



# DISABILITY RIGHTS NEW YORK



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April 21, 2020

Shannon Tahoe, Interim Commissioner  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

Re: State Planning to Distribute CARES Act Funding

Dear Ms. Tahoe:

Disability Rights New York (“DRNY”) is the designated Protection and Advocacy System (“P&A”) for New York State, and under that authority, we enforce the legal rights of individuals with disabilities. DRNY advocates for thousands of students with disabilities individually and systemically each year. Our experience as the P&A has provided us with unique insight on the struggles faced by students with disabilities and their families across the State. We appreciate your leadership in helping schools, parents, and students navigate this extremely challenging time.

We request the opportunity to be among a stakeholder group focused on the State’s plan for utilizing funding appropriated under the federal Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, including funds distributed to the local education agencies. We want to support NYSED in making sure the CARES funding is used to address the needs of students with disabilities both now and in the recovery period to follow. To further this discussion, DRNY urges the development of a CARES Funding Education Task Force or stakeholder group to provide ground-level insight and input regarding how these funds can be used to advance the equity of students with disabilities and other high-risk groups. Additionally, some State Education Departments, including Tennessee and South Carolina, are conducting surveys with various stakeholders to help prioritize funding needs. We call on NYSED to embrace similar stakeholder involvement.

As you know, students with disabilities were already educationally disadvantaged before the COVID-19 crisis began. The pre-existing achievement gap will be exacerbated by a host of inadequacies posed by remote learning for students with disabilities. It is simply not possible to provide the consistency and support essential to provide FAPE to many students with disabilities. Further, many families are simply not able or qualified to support their children in a manner that would come close to compensating for missed education and services. It is inevitable that students with disabilities will regress academically, socially, and behaviorally due to the loss of

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consistent services. These challenges are further heightened for students with disabilities who are also members of other marginalized groups such as low-income children, children of color, English-language learner children, children in immigrant families, children in foster care, migrant children, homeless children, and children in the juvenile justice system. Therefore, a substantial portion of CARES funding must be focused on preparing schools to address these challenges when classes resume. The use of CARES must ensure equity for, and support the needs of, students with disabilities and their families. NYSED must take firm, specific steps to require schools to dedicate funds to address these complex issues. Moreover, the State must maintain (and not cut) state education dollars, and use the CARES funding to "supplement not supplant" state dollars, so the federal dollars have maximum impact.

These funds, (including the 10% of the State's P-12 funds, and the State Governor's funding for both P-12 and postsecondary education) must be targeted to schools and to approaches that are reasonably expected to have the greatest impact on reducing education inequities for students with disabilities during the COVID-19 school closure, over the summer, and once schools re-open. The State must ensure that students with disabilities are prioritized for instructional and socio-emotional support and opportunities to catch up and advance academically, socially, and behaviorally. Supports should include: compensatory education services pursuant to the IDEA; sufficient qualified professionals to deliver related services and behavioral supports; behavioral and psychoeducational assessment; assistive technology; mental health services; and educational materials and resources in the child's/parent's native language.

Equally important, it is critical that the State commit to continued compliance with the current provisions of the Individuals with Disabilities Act ("IDEA") should a waiver become available. The State must ensure that the rights of students with disabilities are protected during this difficult time.

We look forward to working with you to see that the needs of students with disabilities are addressed during and after this extraordinary time. We look forward to hearing from you and working with NYSED to proactively plan for students with disabilities.

Sincerely,



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cc: Christopher Suriano, Assistant Commissioner, New York State Education Department

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