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U.S. Department of Education
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September 20, 2017

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Andrew J. Imparato, JD
Executive Director

Re: Docket ID: ED-2017-OS-0074, Evaluation of Existing Regulations

Dear Ms. Malawer:

The Association of University Centers on Disabilities (AUCD) writes in response to the request for input on regulations that may be appropriate for repeal, replacement, or modification.

The Association of University Centers on Disabilities (AUCD) is a membership organization that supports and promotes a national network of university-based interdisciplinary programs, including 67 University Centers for Excellence in Developmental Disabilities (UCEDD). Our UCEDD programs are involved in research that helps students with intellectual and other disabilities (from early intervention through postsecondary education) be successful in school, work, and life. Our Centers provide education and training to undergraduate, graduate, and postdoctoral levels in special education. They also train practicing educational professionals who implement evidence-based practices in schools. For this reason, our members care deeply about the Federal education and civil rights laws that are intended to provide equity in educational opportunities.

AUCD strongly believes the existing laws and their implementing regulations and guidance striving to achieve equal opportunities and civil rights in education are working and deserve protection, robust Federal oversight and enforcement, and adequate funding. These laws, including, but not limited to the Individuals with Disabilities Education Act (IDEA), Every Student Succeeds Act, Higher Education Act, Workforce Innovation and Opportunity Act (including Sec. 504 of the Rehabilitation Act), Americans with Disabilities Act (ADA), and Civil Rights Act of 1964, are extremely important and provide strong basis to promote and uphold equity and access to a public education for America's children. They must be supported and enforced.

AUCD further rejects any effort to undermine the protections and supports these laws provide through the rescission or modification of the regulations and the guidance used to implement and enforce them. Protecting American citizens from all forms of discrimination, intentional and unintentional, is a legal obligation of federal agencies that has been acknowledged by both Republican and Democratic administrations for more than 50 years.

Some regulations are fairly new. For example, the IDEA regulation to address disproportionality based on race and ethnicity in identification, placement in restrictive settings, and discipline was issued during the previous administration.

This regulation aims to address the long history of overidentification of people from minority backgrounds in special education. The Department of Education should not repeal, replace, or modify this regulation, or similar regulations and guidance.

Likewise, the regulations implementing the Workforce Innovation and Opportunity Act (WIOA) were published very recently. They provide important details to state and local agencies on the updated law, including steps to ensure that people with disabilities are provided more opportunities to find real work for real pay. The regulations provide more details than the statute on exactly how to make sure people with disabilities, especially those transitioning from school to work, are provided with opportunities for training in integrated settings at competitive wages.

All of these and the other regulations listed by the *Regulatory Reform Task Force* for possible “repeal, replace or modify” by the U.S. Department of Education have already gone through the open, transparent, and prescribed procedure as mandated by the Administrative Procedures Act (APA). Draft rules are published by the federal agency and reviewed by the Office of Management and Budget (OMB). The public then has 30 to 90 days to provide feedback. Agencies must consider all comments, document responses to them, and develop a revised regulation that is then sent to OMB for final review. Finally, agencies must assess costs and benefits of regulatory action (Executive Order 12866), provide estimates of time necessary for reporting of information required by the regulations (Paperwork Reduction Act of 1995), provide opportunities for consultation by elected officials of those state and local governments affected by the regulations (Executive Order 12372) and determine whether the regulations require transmission of information that another agency gathers or makes available (20 U.S. Code § 1221e–4, Educational impact statement). These processes ensure that development of regulations is based on a wide range of input and sound information and that the statute in question will be implemented as intended.

Therefore, we believe the Administration’s proposal under Executive Order 13777 is unnecessary, costly, and redundant. The process just described already addresses all of the factors described in the order.

Agencies should review their regulations from time to time to ensure that they remain relevant and effective. However, we believe that eliminating regulations for the sake of elimination is misguided and will be harmful.

Federal regulations and non-regulatory guidance help states and districts fully implement each of the above-mentioned laws which are critical to protecting all students from discrimination and to provide for equal educational opportunity. As such, none should be repealed, modified or rescinded by the Administration in this fashion.

If you have any questions, please contact Kim Musheno, Director of Public Policy at AUCD 301-588-8252/222.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Imparato". The signature is fluid and cursive, with the first name "Andrew" written in a larger, more prominent script than the last name "Imparato".

Andrew Imparato
Executive Director, AUCD