

March 19, 2020

Mark Schultz

Assistant Secretary, Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

Dear Assistant Secretary Schultz:

The undersigned organizations are national nonprofits, consumer organizations, schools for the blind, and professional associations that actively work to advance educational opportunities for people who are blind or have low vision. Students who are blind or have low vision must have access to the same education opportunities as every other student and to the specialized services necessary to develop a full range of blindness skills. The undersigned organizations are concerned that the COVID-19 outbreak will have a uniquely negative impact on the education of students with visual impairments, including those with additional disabilities. Therefore, we are reaching out to the Department of Education (“Department”) to ensure that students continue to receive the full rights afforded to them by the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA).

We would like to thank the Department for issuing a first round of guidance to schools that have closed, moved to virtual environments, or instituted other forms of remote education. However, with some states beginning to take steps to close their schools for the remainder of the school year, we are concerned that school districts, public schools, public charter schools, schools for the blind, and teachers will need additional resources and guidance to navigate these unprecedented conditions while they strive to serve students with visual impairments.

The undersigned organizations encourage the Department to provide resources and information to teachers, schools, school districts, and states to address the following concerns.

1. How will the Department and schools ensure that students with visual impairments continue to receive an education in accordance with their rights under IDEA, Section 504, and the ADA?

The Department has the opportunity to provide resources, direction, and networks to ensure that schools and school districts nationwide have the knowledge and capacity to quickly and effectively implement services for students with visual impairments. These services ensure that students can continue to access regular academic work and related services outlined in their IEPs and 504 Plans. Students with visual impairments, including students with additional disabilities, have unique educational needs that include access to an Expanded Core Curriculum of skills that often require explicit instruction. Students with multiple disabilities may have complex needs requiring a team approach and consistent programming over time in order to make educational gains. In addition to

clarifying students' basic rights and responsibilities¹, the Department should identify ways to provide a central source of resources and strategies for adapting to the ongoing and changing educational situation. Moreover, in addition to population-specific information, the needs of students with disabilities should be addressed in general guidance and recommendations to schools and teachers.²

2. In the case of extended closures, how will the Department assist states in carrying out their Child Find responsibilities?

The Department should clarify how child find responsibilities will continue in a remote or virtual education environment. Strategies need to be developed for meeting child find responsibilities when COVID-19 and changes to educational delivery limits teachers' interactions with their students. As noted in the Dear Colleague Letter on Virtual Schools from August 5, 2016, schools should not rely solely on parent referrals to meet the IDEA's child find requirements.³

3. How will the Department assist schools in providing specialized services that are best provided in-person, such as orientation and mobility instruction?

Particularly if an IEP does not contain an appropriate contingency plan, schools may need additional assistance determining how and when to provide special education and related services, including provision of braille instruction and orientation and mobility instruction, in alternative locations or through distance-learning. Some professionals are working to provide virtual resources for these services⁴, but students likely will need additional services to meet their goals. The Department has the opportunity to ensure that services are provided as needed and that teachers have access to resources for providing services remotely. To avoid falling behind on students' IEP goals, the need for remote or modified services may be especially necessary for schools that close for months or the remainder of the school year.

4. How will the Department ensure that students continue to receive access to accessible instructional materials, including materials produced in braille?

¹ "Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak." U.S. Department of Education, <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

² For example, questions about students with disabilities were included in the considerations outlined in the Department's response to the 2009-2010 Influenza outbreak. "Preparing for the Flu: Department of Education Recommendations to Ensure the Continuity of Learning for Schools (K-12) During Extended Student Absence or School Dismissal," U.S. Department of Education, https://rem.ed.gov/docs/ED_ContinuityOfLearning-SchoolDismissalsK-12.pdf.

³ <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/dcl-virtual-schools--08-05-2016.pdf>

⁴ For example, see "National Homework Hotline for Blind/Visually Impaired Students (NHH-BVI)." VISTAS Education Partners, <http://www.vistaseducation.com/homeworkhotline/>; "Virtual Expanded Core Education Learning (ExCEL) Academy for Students with Visual Impairments," Paths to Literacy, <https://www.pathstoliteracy.org/resources/virtual-learning-academy/>; and Tiggs, Susie. "Virtual Activities for Teachers and Families COVID-19," <http://www.livebinders.com/b/2643652>.

The Department should clarify that schools should continue to provide materials in alternative formats, including large print, electronic text, and braille, if instruction continues while schools are closed and students need such materials to access their education. In addition to braille instructional materials, many students require tools such as braille writers, tactile graphics and maps, abaci, and braille rulers. Schools and teachers need access to strategies to provide such materials when students are not physically present in the school building.

Additionally, the Department should clarify that providing remote education should not change the guidance that “Factors such as shortages of trained personnel to provide braille instruction, the availability of alternative reading media, such as large print, recorded materials, or computers with speech output, or the amount of time needed to provide a child with sufficient and regular instruction to attain proficiency in braille or the use of braille, may not be used to deny Braille instruction to a child for whom that instruction has not been determined individually to be inappropriate.”⁵

5. How will the Department ensure students requiring the use of assistive technology devices have access to those devices in the home environment?

IDEA Regulations and Guidance provide that school-purchased assistive technology devices may be used in the home environment as outlined in the IEP.⁶ The Department should clarify that the use of assistive-technology devices in the home may be required during COVID-19 school closures and ensure that students have ready access to those devices if needed to receive FAPE. Many students will need support with their assistive technology devices, and schools and teachers need guidance to develop mechanisms to provide these supports.

6. Will the Department provide additional guidance for updating IEPs and 504 plans and assessing the need for compensatory services?

In addition to the guidance provided on March 10, 2020, the Department should carefully consider whether schools and teachers require additional information to understand how compensatory services must be provided to students with visual impairments to meet their full range of needs, including those identified in the Expanded Core Curriculum, such as braille, assistive technology, independent living skills, and orientation and mobility.⁷ The Department should provide strategies for delivering those

⁵ “Educating Blind and Visually Impaired Students; Policy Guidance,” Office of Special Education and Rehabilitative Services, U.S. Department of Education, <https://www.federalregister.gov/documents/2000/06/08/00-14485/educating-blind-and-visually-impaired-students-policy-guidance>

⁶ “Educating Blind and Visually Impaired Students; Policy Guidance,” Office of Special Education and Rehabilitative Services, U.S. Department of Education, <https://www.federalregister.gov/documents/2000/06/08/00-14485/educating-blind-and-visually-impaired-students-policy-guidance>.

⁷ “Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak.” U.S. Department of Education, <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

compensatory services to all students, including considering whether group instruction during the summer would meet students' needs.

7. How will the Department ensure that personnel are prepared to provide the volume of compensatory services that may be required once students return to school?

The quantity and quality of personnel serving students with visual impairments has been a long-standing concern in the field of education of students with visual impairments. If students need extensive compensatory services, the Department should consider how and whether to provide additional information to schools and school districts to fully meet the needs of students in a timely fashion when teachers of students with visual impairments have an extensive caseload and must assist students both with continuing their studies and making up compensatory services. The department should also consider whether funds may be used to send students to summer youth programs which teach required skills.

8. How will the Department support schools in providing fully accessible virtual environments for education?

Although schools already have existing obligations to provide instruction through accessible means, the Department should remind schools that any remote education should be provided through accessible platforms and offer additional resources for teachers and schools to provide accessible distance learning.⁸ To the extent feasible, schools and teachers should be offered ready-to-use strategies for implementing accessible distance learning. Professionals who teach students with visual impairments have already begun to compile resources for fellow teachers, and accessible instructional strategies are readily available.⁹

In addition to the needs of K-12 students, we encourage the Department to remember the needs of students with visual impairments in institutions of higher education. Will the department assist institutions of higher education in meeting the needs of their students with visual impairments, in accordance with Section 504 and Title II of the ADA, when colleges and universities transition to virtual learning?

We deeply appreciate the leadership of the Department in responding to student needs during this Coronavirus Disease outbreak, and we hope that this will be a time of innovation in delivering the education that students need. Our organizations and the field stand ready to work with the Department as needed. Should you have any questions or wish to discuss the concerns raised in this letter, please

⁸ The Department should promote Technical Assistance resources such as the "OCR Short Webinar on Online Education and Website Accessibility" as widely as possible and consider providing easy-to-find resources in a central location on its website. <https://youtu.be/DCMLk4cES6A>

⁹ For example, see Cushman, Charlotte. "Coping with School Closures During COVID-19," *Paths to Literacy*. <https://www.pathstoliteracy.org/blog/coping-school-closures-during-covid-19> or "5 Accessibility Actions You Can Take When You're Moving Your Conference or Classes Online," American Foundation for the Blind. <https://www.afb.org/blog/entry/accessibility-online-conferences-classes>

contact Stacy Cervenka, Director of Public Policy for the American Foundation for the Blind at scervenka@afb.org, or 202-469-6832. Thank you for taking the time to consider these concerns.

Sincerely,

American Council of the Blind

American Foundation for the Blind

American Printing House for the Blind

Association for Education and Rehabilitation of the Blind and Visually Impaired

Council for Exception Children, Division on Visual Impairments and Deafblindness

National Organization for Albinism and Hypopigmentation

Perkins School for the Blind