

Inclusive Higher Education Committee

August 9, 2018

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

Dear Secretary DeVos:

The undersigned organizations are writing to request that the U.S. Department of Education (ED) issue guidance stating that Individuals with Disabilities Education Act (IDEA) funds and vocational rehabilitation funds may be used to support students with intellectual disability (ID) in community-based settings and postsecondary programs. This guidance is critically important to support the goals of postsecondary education, employment and independent living for these students.

A growing movement to offer postsecondary education opportunities for students with ID is offering new hope to these students and families. There are now over 260 postsecondary programs across the country. (See: www.thinkcollege.net.) Congress included new provisions in the Higher Education Opportunity Act of 2008 (HEOA) that allow students with ID to access certain forms of federal financial aid. The law also authorized Transition and Postsecondary Programs for Students with Intellectual Disability (TPSIDs) to create or expand high-quality model programs and a National Coordinating Center (NCC) to provide technical assistance, evaluate the TPSIDs, and recommend program standards. The NCC evaluation of the TPSID projects indicates significant gains in employment outcomes over the 2010 through 2016 TPSID years and these employment findings mark a significant departure from the bleak employment outcomes of the past for students with ID.

The HEOA directs ED to give preference in awarding TPSID grants to applicants that demonstrate partnerships with agencies “such as Vocational Rehabilitation Agencies”. It also requires applicants to partner with local educational agencies, including using IDEA funds. However, ED guidance in recent years threatens that collaboration and is resulting in many postsecondary students with ID not receiving the services clearly intended by Congress that will enable them to become employed tax-payers living as independently as possible in the community.

The preamble to the IDEA 2004 regulations states “*if a child's IEP Team determines that a child's needs can best be met through participation in transitional programs on college campuses or in community-based settings, and includes such services on the child's IEP, funds provided under Part B of the Act may be used for this purpose.*” However, since that time an Office of Special Education Programs policy letter and guidance have contradicted that statement.

Similarly, the preamble to the Workforce Innovation Opportunity Act (WIOA) regulations states, "...we clarify here that the vocational and other training services specified in final § 361.48(b)(6) encompass tuition and other services for students with intellectual or developmental disabilities in a Comprehensive Transition and Postsecondary Program for Students with Intellectual Disabilities, as defined by the Higher Education Act of 2008." However, several states are interpreting a recent technical guidance document issued by the Rehabilitation Services Administration (RSA) to disallow the use of WIOA Pre-Employment Services (Pre-ETS) funding for students in postsecondary programs for students with ID. The attached report, which may also be found [HERE](#) provides more detailed background and information about both of these issues.

We ask that ED issue new guidance that accurately reflects the intent of Congress in HEOA, IDEA and WIOA and aligns with the original Department interpretation of IDEA and WIOA as clearly stated in the regulatory preamble language for both statutes. This will ensure that more and better employment outcomes are achieved for students with intellectual disability.

If your staff has any questions, the Inclusive Higher Education Co-Chairs may be contacted as follows: Stephanie Smith Lee, Senior Policy Advisor, National Down Syndrome Congress, at Stephanie@ndscenter.org, Kim Musheno, Vice President of Public Policy, Autism Society of America at kmusheno@autism-society.org, and Denise Rozell, Director of Policy Innovation, Association of University Centers on Disabilities, at drozell@aucd.org.

We look forward to continuing to work with the U. S. Department of Education on resolving these implementation issues.

Sincerely,

National Organizations

American Physical Therapy Association
American Therapeutic Recreation Association
Association of People Supporting Employment First
Association of University Centers on Disabilities
Autism Empowerment
Autism Society of America
Autistic Self Advocacy Network
Center for Public Representation
Council of Parent Attorneys and Advocates, Inc.
National Association for Down Syndrome
National Association of Councils on Developmental Disabilities

National Disability Rights Network
National Down Syndrome Congress
National Down Syndrome Society
TASH
The Advocacy Institute
The Arc of the United States
<u>Regional & State Organizations</u>
Academy of Pediatric Physical Therapy, Virginia
AccuQuest Hearing Centers, South Carolina
Association for Special Children & Families, New Jersey
Bucks County Down Syndrome Interest Group, Pennsylvania
California Down Syndrome Advocacy Coalition
Center for Persons with Disabilities, Utah
Central Pennsylvania Down Syndrome Organization
Chesapeake Down Syndrome Parent Group, Maryland
Designer Genes of North Dakota
Disability Rights Center of Kansas
Disability Rights Tennessee
Down Syndrome Alliance of the Midlands, Nebraska
Down Syndrome Association of Connecticut
Down Syndrome Association of Greater Cincinnati, Ohio
Down Syndrome Association of Middle Tennessee
Down Syndrome Awareness Council of Texas
Down Syndrome Community of Puget Sound, Washington
Down Syndrome Connection of the Bay Area, California
Down Syndrome Indiana, Inc.
Down Syndrome Network of Montgomery County, Maryland
Down Syndrome Society of Rhode Island, Inc.
Family Resource Information and Education Network for Down Syndrome, Maryland
Family Voices Indiana
Georgia Advocacy Office

Georgia Council on Developmental Disabilities
Georgia Inclusive PSE Consortium
Included MTC, New Jersey
iSHINE, North Carolina
Kern Down Syndrome Network, California
Lead Learn Live, Oklahoma
Lipscomb University IDEAL Program, Tennessee
Maryland Down Syndrome Advocacy Coalition
Massachusetts Down Syndrome Congress, Boston
Matrix Parent Network, California
Next Steps at Vanderbilt, Tennessee
North Carolina TASH
Northwest Iowa Down Syndrome Society
PACER Center, Minnesota
Parents Reaching Out, New Mexico
Pennsylvania Down Syndrome Advocacy Coalition (PDSAC)
PODS Angels Support, Florida
REACH Program, College of Charleston, South Carolina
RespectABILITY Law Center, Michigan
Southeastern Post-Secondary Education Alliance
Space Coast Center for Independent Living Inc., Florida
Spokane Community College - College to Career Program, Washington
Tennessee Alliance for Inclusive Education
The Arc Jacksonville On Campus Transition at University of North Florida
The Arc of High Point, North Carolina
The Arc Tennessee
The Institute for Community Inclusion, UMass Boston
The Tennessee Council on Developmental Disabilities
University of Arkansas - Pulaski Technical College, 3D Program
Vanderbilt Kennedy Center Community Advisory Council, Tennessee
Washoe County School District, Nevada
Winthrop Think College, South Carolina