Rick Snyder

Governor State of Michigan Seal

State of Michigan

department of Education

Lansing

BRIAN J. WHISTON

State Superintendent

September 20, 2017

Hilary Malawer

U.S. Department of Education

400 Maryland Avenue SW., Room 6E231

Washington, DC 20202-4537

RE: Evaluation of Existing Regulations

Dear Hilary Malawer:

The Michigan Department of Education, Office of Special Education (OSE) appreciates the U.S. Department of Education (USED) collecting comments on the existing regulations, letters, and memorandums from its department. The OSE is specifically interested in providing comment on the May 22, 2017 memorandum titled, “Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act (IDEA).” Our comments are as follows:

**The MDE-OSE is concerned that the memorandum makes a “guarantee” that a student with a diagnosis or a given eye condition must be deemed eligible by states.** Just as a student cannot be categorically excluded based on a medical condition, a student is not guaranteed to qualify solely on the basis of a medical diagnosis. Eligibility depends on the findings of full and comprehensive evaluation as to the student’s access to the general education curriculum and impact of the student’s vision on his/her educational performance.

**This memorandum does not give specific guidance to states or school districts on what specific supports should be provided to students who are found eligible under the category of “visual impairment including blindness.”** IDEA does include some category-specific presumptions for students found eligible under this category – for example, the presumption is that the student will receive instruction in braille unless the special education team determines that braille is not appropriate. However, in this memo, OSEP is only focused on eligibility, and eligibility does not determine what services will be provided. Therefore, this memorandum cannot be used as justification that a student (for example, a student with convergence insufficiency) should receive specific services (for example, vision therapy). States may have or may develop their own specific policies about guarantees of services or the roles of professionals, but OSEP and IDEA simply require that the services provided by a student be based on the student’s needs as determined by a full, individualized evaluation. Eligibility does not determine services.

Thank you again for this opportunity to provide input.

Sincerely,

Teri L. Chapman, Ed.S., Director

Michigan Department of Education, Office of Special Education