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**To: House Committee on Education**

**From: Erin Maguire, CASE President and Director of Equity, Diversity, & Inclusion for EWSD**

**Date: March 27, 2020**

**Re: Testimony on Special Education and COVID-19**

Thank you for the opportunity to address you today on the important topic of Special Education and the recent pandemic impacting our state, nation and world. Over the past few weeks, things have moved quickly and we have all been working hard to adjust to the idea that we will need to support all of our children very differently and in ways that are creative, family centered and yet physically distant. Special education within the context of this new educational paradigm creates implementation issues within the context of the Individuals with Disabilities Education Act (IDEA) that are important to understand as we move into the next several months.

#### **IDEA Was Not Built for This: Compliance Challenges**

The ability to meet the timelines and formal compliance requirements of IDEA is a significant challenge at this time. IDEA was not designed to address the implementation of special education in the middle of a crisis. While we can do IEP meetings on the phone or through a Zoom call, this is far from ideal. It is also important to note that many parents do not want to try and consider where we will be within the next year (a primary job of an IEP team when completing an annual review of an IEP) at this point in time. Many parents are asking for space and they do not want to participate in this kind of process. Evaluating students through a computer or over the phone is next to impossible in many situations. It is also worth noting that this is a time we want special educators spending time in creative modes of instruction, working to support families and connecting with students. The massive amounts of paperwork that IDEA requires when all IEPs are presently unimplementable, is deeply unreasonable. The AOE has been working with the field to the extent they are able to adjust and flex the expectations and for that we are grateful; however there is work to do at the federal level to address these challenges.

#### **Special Education Delivery: What's Possible**

Supporting students with disabilities is possible through video conferencing, telephone, parent consultation and providing instructional activities to address student needs. This does not replace in-person instruction and full days of engagement with peers and friends. It is within these interactions in which we teach social skills, language and transition skills. All IEPs across the state will be unimplementable and each special educator will need to work with each family to create a new and separate plan to ensure their child is being offered FAPE (Free Appropriate Public Education) under the circumstances given what general education is providing. FAPE has a new meaning now that all students are home and receiving their education from a distance and therefore special education needs to be reconsidered in this context. Educators are moving mountains to try and provide everything they can in light of the present circumstances. The Supreme Court recently decided a new standard for FAPE (*Andrew F.*) that set the legal standard for special education as 'progress in light of the child's individual circumstances'. This legal standard will be important as we develop new plans for children under this pandemic.

## **The Unique Challenges of Rural Vermont and Special Education**

Providing special education where internet is poor or non-existent creates a significant inequity in our state. This challenge will decrease what is possible for direct instruction for students and place a higher emphasis on parents as teachers for the remainder of the school year under a plan to implement distance learning statewide. This is especially true for special education and I am deeply worried about students who do not have access to their teachers through school provided devices that engage the best teaching strategies we have from the school at this time. I implore the legislature to find a way to get internet access to remote areas of Vermont as soon as humanly possible. This would make a huge difference for our students.

## **Equity: The Growing Divide**

As we work to implement educational plans through home environments the inequities that are created for children are significant. There is much that can be done to address this through teaching methods and regular contact; however, there are students who are not participating or families who are struggling to get their students to engage in the learning because of a myriad of different issues. Some families have multiple children with disabilities that are unique and require great individualization. There are families who have parents working from home and are also wanting to educate their children in partnership with the school but the financial needs in their household will not allow it. Food insecurity is of great focus for many families and lost jobs are creating crisis for our Vermonters. It is important that the work we do recognize the impact. We do have a potential to grow a larger achievement gap under this situation if we are not hyper focused on the challenges. I encourage an equity lens be used in all decisions as we progress. Students with disabilities are of great importance within this lens and so are many other Vermont children.

## **A National Perspective**

As the President of the Council of Administrators of Special Education for the Nation, I have a unique perspective of the issues taking place across our country. I have met with the presidents of nearly all of our state units and what is clear to me is that the issues around special education is a consistent feature of this pandemic. School districts around the country are working hard to adjust and meet the needs of children. The Office of Special Education Programs and the Office of Civil Rights have been clear on several points. First, they want us to be creative and to address as many needs as we can within the confines of the pandemic; however safety is always first in all of their messaging. Secondly, they are clear that what we are doing for others must be adjusted, adapted, accommodated and modified for students with disabilities. This is a must do. Last, it is important we are considering confidentiality, legal compliance and parent rights to the greatest extent we can while also balancing what is best for children. The Senate has passed a bill that offers an opportunity to hear what kinds of flexibility is needed under IDEA. CASE will be working with our national partners to craft a request to OSEP that keeps students and families at the center but allows for flexibility of timelines and legal requirements in a limited way to ensure we do not expect the unreasonable or take up time with unnecessary paperwork.

This is a fluid situation and new ideas are showing up on the table every day. We are working hard to find ways to meet the needs of our children, comply with legal expectations and support families to the greatest extent possible. The work is not easy but is very necessary and critical for Vermont children and children across the nation.