

**United States Senate**  
WASHINGTON, DC 20510

April 21<sup>st</sup>, 2020

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

Dear Secretary DeVos:

We write to you regarding the need for clear guidance to protect the needs of students with disabilities during and following nationwide school closures. It is essential that the rights of students with disabilities be upheld throughout this crisis. At the same time, we recognize that unique, temporary circumstances may limit the provision of services that would normally be available in a traditional school setting. At the extreme, we have heard of at some school districts that are not providing educational services to any students because they struggle to provide some services for all.

The question we must answer with clarity is, “how can school districts adjust to distance learning, while remaining in compliance with federal disability education laws?” To this end, we believe that Congress and the Department should act now to provide the conditions necessary for schools and families to navigate ongoing closures as well as get back on track when schools reopen.

Understanding the potential need for certain, temporary flexibilities, Congress included a requirement in the CARES Act that the Department prepare a report detailing any recommended waivers to requirements under federal education laws during the COVID-19 National Emergency. While this crisis has fundamentally changed how we must think about the provision of education, it is critical that we remain steadfast in our commitment to all children – especially those with disabilities. To this effort, Congress and the Department must maintain their roles in ensuring accountability and oversight regarding the progress of students with disabilities.

We believe any potential flexibilities included in the report concerning the Individuals with Disabilities Education Act (IDEA) must be narrow, targeted, temporary, and dedicated to the full provision of educational services for every student with a disability that is reasonably possible. While some extension and flexibility in timelines is warranted, requirements to provide a free appropriate public education (FAPE), to engage parents in the process, and to ensure due process rights to parents must remain. We do not believe this requires broad flexibilities that would temporarily rollback rights for these students and their families. No matter the circumstance, we believe these core rights of IDEA must be upheld and reinforced.

We, in Congress, must also commit to providing schools with the funding necessary to carry out the requirements of IDEA through closures and once schools reopen. As the Department considers any recommendations to Congress for additional flexibility with regards to IDEA, please know that we are committed to seeking necessary, targeted supplemental funding for IDEA in the next Coronavirus stimulus package. Doing so will ensure that the needs of districts and students are met despite a potentially unstable funding base at the same time they are asked to invest in and acclimate to new systems.

Included with this letter are bipartisan principles we believe both Congress and the Department must consider to ensure students with disabilities receive equitable services and opportunities during the COVID-19 National Emergency. Should you have any specific questions, please let us know.

Sincerely,



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Christopher S. Murphy  
United States Senate



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Bill Cassidy, M.D.  
United States Senate

# **Bipartisan Principles for Supporting Students with Disabilities During the COVID-19 National Emergency**

Senators Bill Cassidy, M.D. (R-LA) and Christopher Murphy (D-CT)

The following are bipartisan principles that are essential to ensuring the full and equitable provision of educational services to students with disabilities throughout the COVID-19 National Emergency.

**Principle 1:** We must preserve the right to a Free Appropriate Public Education (FAPE), through providing essential and equitable services to students with disabilities throughout closures and through creative remedies to lost learning once schools reopen. No set of circumstances is too big to justify breaking this fundamental promise to students and families.

**Principle 2:** We believe that, while some extension and flexibility in timelines is warranted, other requirements to provide FAPE, to engage parents in the process, and to ensure due process rights to parents should remain. Any IDEA timeline flexibilities granted to states and districts must be narrow, targeted, and temporary. Now is not the time to renege on our commitment and responsibility to support students with disabilities and protect their rights by granting broad waivers.

**Principle 3:** Congress and the Department of Education must maintain our oversight and accountability functions related to the progress of students with disabilities. Even during this exceptional crisis, the legislative and executive branches must work together to make sure that schools continue to meet their obligations to serve all students to the best of their ability and to include parents fully in decisions about their child's education.

**Principle 4:** Where current flexibilities exist, the Education Department must communicate them in a clear and timely manner through guidance and providing robust technical assistance, while speaking clearly to specific concerns. States and districts need certainty regarding the extent of the flexibility and their obligations during this time so there is no fear of losing federal funding, while parents need certainty that their children will continue to receive the services they are entitled to under law.

**Principle 5:** Congress must provide necessary supplemental funding to states and school districts so that they can maintain learning for students with disabilities as well as provide additional services when schools reopen. We note that advocates for students with disabilities have recommended Congress appropriate \$10 billion to help schools meet IDEA requirements during and immediately following the period of school closures. Resources should be targeted toward ensuring students can fully access distance learning and virtual services that replicate students' accommodations to the extent possible, in addition to supporting the school personnel necessary to provide an equitable education for students. Further, resources should support the planning and implementation of innovative strategies to get students with disabilities back on track when schools reopen.