



ASSISTANT SECRETARY OF OSERS CONFIRMATION HEARING: SUGGESTED QUESTIONS SUBMITTED TO SENATE COMMITTEE

1. A 15 state (39, 837 student) study published in 2015 showed that a total of 93% of students participating in alternate assessments were served primarily in self-contained classrooms, separate schools, home, hospital or residential settings. This is the case even though the Individuals with Disabilities Education Act (IDEA) contains a legal presumption that students with disabilities are to be educated in general education classrooms. What would you do to ensure that schools and local education agencies properly implement the Least Restrictive Environment Provisions in IDEA for ALL students with disabilities?

2. The GAO did a report on student with disability enrollment in charter schools at <http://www.gao.gov/products/GAO-12-543>. The Council for Parent Attorneys and Advocates (COPAA) also did report on charter schools <http://www.copaa.org/?page=Charter>. As discussed in the COPAA report, students with significant cognitive disabilities are the least likely to be admitted to these schools, especially in general education classrooms. The same is true for schools where vouchers are used. The GAO report on vouchers is at <http://www.gao.gov/products/GAO-16-712> and the COPAA report on vouchers is at <http://www.copaa.org/page/Voucher>. As Secretary of Education would you provide technical assistance to address this access issue in charter schools and would you issue a letter on vouchers, along with the Department of Justice, to provide the following parameters on the use of public funds for private schools:
 - Students will not be discriminated against (including discriminatory segregation in separate classes and schools).
 - Students will be afforded the rights and protections provided under IDEA and the accountability required under the Every Student Succeeds Act (ESSA).
 - Students will receive sufficient funding to pay for tuition, transportation and any needed services and supports, and
 - The public funding used for private schools must not undermine the education of students remaining in the public school system.
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3. A recent GAO report confirms that private school choice programs inconsistently provide information on changes in rights and protections under IDEA when parents move a child with a disability from public to private school. As Assistant Secretary what steps will you take to ensure that students do not have changes in their IDEA rights and protections if they move to a private school using public funds and if there are changes, that parents are fully informed about the rights,

services and supports that a child will no longer receive if the child is moved to a private school?

4. Universal Design for Learning (UDL) is a scientifically valid framework for creating and sustaining educational systems that are responsive to the needs of each learner, including the students in the many subgroups that are referenced in the ESSA, by offering multiple ways of engaging students, representing information and demonstrations of mastery. ESSA recognizes UDL as a best practice in numerous sections of the law. It is the umbrella that encompasses many other strategies such as personalized learning and is the underpinning for the successful implementation of other strategies, such as multi-tiered systems of support, PBIS and competency-based instruction. What would you do to encourage states to implement UDL in a robust way to ensure that the diversity inherent in all learners is addressed in general education classrooms?
5. ESSA requires that states not preclude students who participate in an alternate assessment from attempting to meet the requirements of a regular high school diploma. However, many schools are saying the students won't be permitted any modifications of assignments if they are on diploma track. This practice defeats the point of the statutory provision because by definition students who participate in an alternate assessment work on enrolled grade content--but with substantial supports and adaptations and different expectations for achievement. Will you instruct OSERS to provide guidance to states to ensure they do not take these students off diploma track prematurely because of needed modifications/adaptations?
6. The Endrew F Supreme Court case raised the bar on what is considered a free, appropriate public education. That aligns with ESSA's purpose, which is "to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." As states and the courts interpret Endrew F and ESSA will you instruct OSERS to provide guidance that ensures these standards are interpreted in a way that raises expectations for students with disabilities?
7. The Department of Education is in the process of reviewing 34 ESSA state plans for approval. Some plans have already been approved without meeting all the requirements of the law. As Assistant Secretary will you advocate within the Department on behalf of students with disabilities to ensure that strong subgroup accountability and other guardrails in ESSA are addressed in the state plans before they are approved?
8. Some states are requesting waivers that clearly violate ESSA (e.g. Florida and New York) and will diminish accountability for students with disabilities and other

subgroups. As Assistant Secretary will you advocate within the Department on behalf of students with disabilities to ensure that these waivers are not approved.

9. A number of states are submitting requests to waive the 1% cap on alternate assessment participation. Congress put this cap in the law to ensure that only students with the most significant cognitive disability participate in this assessment. States have known about the cap for 2 years, yet they still have not taken sufficient measures to ensure that the cap is not exceeded. This increases the likelihood that students who should be taking the general assessment and for whom the alternate assessment is not designed are being assessed against alternate academic achievement standards. As Assistant Secretary what steps will you take to ensure that stakeholders are given an opportunity to comment on the actual waiver request (and not just a notice of intent to submit a waiver as is happening in some states); that all the general requirements for waivers under ESSA Section 8401, in addition to the specific waiver requirements in the regulations, are met; that any state receiving a waiver is vigorously monitored to ensure that the state is fulfilling the commitments it made in the waiver request to reduce the participation rate below the cap in the first year of the waiver?

10. The Department is in the process of reviewing guidance and regulations under President Trump's Executive Order to determine if any are outdated, unnecessary or ineffective. As Assistant Secretary would you make a commitment to engage with stakeholders to get their input on whether specific guidance or regulations being targeted for rescission or replacement are important to the field prior to making any determinations and incorporate their input in the final decisions?

11. There has been concern that the Department is considering the delay or amendment of the 2016 regulation regarding significant disproportionality. Stakeholders representing a variety of constituents have taken the time to provide their thoughtful input to the Department on this regulation, and their comments remain available for review. The statutory significant disproportionality requirement has been the law for 13 years, and states have adequate time to develop appropriate measures for determining racial and ethnic disparities in special education. The regulation was promulgated in December 2016; as such, the field should now be prepared to use its methodology in meeting their ongoing obligations under the IDEA. Further delay and review serves no meaningful purpose and will only result in harm to children and confusion and wasted resources on the part of the federal and state departments of education and school districts. As Assistant Secretary will you support the implementation of this regulation as written and without delay?

12. IDEA is long overdue to be full funded. As a former State Director of Special Education you have had to deal with the impact of insufficient funding to meet the needs that IDEA is intended to address. As Assistant Secretary will you be an advocate for the full funding of IDEA?

Postsecondary Education

Background: The education, employment, and community outcomes for individuals with intellectual disability (ID) have historically been bleak in our country, with the vast majority living in poverty and relegated to subminimum wage jobs in sheltered workshops, or living at home with aging parents and little opportunity for productive work or activities. Prior to 2008, a number of higher education programs for students with ID had sprung up around the country, but there was no federal financial aid or federally funded technical assistance, and there were no model programs to identify best practice and encourage the expansion of this important educational movement. The Higher Education Opportunity Act (HEOA) enacted in 2008 created exciting opportunities for students with ID to access certain forms of federal financial aid, and authorized new model Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSIDs). A National Coordinating Center (NCC) was also authorized to provide technical assistance and evaluation of the TPSID projects and to develop model accreditation standards for such programs. (See attached report on model standards.)

We now have 268 higher education programs for students with ID in the United States, including new model programs due to the HEOA (see www.thinkcollege.net). As colleges and universities open their doors to students with ID, these individuals are experiencing substantially better outcomes in employment, social engagement, and community living (Butler, Sheppard-Jones, Whaley, Harrison, & Osness, 2016; Grigal, Hart, Smith, Domin, Sulewski, & Weir, 2016; Hartz, 2014; Moore & Schelling, 2015).

The first cohort of TPSIDS was funded in FY2010 and the second cohort was funded in FY 2015 with 25 grantees on 44 campuses in 19 states. The National Coordinating Center evaluation is showing very positive results (Grigal et al., 2016) including favorable employment outcomes. Of the 449 students who attended TPSID programs in 2015–2016, the TPSID model demonstration programs created opportunities for nearly 400 TPSID students to participate in career development activities such as individual paid jobs, internships, and job training experiences. Nearly half of all students worked in a paid job, and more than half of the employed students who had no previous work experience got their first paid job during the year. Although individuals with intellectual disability frequently lag behind their peers without intellectual disability in terms of employment, TPSID students were employed at rates similar to their college peers across the US who did not have intellectual disability.

Bills introduced in the House of Representatives by both Republican and Democratic Members to reauthorize the Higher Education Act include reauthorization of the TPSIDs and National Coordinating Center.

Question: Will you support the continuation of TPSID model demonstration programs and a National Coordinating Center in the reauthorization of the Higher Education Act? Will you support continued funding for the TPSIDs and NCC at least at current funding levels?