

August 22, 2017

Hilary Malawer
400 Maryland Avenue SW., Room 6E231,
Washington, DC 20202

Docket ID: ED-2017-OS-0074

Dear Ms. Malawer:

The Wisconsin Department of Public Instruction (WDPI) thanks you for the opportunity to comment as you proceed with your evaluation of existing regulations as noticed in the Federal Register on June 22, 2017 and in accordance with Executive Order 13777, "Enforcing the Regulatory Reform Agenda."

In submitting our comments, we seek to emphasize the value of critical regulation and guidance related to some of our most vulnerable students. The U.S. Department of Education (ED) in the notice stated it was seeking input on regulations that may be appropriate for repeal, replacement, or modification. This is an extremely broad request and the very nature of it necessitated our comment on critical protections that we feel need to be maintained. Moreover, we request further opportunity to provide comments to the extent to which ED is considering repealing or modifying any particular regulation.

In general, Wisconsin strongly encourages ED to maintain regulations and guidance to support access and funding to public education, and to ensure each student graduates college and career ready. With that said, much of the rest of these comments will focus on the importance of the Individuals with Disabilities Education Act (IDEA), and its accompanying regulations and guidance materials.

It is important to remind ourselves that the Individuals with Disabilities Education Act was originally enacted in 1975. It was then known as the Education for All Handicapped Children Act. Prior to the enactment of this law, many children with disabilities were denied a public education and the opportunity to attend schools with their nondisabled peers. IDEA was enacted so that all students with disabilities ages three through 21 are entitled to receive a free appropriate public education (FAPE) in the least restrictive environment through the development of an individualized education program (IEP) designed to address the student's disability-related educational needs. The IDEA regulations also specify planning services and supports designed to specifically prepare the student for further education and competitive employment. Thus, IDEA not only provides students with disabilities access to education with their peers, but helps prepares them for postsecondary success. The accompanying regulations to this law provide a level of specificity needed to ensure that state educational agencies, school districts, and families have the assistance, mechanisms, and safeguards needed to effectively

enforce and implement this law. The regulations are vital in ensuring these opportunities for our students with disabilities are not reduced.

In addition, the Dear Colleague letters issued by the Office of Special Education Programs (OSEP), provides clarification of IDEA requirements and supports our work as a state educational agency and the work of our districts and other stakeholders. For example, the Dear Colleague Letter, dated November 16, 2015, directly supports our work around improving outcomes for students with disability through the College and Career Ready (CCR) IEP framework. The November 16 Dear Colleague letter emphasizes that a student's IEP must be developed with high expectations and that annual goals must be both ambitious and achievable and aligned with rigorous grade-level content standards. This forms the basis for our CCR IEP framework, which is designed to enrich IEP team discussion leading to the development of both compliant and results-driven IEPs. CCR IEPs build knowledge, skills, and habits throughout a student's academic experiences, so when they graduate, they are college and career ready. WDPI has revised its model IEPs as well as its monitoring system to align with this framework.

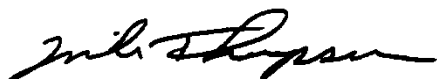
Likewise, the Dear Colleague letter issued on August 1, 2016 clarifies that as part of providing FAPE to a student with a disability, the student's behavioral needs must be addressed through positive supports, strategies, and interventions, and "that incidents of child misbehavior or classroom disruptions, as well as violations of a code of student conduct, may indicate that the student's IEP needs to include appropriate behavioral supports." WDPI's Positive Behavioral Intervention and Supports system, as well as its guidance on functional behavioral assessments and the development of behavioral intervention plans, are both supported by and strengthened by this Dear Colleague letter.

While all of the Dear Colleague letters are important in clarifying IDEA requirements, we ask, in particular, that the two dear colleague letters mentioned above not be retracted as they directly assist our work in improving outcomes for students with disabilities.

Additionally, we would also like to point out the value of the work of the Office of Civil Rights (OCR) to ensure equal access to education. WDPI is working hard through our Equity Council and state Every Student Succeeds Act plan to advance educational equity. The work the OCR does is important to continuing to make advances in fighting discrimination and ensuring equitable educational opportunities.

Thank you again for the opportunity to comment. If you have any further questions, please contact Carolyn Stanford Taylor at (608) 266-1771 or at carolyn.stanfordtaylor@dpi.wi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Thompson".

Mike Thompson, PhD
Deputy State Superintendent

MT/mjc