



May 18, 2020

Governor Jay Inslee  
State of Washington Office of the Governor  
P.O. Box 40002  
Olympia, WA 98504-0002

Superintendent Chris Reykdal  
Assistant Superintendent Glenna Gallo  
Office of Superintendent of Public Instruction  
Old Capitol Building  
P.O. Box 47200  
Olympia, WA 98504-7200

*By United States First Class Mail*

**RE: Protecting Students with Disabilities, of Color, English Learners, and Other Marginalized Students during COVID-19 School Closures**

Dear Governor Inslee, Superintendent Reykdal, Assistant Superintendent Gallo,

We write to follow-up on our March 19, 2020 letter. As a network of legal advocates across Washington, we remain concerned about the disparate impact and potential non-compensable harm to our marginalized students during the Coronavirus Disease 2019 (COVID-19) school facility closures. Many of our clients who are students and families of color and/or have disabilities, or are otherwise marginalized, report experiencing significant barriers to receiving educational and related services during the pandemic.

For example, some students with disabilities and their families who need related services in order to have access to their education, such as nursing services or behavioral support services, have been unable to obtain these services. Other students, who are low-income, are unable to meaningfully participate in online schooling programs because they lack access to the internet, needed technology, and/or their parents are unable to spend time with them at home to assist them due their parents' work schedules. Some parents lack access to remote learning instructions in their language. Likewise, some parents struggle with the influx of technology, including assistive technology, and unique school-based accommodation provision, and need additional strategies and support to meet the critical, complex needs of their students at home. Parents with disabilities also do not always receive accessible school communications. For example, recently a father who was blind did not receive accessible information in order for his son to be able to participate in school activities. These are just some of the many problems that students and their families are experiencing in obtaining their educational and related services.

Without the needed supports and services in place, it is highly likely that students—particularly those who are marginalized—will continue to struggle to get their crucially needed educational services. Given the Office of Superintendent of Public Instruction’s (OSPI) authority to take a robust role in leadership and accountability with respect to Washington’s education system, there are a number of steps that OSPI can take to most equitably ensure ongoing learning for all students. As discussed below, these possible steps include: 1) developing a plan with input from community stakeholders to spend federal stimulus money for public education; 2) consideration of the impact of waivers of federal and state educational legal requirements on students with disabilities; 3) maintaining special education individualized education plans during the pandemic, during remote learning; 4) assuring the provision of robust technical assistance to families and educators to assure accessibility of learning readiness strategies, technology, accommodation provision and specially-designed instruction; 5) identification of students at greatest risk of regression or destabilization and scaffold<sup>1</sup> enhanced supports; 6) elimination of punitive practices that make school difficult for marginalized students; and 7) provision of meaningful, culturally relevant, and linguistically accessible communication with students and their families.

#### *A. Plan for Using Federal Stimulus Funds with Stakeholder Input*

OSPI can ensure the appropriate provision of needed educational and related services for all students during, and after the pandemic, by ensuring that its use of funds appropriated under the federal Coronavirus Aid, Relief and Economic Security (CARES) Act<sup>2</sup> is equitable and effective. Specifically, OSPI can do so by developing and implementing a transparent plan, with accountability, and broadly diverse stakeholder input, that specifically addresses reduction of educational inequities of marginalized students.<sup>3</sup> Additionally, rather than using stimulus funds to meet existing educational costs, OSPI can guide districts to plan and report how their stimulus monies will supplement education funding to meet COVID-19 expenses for marginalized students. Some important possible components of such a plan include:

- Development of robust remote learning platforms that include professional development and ongoing technical assistance, recognizing enhanced technical assistance will be needed for marginalized student populations;
- Development and implementation of culturally, linguistically and disability accessible platforms that factor special access consideration for McKinney-Vento,<sup>4</sup> youth in foster

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<sup>1</sup> Scaffolding is a term used in education to bolster foundational supports for students in learning.

<sup>2</sup> Pub. L. No. 116-136 §§ 18001, 18002, 18003, 18004, 18005 (2020).

<https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>. (Last visited April 27, 2020.) See also Dept. of Ed. Office of Elementary and Secondary Education. Education Stabilization Fund, available at <https://oese.ed.gov/offices/education-stabilization-fund/>, (last visited April 27, 2020).

<sup>3</sup> Marginalized students include those with disabilities; of color; whose families are homeless; in the foster care system; of refugees or other immigrant families; who are LGBTQ, in the juvenile justice system; of color; who are English language learners; with parents who are at increased risk of domestic violence; or other abuse under current quarantine conditions; and students who fit under more than one of these categories or are marginalized for other reasons.

<sup>4</sup> 42 U.S.C. §11431-11435 (2015); WAC 392-172-A-02085 (2007); RCW 28A.155.090 (7) (2007).

care, and youth eligible for services under Section 504 of the Rehabilitation Act of 1973 (Section 504)<sup>5</sup>, the Individuals with Disabilities Education Act (IDEA)<sup>6</sup>, and Title II of the Americans with Disabilities Act (Title II)<sup>7</sup>, and their respective implementing regulations or other nondiscrimination protections;<sup>8</sup>

- Adoption of short and long-term solutions to bridge the technology gap, for rural areas and for families who have limited or no access to technology;
- Provision of time and professional development dollars to collaborate with community-based organizations that can bolster supports for marginalized populations;
- Professional development for district and school leadership on effective strategies, such as use of trauma-informed and social-emotional learning support, Wraparound with Intensive Services (WISE),<sup>9</sup> and other mental health supports for students to reduce education inequities for marginalized students during and after COVID-19;
- Funding for robust extended school year programs, possibly extended in duration, to address regression and recoupment that is individually tailored for students so they are ready to learn when school resumes;
- Funding for individually-tailored compensatory education that will be needed when school resumes;
- Funding for continuous learning plans for marginalized students during COVID-19 school facility closures;
- Funding for backlog of individualized education (IEP) and 504 plans with performance level assessment of students when school resumes; and
- Planning for funding for needed behavior plans modifications, and functional behavioral assessments that are needed now and when school returns.

*B. Impact of Waiving of Federal or State Education and Discrimination Laws or Rules*

OSPI can also ensure the equitable provision of educational and related services during, and following, the pandemic, by refraining from requesting or supporting waivers of rights for students with disabilities under the IDEA, Section 504, and Title II.

We understand that with COVID-19 school closures, educators and unions have expressed concern about whether they can feasibly meet the demands of laws, and therefore have petitioned Washington's congressional delegation for waivers of federal laws to assure compliance. However, formally changing or waiving core protections of our education laws, specifically the rights established under IDEA, Section 504, and Title II, is unnecessary and will likely harm students and their families, particularly those children who are from low-income and

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<sup>5</sup> 29 U.S.C. §701 (2014); 34 C.F.R. §§104.1-104.31 (2008).

<sup>6</sup> 20 U.S.C. §§1400-1482 (2004); 34 C.F.R. §§300.1-300.818 (2004).

<sup>7</sup> 42 U.S.C. §§12101-12213 (2008); C.F.R. §§35.101-35.190 (2008).

<sup>8</sup> See e.g., RCW 28A.642 (2014); WAC 392-190-007 (2014).

<sup>9</sup> Wash. State Health Care Authority. Healthcare Services and Supports: Wraparound with Intensive Services (2020), available at <https://www.hca.wa.gov/health-care-services-supports/behavioral-health-recovery/wraparound-intensive-services-wise>. (Last visited May 1, 2020).

traditionally underserved communities and those with disabilities. The need of students to receive promised services are more important than the desire of adults to avoid non-compliance with state and federal laws. While we understand the need for some flexibility, there is no need to erode the principled statutory dictates and legal foundation of our valued education system in Washington. This is particularly true given that the IDEA allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how a Free Appropriate Public Education (FAPE) is to be provided may need to be different in this time of unprecedented national emergency and may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students. Where, due to the global pandemic and resulting closures of schools, there has been an inevitable delay in providing services – or even making decisions about how to provide services - IEP teams (as noted in the March 12, 2020 guidance<sup>10</sup>) must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations. Thus, in order to avoid further marginalization of students with disabilities, it is important to underscore the duties of LEAs to: 1) fulfill the intent of the law and uphold student rights and protections; 2) work with families to adjust agreed-upon timelines; and 3) allow a grace period for some fiscal or administrative requirements in some instances during this unprecedented time.

The United States Department of Education’s (DOE) April 27, 2020 letter to Congress<sup>11</sup>, which supports protecting valued rights under the IDEA, sets forth factors that schools, districts, and states should consider in determining what, if any, waivers should be sought during the pandemic. These factors include: 1) the health and safety of America’s students, teachers, parents and administrators is top priority; 2) ensuring that learning continue for all students; 3) ensuring that decision-making is based on what is best for students, not the “system;” 4) parents must be informed about the impact waivers will have on their children’s education and consent to those changes; and 5) services typically or historically provided in person must naturally occur differently.<sup>12</sup> Of course, these factors are also relevant to OSPI’s consideration of any potential waiver requests.

OSPI also has the authority to use waivers to reduce the enormous strains on students and their families, rather than impairing their rights. This could involve tolling time limits on education access, and complaint and dispute resolution deadlines for the duration of the pandemic including:

- Suspension all timelines for filing a special education complaint and toll the statute of limitations for such actions;

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<sup>10</sup>See “Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease2019 Outbreak, U.S. DOE (March 2020); available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf> (last visited May 14, 2020).

<sup>11</sup> Pub. L. No. 116-136. §3511 (d)(4) March 27, 2020, available at <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf> (last visited April 27, 2020.)

<sup>12</sup> *Id.*

- Extension of age maximums for IDEA Part C (early intervention services for children aged zero to three) until a Part B (services covering ages 3-21) evaluation may be completed, an eligibility determination made, and a student may begin Part B services. Without such an extension, a toddler could, upon turning three-years-old, lose access to critically-needed services;<sup>13</sup> and
- Extension of the age maximum for special education services by the same length of time that any services or FAPE were not available due to the COVID-19 pandemic. Without this extension, transition-aged students (aged 18-21) may be forced out of transition programs before completing vocational placement program requirements.<sup>14</sup>

### C. *Maintain Individualized Education Plans under the IDEA during Remote Learning*

OSPI can also ensure the adequacy of education services during, and after the pandemic, by clarifying that temporary changes to delivery of services in IEPs during COVID-19 school closures do not amend IEPs. Maintaining current IEPs during this time is important for several reasons. First, IEPs capture a student’s current level of performance. This snapshot provides an important baseline of services needed to meet FAPE<sup>15</sup> requirements at the time schools closed. This information will serve as the starting measurement to gauge a student’s regression during closure and provide a path to recoup those skills.

Second, families will look to the IEP to document needed services that school districts are unable to provide during the school closure period during COVID-19. As Superintendent Reykdal has noted, services in the IEP that school districts are unable to provide during time of school closures will comprise the basis of compensatory education<sup>16</sup> claims.<sup>17</sup> If students agree to lesser services during school closures, they risk losing their claims for compensatory education when school resumes and consequently risk suffering irreparable harm.

Third, if families formally agree to reduce IEP services during school closures and later wish to revert to services offered in the original IEP once schools re-open, they may face resistance from schools and districts to restore those services. Finally, there is a risk school districts will view a change to an IEP to reflect at-home services to constitute a change in placement for students, whereupon reopening schools could trigger the stay-put during pendency of review<sup>18</sup> provision under IDEA, meaning some students would be forced to stay at home not be allowed to return to school with their peers.

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<sup>13</sup> See e.g. 20 U.S.C. §1412 (a)(9) (2004); 20 U.S.C. §1437 (a)(9)(A)(ii)(II); U.S.C.; RCW 28A.266.090(7); WAC 392-172A-02080.

<sup>14</sup> See e.g. 42 U.S.C. 1400; 34 C.F.R. 300; RCW 28A.155.090; WAC 392-172A-02000(2)(c)

<sup>15</sup> See e.g.; 20 U.S.C. §1412(a)(1)(A) and 20 U.S.C. 1401(9).

<sup>16</sup> Compensatory education is a remedy designed to “provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place.” *Reid v. District of Columbia* 401. F. 3d 516, 524 (D.C. Cir. 2005). Compensatory education is an equitable remedy. *Id.* 524.

<sup>17</sup> WAOSPI YouTube. Supt. Reykdal Addresses Grading and Supports for Students with Disabilities During School Closures.

<sup>18</sup> 20 U.S.C. §1415(j). “During the pendency of any proceedings ... the child shall remain in the then-current educational placement of the child....”

We agree that it is critical to get supports and remote learning plans to students quickly, and we appreciate the guidance OSPI has provided to this end. Likewise, we appreciate OSPI's encouragement of continued instructional supports for students with disabilities where possible, and where the provision of such supports is not possible, the documentation of such for purposes of compensatory education. Convening of remote IEP multidisciplinary teams and/or 504 teams with family members, guardians and students to implement continuous learning plans, with interim goals, will go a long way toward supporting students given the constraints of COVID-19 school facility closures. However, for the reasons discussed above, it is critically important to clarify that these plans should not amend the student's exiting IEP/504 plans during closures due to the pandemic.

*D. Provision of Robust Technical Assistance to Families and Educators to Assure Accessibility of Learning Readiness Strategies, Technology, Accommodation Provision and Specially-Designed Instruction*

Building a technical assistance and technology platform to support LEAs in innovatively engaging families during this time is a critical role that can be uniquely filled by OSPI. Specifically, OSPI can support districts to build strong technological platforms on a foundation of universal design for learning<sup>19</sup>, with strong assistive technology for students who depend on these supports. For example, OSPI can assist districts in ensuring that remote education is equally available to all students by:

- Making technology and internet service (including computers and access to high-speed internet) available for each student, and providing that technology and access with universal design where it is not.<sup>20</sup>
- Providing students with disabilities with assistive technology (AT) the student needs to ensure that the student's curriculum is accessible and that he or she has equal access to the district's educational programs, services, and activities and provide parents with needed assistance and training to set up, and help their child use AT.
- Providing reasonable modifications the curriculum for students with disabilities in order to make the curriculum accessible.
- Ensuring that remote learning materials are accessible to and useable by assistive technology, and that all online content meets Web Content Accessibility Guidelines (WCAG) 2.0 Levels AA standards.<sup>21</sup>

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<sup>19</sup> See About Universal Design for Learning, available at <http://www.cast.org/our-work/about-udl.html#.XqYlOmhKiUk> (last visited April 26, 2020) and The 7 Principles of Universal Design, available at <http://universaldesign.ie/What-is-Universal-Design/The-7-Principles/> (last visited April 26, 2020).

<sup>20</sup> Access to technology is particularly important for low-income students, who are more likely to be identified for special education services compared to their peers. See Laura Schifter, *et al.*, Students from Low-Income Families and Special Education, The Century Foundation, (January 17, 2019), available at <https://tcf.org/content/report/students-low-income-families-special-education/?agreed=1>, figure 3.

<sup>21</sup> 28 C.F.R. §§ 35.160. For more information on how to comply with WCAG 2.0 AA, consult the following guide: [https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=%23col\\_customize&versions=2.0](https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=%23col_customize&versions=2.0)

- Providing plain language (English written at a fourth grade reading level or below) and native language (content in the parent/guardian’s native language) materials for all information from the school to families, including information about: technology and how to access technology and internet; services (such as meals during school closures); access to IEP teams; and who to contact with questions or concerns.

*E. Identify Students at Greatest Risk of Regression or Destabilization and Scaffold Enhanced Supports*

We also remain concerned for students who need services and supports provided through schools. Many students are at great risk of regression and/or destabilization as result of the school closures, which could in turn result in further disengagement, more restrictive placement, or hospitalization or other institutionalization.

As OSPI has recognized, Washington has an obligation to ensure that students with disabilities receive a FAPE, including through specialized services as required by IEPs or 504 plans, and this obligation is not suspended during the COVID-19 pandemic.<sup>22</sup> OSPI’s support for schools and districts in meeting these obligations during the pandemic is critical. Such support may include advising schools on how to provide as much IEP and 504 services as possible during school closures (*e.g.*, one-on-one support and curricular modifications, speech and language therapy, mental health services, sign language interpreters, and physical and occupational therapy).<sup>23</sup> OSPI can also assist schools and districts in providing a FAPE to students with disabilities by providing services *via* a combination of videoconferencing, training family members to provide or assist in providing these services, telephone calls, and worksheets and instructions.

OSPI can also help schools and districts to receive assistance from other agencies for resources and services to help to support students with disabilities. For example, for students with intellectual disabilities who receive home and community-based waiver supports through the Developmental Disabilities Administration, some families have reported being able to obtain additional personal care hours to assist with supervision and support of their students through an exception-to-rule process during COVID-19.

OSPI can also assist Districts to access resources for the provision of Medicaid-covered services even if the delivery of these services are through a modified format. Washington’s Health Care Authority (HCA) has announced that the Center for Medicare and Medicaid Services (CMS) has

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<sup>22</sup> DOE Questions and Answers March 2020, page 2. Also OSPI, Supporting Inclusionary Practices during School Facility Closure. P. 5. April 2020, available at <https://www.k12.wa.us/sites/default/files/public/specialed/inclusion/Supporting-IP-School-Facility-Closure.pdf>. (Last visited April 28, 2020).

<sup>23</sup> Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities. U.S. Dept. of Ed. Office for Civil Rights, Office of Special Education and Rehabilitative Services. March 21, 2020, available at <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf> (last visited April 26, 2020).

agreed to work with State to provide alternative ways to provide services that are not face-to-face typical telemedicine services. HCA is aware that usual and customary ways of providing and billing or reporting services may not be feasible. The HCA is working with providers to ensure billing and other policy requirements are in place to effectively bill for telehealth. This is critical for families who receive Medicaid-supported therapies interrupted by COVID-19, such as speech language therapies, physical and occupational therapy, behavioral health therapy, among others.<sup>24</sup>

Finally, OSPI can provide technical assistance to districts to overcome perceived barriers to FAPE. For instance, we have received reports that districts would not provide telehealth or instruction video services because of privacy concerns related to the Family Educational Rights and Privacy Act (FERPA) of 1974,<sup>1</sup> or the Health Insurance Portability and Accountability Act (HIPAA) of 1996,<sup>1</sup> or other district policies. These problems can be resolved using a platform where families could consent to video upon signing in, or obtaining releases ahead of time.

By addressing and mitigating these, and other, underlying issues that implicate learning during this time, students will be ready to avail themselves of school when it resumes.

#### *F. Punitive Practices Make School Difficult for Marginalized Students*

Other measures that OSPI can take to ensure equitable access to education during, and after the COVID-19 pandemic, include issuing guidance to LEAs on the elimination of punitive practices that make school more difficult for marginalized students during school facility closures including ending all suspensions and expulsions for the year that were occurring before, or concurrent with, school facility closures.<sup>25</sup> OSPI can also help schools and districts integrate previously suspended or expelled students back into their school and classroom learning plans so that they can learn alongside their peers in the online and remote program. Additionally, after school closures end, OSPI can provide guidance to LEAs to avoid suspension or expulsion of students based on behaviors that occurred during school closures, and students should not be prevented from returning to their regular educational setting or attending school with peers, due to behaviors that occurred during COVID-19 closures.<sup>26</sup> Lastly, OSPI can work with LEAs to avoid deviation from the suspension and protocols in place during school closures and to encourage LEAs to err on the side of affording additional protections to students who engage in rule infractions during this unprecedented time.

OSPI can also recommend that districts seek a dismissal of all pending truancy matters for the 2019/2020 school-year. Attendance for the rest of the school-year can be addressed by the teachers and staff reaching out through phone, video chat, and email to check on the well-being of students, inviting them to engage in learning, helping them troubleshoot technological challenges, and encouraging them to attempt learning opportunities.

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<sup>24</sup> Krieger G., Peters B., *et al.*, Apple Health ABA Policy, Billing and Service Amid COVID-19, Webinar Northwest Autism Center, Washington State Health Care Authority, Molina Healthcare. April 2020.

<sup>25</sup> See RCW 28A.600.015(1)-(4); WAC 392-400-430(8).

<sup>26</sup> WAC 392-400-430 (8).

Finally, OSPI can encourage schools to adopt new strategies to bolster the use of Tier 2 and 3 level Positive Behavioral Interventions and Supports (PBIS), utilize evidence-based trauma-informed practices to respond to students in lieu of discipline, and find meaningful ways to connect and engage youth and families.

*G. Facilitation of Meaningful, Culturally Relevant, and Linguistically Accessible Communication by Schools and Districts with Students and their Families.*

Clear, culturally relevant, and linguistically accessible communication between schools and/or districts, with students and families, while always essential, is of particular importance during the pandemic. In spite of the need for such communication, students and their families report that this communication has been lacking. For example, some families of students with disabilities have had little or no communication from special education teachers and no communication from general education teachers. This practice can restrict access to the least restrictive environment and most integrated setting, because students are not included in remote learning activities with their non-disabled peers. Others, living in poverty in remote areas and for whom English is not their primary language, have reported being unable to access their educational services in a meaningful way, in part due to lack of sufficient communication with their schools and districts. Organizations that work with farm workers have reported that students may not be in school but out in the fields working with families. This extra burden may be compounded by cramped living conditions and failure to extend social distancing precautions to this population. Students of these essential workers are at great risk for exposure to COVID-19 and are less likely to have access to technology or needed supports needed for learning readiness and education.

Language access services vary by district, but what is known is that at least 180 languages are spoken by families of students in Washington schools. Some districts are sending district-level and some school-specific communications translated into a few languages. However, information from an individual teacher or class is less likely to be translated and many districts are relying on Google Translate to translate district and school website content, resulting in translations that may be seriously inaccurate and/ or unintelligible. This means that students in LEP families will have significant barriers to participating in distance learning requirements and may have a disproportionate rate of non-completion of the school year, without immediate action by OSPI.

On March 16, 2020, the U.S. Department of Education, Office of Civil Rights, issued a fact sheet on, “Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students,” in which the Department provided the following guidance:

When school officials provide information to students, parents, and the community about any aspect of coronavirus or actions the schools are taking in response to coronavirus, they generally need to provide meaningful access to such information to English learner students and adults with limited English proficiency. School officials also must ensure equally effective

communications with persons with disabilities (such as persons who are deaf, deaf-blind, or blind). Thus, the information and materials must be provided, as appropriate, in alternate formats to facilitate effective communication for individuals with disabilities.

We appreciate OSPI's March 23, 2020 guidance document reminding schools that language services and translations are critical to family engagement and ultimately, to student success. Engaging families necessarily involves providing information in the language spoken at home. However, this is only the first step. Monitoring and enforcement is needed to ensure these services are being provided. To ensure students and families have meaningful and equal access to our schools at this time, OSPI can take actions such as:

- Monitoring and documenting language assistance services usage in all schools.
- Initiating enforcement actions where required.
- Gathering data on language assistance services and reporting how every district is communicating with all families.
- Providing resources to districts and teachers to allow them to communicate with all families.

OSPI can also assist schools and districts in addressing these problems by encouraging them to create and implement communication plans including daily COVID-19 routine or schedules to give parents basic supports to enhance the communication between student-school-family in a way that re-engages all in meaningful strategies for school readiness for the student. Communication plans could include the following components:

- Translate notice of school closures in the top 15 languages in the district.
- Translate notice of all District-wide communications in top 15 languages in the district.
- Translate school-wide communications in all languages spoken by families in the school.
- Create a telephone hotline and provide interpreter services or audio recordings in all languages spoken at home by families of the individual school so that families can seek out information if not provided to them in the language spoken at home.
- Provide access to communications coming from teachers to parents and guardians – this could be done directly in a shared language, in translated form, or through telephonic interpreter services.
- Provide information, in language, about the process for students to participate in distance learning and provide language-specific support services to ensure access.
- Translate all information about availability of resources to support families and students during the school closure, including information about access to resources such as laptops, Wi-Fi, school lunches, etc. in all languages spoken at home by families in the specific school. In the alternative, provide this information in audio format or through telephone interpreter services connecting with each LEP family.

- Ensure that LEP or deaf parents / guardians with students in special education have access to interpreter services for any communication involving their student’s special education services.
- Train staff on the requirement to use interpreters and provide translations with LEP families, unless they share a language, and how to access these resources.

OSPI can also support schools and districts by providing resources to schools, such as statewide telephonic interpreter services and translations. OSPI can also support schools and districts to improve communication with students and families by identifying, and working with, community-based organizations to reach students who may fall through the cracks during the school closures due to the pandemic and develop resources specific to students in these families to ensure they are not left out of the state’s response to this pandemic. These are just some of the many ways that OSPI can help districts and schools improve communications with students and their families during COVID-19 to ensure that students are receiving the educational services that they need.

## II. CONCLUSION

As this tiny, world-stopping virus transforms the way we deliver educational services, we want to work with you to address these issues for our marginalized students. We request that OSPI meet with us to discuss our concerns and develop a plan for Washington’s utilization of funds appropriated under the CARES Act. We are available Thurs. May 28 from 2:30 – 3:30 pm; Fri. May 29, 11:30 am -12:30 pm; and/or Fri. June 3 11 am – 12:00 pm to discuss by Zoom meeting. You can reach us to schedule a meeting by contacting Ms. Kadlec at Disability Rights Washington at [AndreaK@dr-wa.org](mailto:AndreaK@dr-wa.org) or (206) 324-1521, ext. 241. We look forward to hearing from you soon.

Sincerely,



Andrea Kadlec, Attorney  
Disability Rights Washington

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/s/

Deborah A. Dorfman, Managing Attorney  
Northwest Justice Project

\_\_\_\_\_  
/s/

Karen Pillar, Managing Attorney  
Team Child

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/s/

Erin Lovell, Executive Director  
Legal Counsel for Youth and Children

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/s/

Michele Storms, Executive Director  
American Civil Liberties Union of  
Washington

ORGANIZATIONAL SUPPORT

Alliance of People with Disabilities  
Arc of Washington  
Arc of Grays Harbor  
Arc of King County  
Arc of the Peninsulas  
Arc of Spokane  
Attorneys for Education Rights  
Countermark Law, PLLC

Developmental Disabilities Council of WA  
Disability Action Center Northwest  
Equity in Education Coalition  
The Mockingbird Society  
Northwest Health Law Advocates  
Office of Developmental Disabilities  
Ombuds  
Open Doors for Multicultural Families  
Roots of Inclusion  
Washington Autism Alliance & Advocacy  
What is Kale Art Project

CC: Mark Stroh, Disability Rights Washington Executive Director  
Representative Lillian Ortiz-Self, Co-Chair, Equal Opportunity Gap Oversight and  
Accountability Committee (EOGOAC) of the Washington State Legislature  
Fiasili Savusa, Co-Chair, EOGOAC  
Carrie Basas, Director, Office of the Education Ombuds  
Michaela Miller, Deputy Superintendent, OSPI  
Dierk Meierbachtol, Chief Legal Officer, OSPI, Equity in Civil Rights  
Maddy Thompson, Senior Policy Advisor K-12 and Postsecondary Education, Office of  
Governor Inslee  
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Gail Krieger, HCA Section Manager  
John Wiesman, Secretary of Health, Department of Health  
Randy Spaulding, Executive Director, Washington State Board of Education

