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RE: Docket #-2020-OSERS-0191-0001

COMMENTS FROM AGUDATH ISRAEL OF AMERICA ON PROPOSED IDEA GUIDANCE

Agudath Israel of America's Special Education Affairs Division (Project LEARN) was founded in 2001 as a resource for schools, families and educators to address the needs of individuals with special needs in the Orthodox Jewish Community. Project LEARN has been instrumental in accessing services as well as in creating professionally run programs and schools in the community. We have also advocated for government and private funding to make it possible for students to be educated within their local and neighborhood schools. We work on achieving fair legislation and pragmatic application of laws at the ground level, where it matters most, as well as for the overall issue of appropriate service delivery to our most vulnerable students.

We value the opportunity to comment on the Q&A regarding the Child Find process:

1. As a general comment, we note that as the overall acceptance of individuals with disabilities in education has improved since the last reauthorization, limiting the opportunities of students in nonpublic schools just because their parents chose those schools for their children, is not acceptable.
2. At first glance, the way the Child Find process is addressed in this document looks helpful. However, there is a lack of clarity when it comes to actual service provision that may lead to an eventual breakdown of service. Although the local education agency (LEA) is obligated to "identify, locate and evaluate," there is very little recourse for parents or advocates if the LEA does not follow through correctly.



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3. The district makes decisions on which services will be approved and how they will be delivered. This is problematic because the district does not have “hands on” knowledge of the students in nonpublic schools.
4. There are concerns with clarity throughout the overall process which contributes to a lack of services for students with disabilities in nonpublic schools.
5. One of these concerns is as follows: The responsibility to locate students with special needs is central to the Child Find process. Reading through the document, it is apparent that this responsibility is, for the most part, ignored. Locating and counting the number of students with disabilities generates very limited federal funding for Child Find. According to multiple studies, close to 14% of the population are individuals with special needs. But the much lower percentages of students evaluated in nonpublic schools testify to the lack of effort local and state education agencies are putting into locating the private school special needs student. The Child Find process, as currently applied, allows states that want to limit services to the nonpublic school community to do just that. I recommend that the FAQ include clear and concise definitions as to what each word means, practical instructions for how the process should be operating, and most of all, strong legal ramifications if not followed through effectively.
6. IDEA needs further clarification of “equitable services” as applied to nonpublic school students. Between two public schools, “equitable services” is seen to cover, in the second school, the same assistance, both as to quantity and quality of assistance, the student would have received in the first school. But should the child transfer to a nonpublic school, he or she will receive “equitable services” of the same *type* as he or she would have received in public schools but not of the same *quantity*, notwithstanding what the child’s IEP requires.
7. Individuals with disabilities in nonpublic schools should be given the same level of services and rights as their counterparts in public schools. We know that support services in school, be they public or private, are critical for the student with special



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needs. IDEA addresses this need for children in public schools. By not providing the same level of services in nonpublic schools, the government is creating an atmosphere that will stymie progress in overall acceptance of the special needs individual in the greater community.

8. As a significant percentage of students in the U.S. are in nonpublic schools, precisely what our country is working hard to accomplish – the acceptance of the special needs individual – is being derailed by the regrettable provision of IDEA that gives students in nonpublic schools limited services. Children with special needs who are forced to attend public schools to receive appropriate services, and have siblings attending nonpublic schools, feel marginalized by not being able to attend the same nonpublic institution as their siblings. We often see a breakdown in socially appropriate behaviors after such placements are made, as they disconnect from their community. The need for “individual entitlement” for students in nonpublic schools is obvious. If these students can remain in their community school, their development – socially and academically – will progress in a much more effective and timely way. In addition, delivering a “full menu” of services in private schools is much more cost effective for the public school system than forcing placement in the public school system. As the country has moved forward in this area, and acceptance of children with special needs is a national and communal goal, delivering the proper services to ALL students – attending both public and private schools – is the right thing to do.

Thank you for considering our views.

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