SGO funds have any policies/or practices that exclude students with disabilities from participating in the educational program that is being funded; and

5. A list of all public schools, private schools, and vendors participating in the program.

In the case that the IRS and Treasury opt to disregard these essential recommendations, we still wish to address the underlying question posed which is: should the Federal government **allow** or **prohibit** States from adding requirements as they opt-into the tax credit program and/or expand a [similar] existing one? Consistent with our recommendations above, CCD strongly recommends that States be *allowed* to a) maintain any requirements that they currently require of existing programs (e.g. SGOs, voucher or voucher-like programs), and b) add any *new* requirements or data collection requirements that will ensure robust transparency in the implementation of the program for all participants including States, service providers and recipient students and their families.

If you have any questions, please reach out to the co-chairs below.

Sincerely,

Access Ready, Inc.
American Music Therapy Association
Autism Society of America
Council for Exceptional Children
Council of Parent Attorneys and Advocates
National Center for Learning Disabilities
National Disability Rights Network (NDRN)

Perkins School for the Blind
SPAN Parent Advocacy Network (SPAN)
The Advocacy Institute
The Arc of the United States
The Center for Learner Equity

For questions or additional information please contact: CCD Education Task Force co-chairs:

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