



April 20, 2021

The Honorable Miguel Cardona
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

Dear Secretary Cardona,

The Center for Learner Equity (“the Center”) is a nonprofit organization dedicated to ensuring that students with disabilities have equitable access to high-quality public education. The Center provides research, policy analysis, coalition building, and technical assistance to a variety of stakeholders across the nation. As a leading national voice regarding supporting students with disabilities in both the charter and traditional public school sectors, the Center respectfully submits the following request regarding guidance on extended eligibility for special education services.

As you know, the COVID-19 pandemic has caused significant instructional loss for all students and has disproportionately impacted students with disabilities, particularly those with more significant needs. While there is much conversation about mitigating instructional loss, for transition-aged students with disabilities who are close to aging out of services under the Individuals with Disabilities Education Act (IDEA), there is little time to make up for the services and supports they lost during the pandemic. Many of these students were unable to participate in the critical college- and career-readiness activities, vocational rehabilitation, and life skills training that increase their likelihood of accessing competitive integrated employment and living independently. Many require additional time to be able to participate in those activities and hone those critical skills.

While IDEA ties federal funding to a requirement that states provide FAPE to students ages 3-21, there is nothing in IDEA that prevents states from continuing eligibility beyond age 21. In fact, Michigan law already provides special education eligibility through age 25.¹ Since the onset of the pandemic, other states are proposing legislation to temporarily continue eligibility due to the instructional losses that have occurred. Lawmakers in New Jersey² and

¹ Mich. Admin. R. for Spec. Educ. R. 340.1702, https://www.michigan.gov/documents/mde/MARSE_Supplemented_with_IDEA_Regs_379598_7.pdf

² N.J. Sen. S. 3434. Reg. Sess. 2020-2021. (2021). https://www.njleg.state.nj.us/2020/Bills/S3500/3434_S1.PDF

New York³, for example, have already introduced bills in their respective state legislatures to temporarily extend eligibility for students aged 21 by an additional year or two. For short-term plans to continue eligibility, districts will be able to use some of the flexible education funds provided by the recently enacted American Rescue Plan Act.

To help states considering such a continuation of IDEA eligibility and to encourage others to do so, we are requesting that the U.S. Department of Education issue clarifying guidance that would: encourage states and districts to continue eligibility for students aging out of IDEA services; inform them of the existing flexibility in IDEA⁴ that makes this possible; and, remind them that they are fully authorized to utilize COVID-19 Elementary and Secondary School Emergency Relief Funds⁵ to support the continuation of services. During these uncertain and challenging times, targeted guidance from the U.S. Department of Education would be a critical lever to encourage states and districts to move in this direction and provide support to thousands of vulnerable youth and young adults with disabilities.

Thank you for considering our request. We look forward to your response.

Sincerely,



Lauren Morando Rhim
Executive Director and Co-Founder

cc: David Cantrell
Acting Assistant Secretary, Office of Special Education and Rehabilitative Services
Acting Director, Office of Special Education Programs

³ N.Y. Legis. Assemb. A-1201. Reg. Sess. 2021-2022 (2021). https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A01201&term=&Summary=Y&Memo=Y&Text=Y&LFIN=Y

⁴ Individuals with Disabilities Education Act, 20 U.S.C. §1400 (2004)

⁵ Coronavirus Aid, Relief and Economic Security (CARES) Act, Pub. L. No. 116-136; Consolidated Appropriations Act, Pub. L. No. 116-260; American Rescue Plan Act of 2021, Pub. L. No. 117-2.