



November 13, 2017

Jennifer Bell-Ellwanger
U.S. Department of Education
400 Maryland Ave., S.W. Room 6W231
Washington, D.C. 20202

RE: Docket ED-2017-OS-0078: Secretary's Proposed Supplemental Priorities and Definitions for Discretionary Grant Programs

Dear Ms. Bell-Ellwanger:

The CCD Education Task Force advocates for Federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of society. The CCD Education Task Force sees these principles as critical elements in a society that recognizes and respects the dignity and worth of all its members.

Today, we are writing to the U.S. Department of Education (ED) to inform the Secretary's Proposed Supplemental Priorities and Definitions for Discretionary Grant Programs.

CCD would like to thank ED for including students with disabilities as a priority among the eleven priorities identified for discretionary grant consideration. As noted in the background materials provided by ED, "the priorities and related definitions are designed to encourage grantees to empower parents and educators; reduce red tape; utilize and build evidence of what works; and most importantly, take strides toward ensuring equal access to the high-quality, affordable education every American student deserves in an educational environment that is safe and respectful of all viewpoints and backgrounds." Certainly, every student with a disability deserves what ED has outlined and we appreciate your commitment to ensuring that students with disabilities have equal access to a high-quality education. Indeed, ED plays a significant role in upholding this commitment to equity and we are pleased to see you underscore that commitment.

As CCD has examined the proposed priorities, related projects and definitions, we wish to offer the following recommendations for your consideration.

Recommendations:

Overarching:

- **Add a new priority focused on rigorous evaluation. The priority would assure federal investments are made in projects that will help develop the evidence base and fill critical gaps in knowledge. Special emphasis should be placed on the collection and analysis of data on priority populations under ESSA and their intersectionality - students with disabilities (including by type of disability under the IDEA), minority students, low income students, and English language learners.**

Rationale: The primary purpose of demonstration grant programs is to develop effective approaches that can be brought to scale. Intersectionality – the concept of multiple group identities intersecting to create a whole that is different from the component identities – is a developing field that should be addressed by each of the priorities.

- **Add a new priority focused on Early Learning. The priority would assure federal investments are made in projects focused on all young children and their families and the early intervention, special education and other early learning and education opportunities designed to meet their individual needs and promote their optimal development.**

Rationale: Improving education begins with services and supports to children and their families starting at birth. Through the Individuals with Disabilities Education Act (IDEA) and other federal education statutes such as the Every Student Succeeds Act (ESSA), CCD strongly urges ED to ensure the discretionary grants programs address young children and families and the critical early learning experiences that affect the rest of their lives. Science continues to document that children’s success in school and later in life is greatly enhanced by their learning experiences prior to kindergarten. Early investments in children and their families yield maximum returns to society.

- Strike and amend [throughout the priorities] “~~where possible,~~ incorporates evidence-based activities, strategies and interventions.”

Rationale: CCD strongly recommends that any discretionary grant program funded by ED must promote only evidence-based approaches.

By Priority:

Proposed Priority 1—Empowering Families to Choose a High-Quality Education that Meets Their Child’s Unique Needs

- Amend the definition of *Educational choice* as follows:
“Educational choice means the opportunity for a student (or family member on their behalf) to create a personalized path for learning that is consistent with applicable Federal, State, and local laws, **restricts the flow of public funds to only public schools, is in the Least Restrictive Environment (as defined in the IDEA)**, is in an educational setting that best meets the student’s needs, and, ~~where possible,~~ incorporates evidence-based, strategies and intervention.

Educational choice does not include a decision made by an Individualized Education Program Team under the IDEA [20 U.S.C. 1412](#) (a)(10)(B) for a private school placement.

...(2) ~~Private or Home-based or online educational programs or courses~~ **overseen by the local education agency**, including those private schools, private online providers, private tutoring providers, community or faith-based organizations, or other private education providers.

Rationale: Private schools do not follow the Individuals with Disabilities Education Act (IDEA), are not required to adhere to accountability requirements under the Every Student Succeeds Act (ESSA), are known to selectively choose which students they will/will not educateⁱ, and do not uphold the federal and civil rights protections afforded students with disabilities. Thus, they should not receive federal dollars to educate students with disabilities. Programs specifically targeting students with disabilities and providing them with a private school education can quickly evolve into creating a separate education system for students with disabilities, hidden costs frequently become a burden to families (e.g. transportation, services, therapies, supports) and public-school districts are relinquished from responsibility for these students. CCD advocates that every student should be able to attend a high-quality public school that meets their needs and seeks to assure that every child with a disability and their family is assured all rights under the Individuals with Disabilities Education Act (IDEA) and other civil rights statutes.

Proposed Priority 3—Fostering Flexible and Affordable Paths to Obtaining Knowledge and Skills

- Add the following language (in **bold**) to the opening sentence of the priority:

Projects that are designed to address one or more of the following priority areas **for all individuals, including those with disabilities, and incorporate the principles of Universal Design for Learning**

Rationale: Currently, some of the initiatives in priority areas (a) through (f) do not consider the needs of individuals with disabilities. Therefore, it is necessary to specifically address such individuals in this priority. Also, there are barriers in education and the workplace that prevent many individuals, including those with disabilities, from earning the credentials, gaining the skills and knowledge, and/or succeeding in the work-based experiences described in priority areas (a) through (f). Thus, it is important to ensure that these barriers are addressed through the use of Universal Design for Learning, which is recognized in federal laws (including the Higher Education Opportunity Act and the Every Student Succeeds Act) and policies (including the National Educational Technology Plan). For informational purposes, we have provided the statutory definition of UDL below:

Universal Design for Learning

- A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and
 - B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.
- Add a new priority area (g) as provided below:

(g) Examining barriers to obtaining industry-recognized and other workforce credentials for individuals with disabilities, including individuals with an intellectual disability who may need

modified instruction and assessment; developing and disseminating strategies to address these barriers; and developing credentials based on employment support approaches (including Supported Employment and Customized Employment as defined in the Workforce Innovation and Opportunity Act of 2014) and providing technical assistance regarding the use of such credentials.

Rationale: Individuals with disabilities who are quite capable of performing jobs often have difficulty with showing what they know on written and other credential assessments. To meet the Secretary's goal of expanding approaches to learning, "including those that allow students to more easily demonstrate their knowledge and skills" it is important to identify and address barriers to learning and credential assessment for individuals with disabilities. This is especially true for individuals with intellectual disabilities who face barriers to participation in apprenticeships and in receiving certain employment services, due to challenges in obtaining a "recognized postsecondary credential" as defined in the Workforce Innovation and Opportunity Act (WIOA), although these individuals are achieving success in obtaining a postsecondary education credential offered by a Comprehensive Transition and Postsecondary Program (CTP) as defined in the Higher Education Opportunity Act, and obtaining employment. In addition, it is important that this priority address opportunities to earn a credential using supported employment and customized employment as defined in the WIOA.

Proposed Priority 5 – Meeting the Unique Needs of Students and Children, including those with Disabilities and/or with Unique Gifts and Talents

Comment: CCD appreciates the attention that students with disabilities are given in this priority. We are especially pleased by the following statement: "In particular, the Department is committed to ensuring that students with disabilities have equal access to a high-quality education, consistent with applicable requirements in Federal and State law, are held to high standards, and are prepared to lead productive, independent lives." This is consistent with 20.U.S.C. 1401(3).

- Amend the opening sentence for the priority areas by adding the following words (in **bold**). Projects that are designed to address one or more of the following priority areas **and incorporate the principles of Universal Design for Learning:**

Rationale:

Universal Design for Learning is a critical component for a priority that is designed to meet the unique needs of students and children, including those with disabilities and/or with unique gifts and talents. See the discussion of Universal Design for Learning in our rationale under Priority 3 as well as its definition in federal law.

- Amend priority area (a) by adding the following words (in **bold**) and deleting the words that are struck through.
(a) Ensuring students with disabilities are ~~offered the opportunity to meet challenging objectives~~ instructed **on the challenging academic content standards for the grade in which they are enrolled** and receive an educational program that is both meaningful and appropriately ambitious in light of each student's circumstances by improving ~~all one or more~~ of the following:

- (i) Academic outcomes.
- (ii) Functional outcomes.
- (iii) Development of skills leading to competitive integrated employment or independent living.
- (iv) Social or emotional development.

Rationale: In priority area (a) ED is quoting from the decision in *Andrew F. v. Douglas County School District*, which we are pleased to see. However, it is also important to use the language in ESSA and its implementing regulations, which state that “challenging objectives” for students with disabilities (and every other student) are the challenging state academic content standards for the grade in which they are enrolled.” In order for ED to fulfill its commitment to “to ensuring that students with disabilities have equal access to a high-quality education, consistent with applicable requirements in Federal and State law, are held to high standards, and are prepared to lead productive, independent lives, it is necessary for any grant under this priority to simultaneously work on multiple goals.. Therefore, a grant should not address functional outcomes in the absence of academic outcomes, or the other critical skills mentioned under (a). All the goals must be met as part of implementing the general education curriculum for the grade in which the students are enrolled, using the services, supports and accommodations etc. that are written into the students Individualized Education Program (IEP) and all other requirements under IDEA, ESSA and the Workforce Innovation and Opportunity Act (WIOA).

- Amend the priority area (b) by adding the following words (in **bold**).
(b) Ensuring coursework, books, or other materials **and technology**, are accessible, **consistent with the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act, the Rehabilitation Act, the Communication Act, and the Web Content Accessibility Guidelines (WCAG2 AA)**, to students who are children with disabilities and/or individuals with disabilities under Section 504.

Rationale: Technology should be specifically mentioned since it is often used to deliver instructional content. Also, it is important to reference all the statutes that impact the accessibility of instructional materials, including technology, in this priority area.

- **Add a new (d):** Ensuring that students with disabilities have access to fully prepared and profession-ready teachers who can deliver evidence-based instructional strategies.

Rationale: For students with disabilities to achieve positive academic outcomes and be prepared for post-secondary opportunities as well as good citizenship, they must have access to educators who are skilled in evidence-based strategies which will yield the results we all seek.

Proposed Priority 6—Promoting Science, Technology, Engineering, and Math (STEM) Education, With a Particular Focus on Computer Science.

- Amend the background information to add the following language (in **bold**).
...Technology used for educational purposes must be accessible to students who are children with disabilities and/or individuals with disabilities, consistent with the requirements of the **Individuals with Disabilities Education Act**, Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. **Accessibility provides options for representing, expressing and**

engaging with instructional materials, and is essential for some learners and provides options for all others. The provision of assistive technology devices and services is also integral to the education of children with disabilities under the IDEA. Technology can enable adult learners to fit courses into their work schedule or to learn and earn new credentials that prepare them to further their careers regardless of where they live.

Rationale: The IDEA should be mentioned with respect to the broader issue of accessibility, since it is not limited to assistive technology. Also, accessibility is more than physical access to the materials. Therefore, the reference to “options for representing, expressing and engaging with instructional materials” is important.

- Amend the opening sentence for the priority to add the following language (in **bold**):

Projects designed to improve student achievement in science, technology, engineering, math and computer science, or other educational outcomes, **including through the incorporation of the principles of Universal Design for Learning**, and are designed to address one or more of the following priority areas:

Rationale: Universal Design for Learning is critically important for improving achievement for all students in every academic area, including STEM. There have been studies specifically on the benefits of Universal Design for Learning for STEM education for all students (for an example see <http://journals.sagepub.com/doi/abs/10.1177/004005991304500401?journalCode=tctxa>). In the background section of this priority Ed’s 2017 National Educational Technology Plan is discussed. There are numerous references to Universal Design for Learning throughout ED’s plan.

- Amend priority area (d) by adding the following language (in **bold**).

(d) Expanding access to and participation in rigorous computer science (as defined in this notice) coursework for traditionally underrepresented students such as racial or ethnic minorities, women, **students with disabilities**, or students in communities served by rural local educational agencies (as defined in this notice).

Rationale: As noted in the study referenced above, very few students with disabilities pursue STEM careers. Therefore, it is important to add them to the list of traditionally underrepresented students.

Priority 7—Promoting Literacy

- Amend the introductory sentence as follows (in **bold**). Projects that are designed to **incorporate comprehensive literacy instruction (as defined by Section 2221(B)(1) of the Every Student Succeeds Act (ESSA))**.

Rationale: This aligns the priority with language in the Every Student Succeeds Act (ESSA) referencing the definition of “comprehensive literacy instruction” (Section 2221(B)(1)). We believe this change will better support the Secretary’s goals of improving all students’ literacy skills, including students with disabilities, resulting in stronger academic achievement and preparation for employment, responsible citizenship and fulfilling lives.

- Modify (a) and (d) as follows (in **bold**).

“(a) Promoting literacy interventions supported by strong evidence (as defined in 34 CFR 77.1) **that increase the literacy skills of struggling students from birth to grade 12, including those who struggle with reading due to a disability, including through the use of comprehensive literacy instruction (as defined by Section 2221(B)(1) of ESSA and** by supporting educators with the knowledge, skills, professional development...”

(d) Integrating **comprehensive** literacy instruction **(as defined by Section 2221(B)(1) of ESSA)** into content-area teaching...”

Rationale: We appreciate the focus on integrating literacy instruction into content-area teaching as well as the emphasis on teacher training and professional development to equip them with the knowledge, skills, and data literacy they need to effectively provide literacy instruction to students. However, there must be alignment between this priority and the Literacy Education for All, Results for the Nation (LEARN) grant program authorized under ESSA, which uses the term “comprehensive literacy instruction.” Comprehensive literacy instruction includes several important components such as: developmentally and age-appropriate, contextually explicit, and systematic instruction; instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension; and differentiated instructional approaches. Comprehensive literacy instruction is critical to the success of students with disabilities, especially those students who struggle with reading due to their disability. The National Center on Improving Literacy has been established to increase access to and support the use of these evidence-based approaches instructing students with literacy-related disabilities and can be a critical resource in ensuring that comprehensive literacy instruction is increasingly used in schools.

Proposed Priority 8 – Promoting Effective Instruction in Classrooms and Schools

- Amend priority (f) by adding the following language (in **bold**):

(f) Increasing the opportunities for high-quality preparation of, or professional development for, teachers or other educators of **literacy**, science, technology, engineering, and math subjects, **as well as special educators, which incorporates the principles of Universal Design for Learning.**

Rationale: Literacy instruction is necessary for learning any subject area, including STEM education, and should be included in this priority area. Knowledge about how to implement the intentional, proactive design principles within Universal Design for Learning to improve student achievement in all subject areas, including literacy, science, technology, engineering, and math, is essential to ensure effective instruction for all students. Universal Design for Learning is included in ESSA and the Higher Education Opportunity Act. In addition, other innovative practices (such as competency based learning, personalized learning, multi-tier system of supports, etc.), which are addressed in ESSA, as well as in most states plans to implement ESSA, rely on proper implementation of Universal Design for Learning.

- Add a new (g) as follows (in **bold**): **Developing innovative high quality robust preparation programs to address the critical special education teacher shortage, such as high school teaching academies (<https://www.educatorsrising.org/what-we-offer/overview>) one year pre-service residencies, paths for paraprofessionals to become special education teachers and dual enrollment programs.**

Rationale: There are proven strategies to expand the pool of fully prepared special educators. Many high schools, particularly in diverse communities, have developed high school academies which support high school students in preparing for a career as a teacher. Some university special education preparation programs partner with high schools to offer dual enrollment and early college credit for high school students who want to be special educators – particularly in high need areas such as rural areas. One-year pre-service residency programs are a well-established strategy for preparing teachers who are ready on day one and fully engaged in the communities where they will teach prior to assuming their role as a teacher. Supporting paraprofessionals, who may be from the communities where high need schools are located, so that they can become special education teachers is another effective approach. Teachers prepared with these robust strategies are also more likely to stay in the field longer than those who become special educators without full preparation.

Priority 9—Promoting Economic Opportunity

- Amend priority (c) by adding the following language (in **bold**): “(c) Creating or supporting alternative **meaningful and rigorous** paths to a regular high school diploma”

Rationale: While we recognize that not all students follow the same educational path to a regular high school diploma or to the workforce, we caution against setting different standards or alternative pathways for certain groups of students. Historically, students with disabilities have been placed on different trajectories than their peers without disabilities, often held to lower standards and not given the opportunity to graduate with the rigorous credentials needed to pursue meaningful work, college or career opportunities.

Priority 10—Encouraging Improved School Climate and Safer and More Respectful Interactions in a Positive and Safe Educational Environments

- Amend the background information by adding the following language (in **bold**): ...Additionally, victimization rates have greatly declined between 1992 and 2015, falling from 181 per 1,000 students to 33 per 1,000 students. Thus, schools are becoming physically and emotionally safer for students; however, **schools continue to report use or discipline practices that disproportionately impact children or students with high needsⁱⁱⁱ, including students with disabilities and students of color and** more needs to be done to stop bullying, **harassment and the use of aversive behavioral interventions that compromise student health and safety such as seclusion and restraint** and ensure that every child **is treated with dignity and respect so they** can learn in a safe environment.

Rationale: Given the requirement of ESSA Sec. 1111(g)(1)(C) that states are required to indicate in their state plan how they will support districts to improve school conditions for student learning, including through reducing incidences of bullying and harassment; the overuse of discipline practices that remove students from the classroom; and the use of aversive behavioral interventions that compromise student health and safety, the background provided and subsequent projects must reflect what school-reported data tell us – that students with disabilities are disproportionately impacted by schools’ use of harsh disciplinary practices, including seclusion and restraint. To further emphasize this point and the agreement that exists in Congress that more must be done to support students, the Bi-Partisan Conference Report of the Every Student Succeeds Act stated: “It is the Conferees’ intent that each State describes

how it will support local educational agencies and schools by providing resources and guidance, professional development, and technical assistance to reduce techniques, strategies, interventions, and policies that compromise the health and safety of students, such as seclusion and restraint.” (See: page 451 <https://www.congress.gov/114/crpt/hrpt354/CRPT-114hrpt354.pdf>). We urge ED to appropriately acknowledge the problem, fund discretionary grant programs that seek to improve the situation and fully include students with disabilities as children or students with high needs in this priority.

- Amend priority (a) by adding the following language (in **bold**): (a) Creating positive and safe learning environments **that support the needs of all students, including students with disabilities, and effectively address and prevent the disproportionate discipline of students of color and students with disabilities**, including by providing school personnel with effective strategies **that include frameworks such as positive behavioral interventions and supports (PBIS) developed within a comprehensive, professionally-developed plan of behavioral accommodations, supports, and interventions.**

Rationale: See above.

Thank you for considering CCD’s comments. We urge you to make these recommended changes to more fully address the needs of students with disabilities within the priorities and would welcome working with you to accomplish this goal.

Sincerely,

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ⁱ Almazan, S., Marshall, D. (2016). School Vouchers and Students with Disabilities: Examining Impact in the Name of Choice, Council of Parent Attorneys and Advocates.

ⁱⁱ Title I—Improving the Academic Achievement of the Disadvantaged— Academic Assessments, U.S. Department of Education (2106) at: <https://www.gpo.gov/fdsys/pkg/FR-2016-12-08/pdf/2016-29128.pdf>

ⁱⁱⁱ Students with disabilities are more than twice as likely to receive an out-of-school suspension (13%) than students without disabilities (6%). More than one out of four boys of color with disabilities — and nearly one in five girls of color with disabilities — receives an out-of-school suspension. See: Rethinking School Discipline 101, U.S. Department of Education, retrieved at: <https://www2.ed.gov/policy/gen/guid/school-discipline/files/rethinking-school-discipline-101-why-it-matters-transcript.pdf>