



September 20, 2017

Hilary Malawer,  
Assistant General Counsel, Office of the General Counsel  
U.S. Department of Education  
400 Maryland Avenue SW., Room 6E231  
Washington, DC 20202

RE: Docket ID: ED–2017–OS–0074: Evaluation of Existing Regulations

Dear Ms. Malawer:

The National Center for Special Education in Charter Schools (NCSECS) is dedicated to ensuring that students with disabilities have equal access to charter schools and that public charter schools are designed and operated to enable all students to succeed. Today, we write regarding the U.S. Department of Education’s (ED) Regulatory Reform Task Force initiative to evaluate existing education regulations and guidance. Our focus is to provide input to the evaluation so that the nearly 300,000 students with disabilities attending public charter schools as well as those interested in attending a charter school across 43 states have equitable access to charters. Students with disabilities must also be provided the free, appropriate, public education (FAPE) in the least restrictive environment (LRE) to which they are entitled.

NCSECS is a leader and partner with state charter authorizers, charter networks, and charter schools across the U.S. We advocate for and support the fundamental principle that public schools must be required to serve all students and given important autonomies. Public charter schools have the opportunity to create effective, inclusive learning environments and to be exemplars of educational equity, quality, and innovation. Therefore, considering the evaluation ED is undertaking to consider whether to keep, modify, or rescind current federal regulations, guidance, and other administrative activities due to their burden on “entities,” NCSECS urges ED to reconsider its approach. The civil rights of students with disabilities and the impact a shift of regulations, guidance, or other administrative activities must be carefully weighed. In particular, what may be viewed as a burden by some, may in fact provide an important guardrail for others, especially new schools, who rely upon guidance to assure students receive what they need. The historical and practical value of all education and civil rights laws must not be diminished. So, NCSECS offers the following recommendations:

- **Maintain and enforce all Federal education and civil rights laws, related regulations, and guidance.** NCSECS strongly urges ED to maintain and enforce the current regulations and guidance pertaining to the following laws:
  - The Individuals with Disabilities Education Act (IDEA),
  - The Americans with Disabilities Act (ADA),
  - The Rehabilitation Act of 1973 (Section 504),
  - The Every Student Succeeds Act (ESSA),
  - The Higher Education Act (HEA),

- The Civil Rights Act of 1964,
  - Title IX of the Education Amendments Act of 1972, and
  - The Workforce Investment Opportunity Act (WIOA).
- **Continue to prohibit charter schools from discriminating against students with disabilities.** The federal government plays a vital role in the articulation and enforcement of every federal education and civil rights law. NCSECS urges ED to assure that all agency administrative activities that include charter schools – including current or forthcoming regulations, guidance and/or grant competitions impacting charter schools—continue to ensure that state education agencies and the entities they oversee are admitting students free from discrimination and provide an accessible and high-quality education. This is essential to allow the charter sector to grow in a meaningful and equitable manner. This is also critical to ongoing and healthy expansion of school choice.
  - **Fully maintain the following Non-Regulatory Guidance and Dear Colleague Letters:**

#### **Non-Regulatory Guidance**

- Frequently Asked Questions About the Rights of Students with Disabilities in Public Charter Schools under the IDEA (December 2016);
- Education of Children with Disabilities Attending Public Virtual Schools (August 2016);
- Office of Special Education Documents on Behavior and Discipline (August 2016);
- The Use of Funds to Support Preschool Education (December 2014);
- Charter Schools Program Title V, Part B (January 2014);
- The State Charter School Facilities Incentive Grants Program; (April 2009);
- Letter on Lottery Exemptions and Awards to Multiple Charter Schools Operating under a Single Charter (February 2008); and,
- How a State or Local Educational Agency Allocates Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Enrollment (December 2000).

#### **Dear Colleague Letters**

- Guidance Regarding the Oversight of Charter Schools Program and Regulatory Requirements, Including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (August 2016);
- Guidance and Federal Resources on Appropriate and Effective Oversight of Public Charter Schools (September 2015); and,
- The Nondiscriminatory Administration of School Discipline (August 2014).

In conclusion, NCSECS remains committed to influencing policy issues that impact students with disabilities attending charter schools. NCSECS appreciates the opportunity to comment and make recommendations.

Sincerely,

  
Lauren Morando Rhim, Ph.D.