



July 30, 2021

Nkemjika Ofodile-Carruthers  
U.S. Department of Education  
400 Maryland Avenue SW, Room 4W308  
Washington, DC 20202.

RE: ED-2021-OPEPD-0054

Submitted via: [www.regulations.gov](http://www.regulations.gov)

Dear Ms. Ofodile-Carruthers,

On behalf of the National Center for Learning Disabilities (NCLD), which represents the 1 in 5 public school students with learning and attention issues, I am writing in response to the U.S. Department of Education's (ED) invitation to provide input on the U.S. Department of Education (ED) *Proposed Priorities and Definitions— Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs*. We appreciate the opportunity to weigh in as the Secretary establishes a key focus and framework for discretionary grants in the coming fiscal year.

NCLD is pleased to see the intentional mention of students with disabilities and school initiatives that benefit all students, including students with disabilities, within each of the proposed priorities. To reinforce the important focus of discretionary grants on the educational equity, access and improved outcomes for all students, we offer the following comments to reiterate our support for specific sub-priorities, followed by recommendations.

### **Preamble/Introduction**

1. **Amend preamble/introduction** [at page 34665] regarding "technology" to ensure it is consistent with all requirements of federal law (Edits in **bold**): "Additionally, regarding each technology reference, all technology developed or used under these proposed priorities must **be universally designed and fully accessible, including in the use and interoperability with assistive technology for** ~~to~~ English learners and to individuals with disabilities in accordance with Sections 504 **and 508** of the Rehabilitation Act of 1973, **the Individuals with Disabilities Education Act** and Title II of the Americans with Disabilities Act, as applicable."

Rationale for preamble: Federal education and civil rights laws must be accurately reflected and referenced by ED in its Priorities and Definitions. This is necessary to both promote and support ED's goal to assure equity and accessibility and to include accurate terms and references as used in federal education law(s). Specifically, the introductory note regarding "technology" must be consistent with ED recommendations regarding universally designed technology<sup>1</sup> and provide specific references to federal requirements

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<sup>1</sup> Ibid.

regarding the useability and interoperability<sup>2</sup> of assistive technology<sup>3</sup> as an appropriate accommodation. <sup>4</sup>[iv] The current introductory note also lacks complete references to all federal education and civil rights laws regarding accessibility [and access to AT] and therefore must include the Individuals with Disabilities Education Act (IDEA) as well as Section 508 of the Rehabilitation Act of 1973.

### **Proposed Priority 1—Addressing the Impact of COVID-19 on Students, Educators, and Faculty.**

In ED's recent report on [The Disparate Impacts of COVID-19 on America's Students](#), it was evident that pandemic-related school disruptions impacted students with disabilities significantly, exacerbating longstanding disability-based disparities in academic achievement. We are alarmed by the data cited in this report, highlighting both academic and mental health challenges faced by students with disabilities during the pandemic. NCLD believes that it is essential to hold students with disabilities to the same high standards as their peers and feel that priority 1(g) is essential for students with disabilities to ensure that programs to address lost instructional time do not contribute to tracking or remedial courses.

1. **Recommendation: Add to Proposed Priority 1(e)**(Edits in **bold**): Providing students and educators with access to reliable high-speed broadband and devices; providing students with access to high-quality, technology-supported learning experiences **and assistive technology** that are accessible, **usable, and interoperable** to **English Learners**, children or students with disabilities and educators with disabilities to accelerate learning, **consistent with principles of Universal Design for Learning**; and providing educators with access to job-embedded professional development to support the effective use of technology.

Rationale for 1(e): We appreciate that ED has provided a priority that specifically supports job embedded professional development for teachers. Such training is key to students accessing the general curriculum as required by IDEA, to accessing assessments as required by the ESEA and as supported by federal civil rights laws. To avoid confusion about providing assistive technology, and to promote the professional development that teachers need to support all students, we strongly recommend ED include proper terminology in Priority 1, consistent with federal civil rights and education laws

### **Proposed Priority 2—Promoting Equity in Student Access to Educational Resources, Opportunities, and Welcoming Environments.**

NCLD argues for greater resource equity, access to high-quality learning opportunities, and graduation rates for students with disabilities and other systematically marginalized students. We are pleased to see the inclusion of advanced coursework opportunities in Proposed Priority 2(b)(1)(iii), as we know that students with disabilities and Black, Latino, and Native American students are underrepresented in advanced placement courses.

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<sup>2</sup> See: P.L. 114-95, Section 1111, (b)(2)(B)(vii)(II).

<sup>3</sup> See: P.L. 108-446, Sections 300.105 and 300.324; and 29 23 U.S.C. 794d.

<sup>4</sup> See: P.L. 108-446, Section 1462(b)(2)(A)(i).

2. **Add to 2(a)(7) “Alternative schools and programs.”** Renumber existing (7) and (8) to (8) and (9)

Rationale for 2(a): Data show that students with disabilities are disproportionately referred to “alternative” schools/programs. Such programs are found to have poor academic performance and low graduation rates. Including alternative schools and programs as one of the settings is critical.

3. **Recommendation: Add to Proposed Priority 2(b)(1)** (Edits in **bold**): (1) Promoting student access to and success in rigorous and engaging approaches to learning that are racially, ethnically, culturally, linguistically, **and ability** inclusive and prepare students for college, career, and civic life, including one or more of the following:
4. **Recommendation: Add to Proposed Priority 2(b)(5)** (Edits in **bold**): Addressing inequities in access to and success in learning through racially, ethnically, culturally, linguistically, **and ability** inclusive pedagogical practice in educator preparation programs and professional development programs so that educators are better prepared to address bias in their classrooms and create inclusive, supportive, equitable, and identity-safe learning environments for their students.

Rationale for 2(b)(1), 2(b)(5): All inclusive approaches must also include students with disabilities. Significant bias and stigma exists for students with disabilities, especially students with intersectional identities, and we would like for ED, in this proposed priority on promoting equity in student access, to promote practices that are inclusive of all student identities

### **Proposed Priority 3—Supporting a Diverse Educator Workforce and Professional Growth to Strengthen Student Learning.**

Special education is an area experiencing significant educator shortages. We urge ED to prioritize ways to decrease shortages and strengthen and diversify the educator preparation pipeline. We were pleased to see the inclusion of Universal Design for Learning (UDL) in this proposed priority in both educator preparation and in pedagogical practices and classroom features. UDL is essential for removing barriers to learning for students with disabilities by assuming that barriers to learning are in the design of the environment, not in the student. In a recent survey commissioned by NCLD and the CERES Institute for Children & Youth at Boston University Wheelock College of Education & Human Development to examine general educators’ experiences during the COVID-19 pandemic, only 20-25% of teachers surveyed were “extremely confident” in using Universal Design for Learning.

5. **Add to Proposed Priority 3(b)**(Edits in **bold**): Increasing the number of teachers with certification in an educator shortage area, **dual certification**, or advanced certifications from nationally recognized professional organizations.

Rationale for 3(b): Dual certification, particularly teachers certified in both general and special education, provides expanded opportunities for including students with disabilities in general education classroom which is shown to confer significant educational, behavioral and social benefits.

6. **Amend Proposed Priority 3(g)(1)(iv)** (Edits in **bold**): Providing high-quality job embedded professional development opportunities for **all general and special** educators focused on one or more of the following: Meeting the needs of children or students with disabilities, including children or students with the most significant disabilities, **by using the principles of UDL and evidence-based practices**.

Rationale for 3(g)(1)(iv): We urge ED to consider more specific ways to target all teachers, both special educators and general educators, for professional development to support the needs of all students with disabilities

7. **Recommendation: Add to Proposed Priority 3(g)(1)(v)** (Edits in **bold**): Addressing inequities and bias and developing racially, ethnically, culturally, linguistically, **and ability** inclusive pedagogy.

Rationale for 3(g)(1)(v): See rationale for 2(b)(1), 2(b)(5).

#### **Proposed Priority 4— Meeting Student Social, Emotional, and Academic Needs.**

NCLD is pleased to see the inclusion of Proposed Priority 4(d) and 4(e). For students with disabilities, it is imperative that educators avoid deficit-based approaches and that Multi-Tiered Systems of Supports (MTSS) are used to meet students' academic and social-emotional needs. Additionally, research shows that students of certain racial and ethnic groups are identified for special education at higher rates, disciplined at markedly higher rates, and placed in more restrictive educational settings. We commend ED for focusing on the development and implementation of policies and practices to prevent or reduce significant disproportionality on the basis of race or ethnicity in the identification, placement, and discipline of students with disabilities.

#### **Proposed Priority 5—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success.**

More students with disabilities are enrolling in college than ever before, but just 45 percent of students with learning disabilities completed a 4-year degree compared to 53 percent of students without disabilities.<sup>5</sup> NCLD believes that it is important to improve the transition planning, increasing access to postsecondary education and workforce success for students with disabilities. NCLD is pleased to see the inclusion of Proposed Priority 5(c) which aims to increase the number and proportion of underserved students, including students with disabilities, who enroll in and complete postsecondary education programs.

#### **Proposed Priority 6—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change.**

For far too long, students with disabilities were segregated from their peers and kept out of general education classrooms. Because of this history, we have a siloed public education system including separate offices within ED. NCLD strongly urges that ED create a culture of

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<sup>5</sup> Cortiella, Candace and Horowitz, Sheldon H. *The State of Learning Disabilities: Facts, Trends, and Emerging Issues*. New York: National Center for Learning Disabilities, 2014.

inclusion that recognizes students with disabilities are expected to learn alongside their peers in the general education classroom. There should be staff in every office that has some knowledge and expertise in disability rights. Interagency coordination is crucial for individuals with disabilities as they frequently navigate intersecting systems in education, the workforce, and social services. Any initiatives or grant opportunities must also be accessible and involve the disability community. In addition, ED should prioritize not just engaging the disability community, but hiring and promoting individuals with disabilities within the Department. Systemic change must not be done to the community but with the community - in keeping with the "Nothing About Us, Without Us" disability rights mantra. For these reasons, we strongly support the inclusion of this proposed priority and urge ED to maintain it in a final iteration of this set of priorities.

## Definitions

8. **Add 'Technology' to Definitions** and assure terminology is consistent with revisions recommended above: **Technology: *Technology means technology developed or used under these proposed priorities that are universally designed and fully accessible, including in the use and interoperability with assistive technology for English learners and individuals with disabilities in accordance with Sections 504 and 508 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act and Title II of the Americans with Disabilities Act, as applicable.***

Rationale: Because the Priorities and Definitions proposed by the Secretary prioritize programs that will "support a comprehensive education agenda..." focused on "providing all students with access to high-quality schools" in all settings including "high quality remote settings," it is imperative that ED include a comprehensive definition of technology. The definition must also include accurate references to assistive technology that are grounded in the requirements of federal education and civil rights laws.

If we can provide additional information, please contact Lindsay Kubatzky, NCLD's Policy Manager, at [lkubatzky@nclد.org](mailto:lkubatzky@nclد.org).

Sincerely,



Lindsay Kubatzky  
Policy Manager  
National Center for Learning Disabilities