



Office of the General Counsel

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September 7, 2017

Submitted Electronically

Hilary Malawer, Assistant General Counsel
Office of the General Counsel
U.S. Department of Education
400 Maryland Avenue, SW, Room 6E231
Washington, DC 20202

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

Dear Ms. Malawer:

On behalf of the United States Conference of Catholic Bishops (USCCB), we respectfully submit the following comments in response to the request for comments evaluating existing regulations of the U.S. Department of Education. 82 Fed. Reg. 28431.

Since 1965, Catholic school students, teachers, administrators, and parents have equitably participated in services provided by the Department, as authorized by the Elementary and Secondary Education Act (ESEA). We are serious about our commitment to serving disadvantaged communities and appreciate the beneficial services offered through the Department's programs.

We offer the following comments:

I. Consolidated Guidance

In response to the call for “repeal, replacement, or modification,” we recommend that the following sources of guidance for implementing equitable services provisions be consolidated into one document:

- Non-Regulatory Guidance: Fiscal Changes and Equitable Services Requirements under the Elementary and Secondary Education Act of 1965 (2016);
- Title I Services to Eligible Private School Children Non-Regulatory Guidance (2003);

- Ensuring Equitable Services to Private School Children: A Title I Resource Tool Kit (2006);
- Title I Regulations (including the Participation of Eligible Children in Private Schools);
- the Individuals with Disabilities Education Act Regulations (including Children with Disabilities Enrolled by Their Parents in Private Schools);
- the Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended.

Combining these separate documents into one comprehensive guidance source will help practitioners reach agreement in consultations.

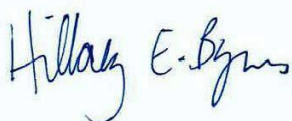
II. Equitable Services Plan in State Applications

The regulations for state plan applications should include a requirement that each state outline in specifics how it will use the ombudsman office to monitor and enforce the equitable services provisions of Titles I and VIII of the ESEA, as amended. The unique nature of the ombudsman role—as there are few mentions of “enforce” in the statutory text—necessitates a clear requirement by the Department for states to explain how the office will work. While current non-regulatory guidance is a useful guide to establishing parameters for the position, and the Department has taken proactive steps to ensure ombudsmen are properly trained and informed, the lack of a stated plan from state education agencies (SEAs) undermines the ability of the ombudsman to fulfill the statutory requirements of the ESEA.

Respectfully submitted,



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Hillary E. Byrnes
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