



NATIONAL CENTER

30 Mansell Court, Suite 108
Roswell, GA 30076

phone: 770-604-9500

fax: 770-604-9898

email: info@ndsccenter.org

www.ndsccenter.org

Educate. Advocate. Empower.

November 1, 2017

The Honorable Betsy DeVos
Secretary, U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Dear Secretary DeVos:

The National Down Syndrome Congress (NDSC) writes in response to the status report issued by the Office of Special Education and Rehabilitative Services (OSERS) on Friday, October 20, 2017, regarding Executive Order 13777, "Enforcing Regulatory Reform Agenda" and the report from the ED Regulatory Reform Task Force released on October 27, 2017 detailing additional guidance documents that were rescinded, including those from the Office of Postsecondary Education (OPE) and the Office of Elementary and Secondary Education (OESE).

Although NDSC appreciates OSERS' effort during the week following its October 20 status report to provide additional transparency by providing the rationales for rescinding each document and holding a stakeholder phone call, we nevertheless found the process to be very burdensome on the groups that were trying to determine the impact of the rescissions so we could accurately share this information with families. This concern was expressed by a number of stakeholders on the OSERS call, including NDSC's Senior Education Policy Advisor, Ricki Sabia.

Just a few days after the OSERS call, hundreds more guidance documents were rescinded by OPE and OESE. Once again, there was little information provided other

than that these guidances were considered to be outdated. In many cases (especially for OPE) no links to review the guidances were provided. There was also no information on other documents or regulations, if any, which superseded the rescinded guidances. Guidance documents are routinely used to advocate on behalf of individuals with disabilities, so NDSC must be vigilant when any are at risk or rescinded. We are still trying to determine any impact of the recent rescissions. Therefore, with respect to all the rescinded guidances in the report released on October 27, 2017, as well as any future actions from the ED Regulatory Reform Task Force, we request the following:

- A link to each of the affected guidance documents
- Greater detail about the reason each document has been rescinded
- A description of the impact on implementation of the relevant statute and how individuals and families will be affected
- Links to any materials that supersede each rescinded guidance
- A publicly available archive where all rescinded guidance are housed

In the future, before determining a guidance to be outdated because more recent materials are available, we ask that the Department consider that older guidance may be more “user-friendly” for impacted individuals and their families. As long as the older guidance is still accurate, we request that the guidance be retained with a note linking the reader to more recent materials.

Also, NDSC has grave concerns about the ambiguity inherent in the terms “unnecessary” and “ineffective” and how they will be interpreted in the next phases of the guidance and regulatory review. We believe the perspective of impacted individuals and their families is essential in helping the Department determine whether these terms truly apply to any guidance or regulation. Although there was a comment period for this review process, it was not possible to offer more than general comments on the importance of the guidance and regulations, which help interpret and facilitate implementation of the critically important education laws that the Department is charged with overseeing. The important guidance documents and regulations related to these laws are far too numerous for us to provide specific comments.

NDSC, therefore, requests that prior to any further decisions regarding Executive Order 13777, “Enforcing Regulatory Reform Agenda,” a list of proposed targets be shared with stakeholders and that an opportunity for meaningful input be provided so we may specifically comment on each guidance or regulation before decisions are made.

Our self-advocates and their families are watching this process closely and are expecting any target list to be very short and the reasons for recommending rescission to be

clearly in the best interests of students. As the process moves forward to look at guidance and regulations that the ED Regulatory Reform Task Force may consider to be "unnecessary" or "ineffective," we urge you to carefully consider the devastating impact on the individuals you are charged with serving when resources that parents and other advocates rely on for implementation of the education and rehabilitation services laws are threatened and, even worse, when they are taken away. Not only do such actions erode federal protections and individual's rights, but they also erode faith in our system.

Sincerely,



David C. Tolleson
Executive Director



Richelle (Ricki) Sabia
Senior Education policy Advisor

About the National Down Syndrome Congress

A 501(c)(3) non-profit advocacy organization, the NDSC provides support and information about issues related to Down syndrome throughout the lifespan, as well as on matters of public policy relating to disability rights. The National Down Syndrome Congress is committed to creating a national climate in which all people will recognize and embrace the value and dignity of people with Down syndrome. For more information about the NDSC, please visit our website at www.ndscenter.org.

cc:

Kimberly Richey, Acting Assistant Secretary OSERS
Jason Botel, Acting Assistant Secretary OESE
Kathleen Smith, Acting Assistant Secretary OPE