

April 27, 2020

*Sent via email to eric.davis@dpi.nc.gov*

Eric Davis, Chair

North Carolina State Board of Education

Dear Mr. Davis:

On behalf of students with disabilities and their families across our state, the undersigned attorneys write to you, the leader of North Carolina’s State educational agency (“SEA”), regarding North Carolina’s existing special education guidance for school districts and families during the current COVID-19-related school closures. We write to notify you of the current and ongoing violations of the Individuals with Disabilities Education Improvement Act (“IDEA”) due to the fundamental misalignment of the IDEA’s mandates under federal law and current special education guidance issued by the North Carolina Department of Public Instruction (“DPI”). Significantly, DPI’s establishment of a tiered analysis that differentiates between the rights afforded to students with disabilities depending on whether their local educational agency’s (“LEA’s”) remote instruction is deemed “Optional/Supplemental” or “Mandatory” does not comply with federal law or recent federal guidance, nor is it aligned with the North Carolina State Board of Education’s (“SBE’s”) guidance related to remote learning. This misalignment has harmed—and continues to harm—students with disabilities. As the SEA, the SBE is charged with ensuring that all students with disabilities in North Carolina are provided with a free appropriate public education.<sup>1</sup> The SBE is not meeting its legal obligations.

In this letter, we provide an overview of applicable federal law and guidance regarding special education services in times of crisis and then summarize the areas in which North Carolina’s current guidance diverges from federal requirements, thereby unlawfully abridging the rights of students with disabilities.

### **Background**

- A. *Federal special education law, regulations, and guidance require that all eligible students with disabilities be provided a free appropriate public education (“FAPE”), even during periods of public health-related school closures.*

The IDEA requires “that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”<sup>2</sup> A FAPE is defined as including “special education and related services that— (A) have been provided at public expense, under public supervision and direction, and without charge; (B)

---

<sup>1</sup> 20 U.S.C. §§ 1401(32), 1412(a)(11).

<sup>2</sup> 20 U.S.C. § 1400(d)(1)(A).

meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 1414(d) of this title.”<sup>3</sup>

While the COVID-19-related school closures present unique challenges, these events do not alter the IDEA’s fundamental guarantee of a FAPE for students with disabilities. When school districts began closing due to COVID-19, the U.S. Department of Education (“US DOE”) immediately issued guidance that emphasized that the IDEA’s fundamental guarantee of a FAPE for students with disabilities remained intact.<sup>4</sup> In its March 12, 2020, guidance, US DOE stated: “SEAs, LEAs, and schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student’s IEP developed under IDEA, or a plan developed under Section 504.”<sup>5</sup> US DOE also cited to 34 C.F.R. § 300.101, which includes the obligation of each State to provide a FAPE to students with disabilities pursuant to the IDEA.<sup>6</sup>

US DOE’s Office for Civil Rights (“OCR”) and Office of Special Education and Rehabilitative Services (“OSERS”) further reiterated that fundamental FAPE requirements continue to remain in effect during school closures, even if the delivery of special education and related services must look different:

“School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. In this unique and ever-changing environment, OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer flexibility where possible. However, school districts must remember that the provision of FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, online, or telephonically.”<sup>7</sup>

Moreover, US DOE reinforced that students are to be afforded a FAPE during school closures, stating that in the event an LEA is unable to provide a FAPE to a student with a disability during a COVID-19-related school closure, the IEP Team “would be required to make an individualized determination as to whether compensatory services are needed under applicable

---

<sup>3</sup> 20 U.S.C. § 1401(9).

<sup>4</sup> US DOE, [Questions and Answers on Providing Services to Children with Disabilities during the Coronavirus Disease 2019 Outbreak](#) (March 12, 2020).

<sup>5</sup> *Id.* (emphasis added).

<sup>6</sup> *Id.*

<sup>7</sup> OCR & OSERS, [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#) (March 21, 2020) (emphasis added).

standards and requirements.”<sup>8</sup> Although they have some flexibility in how educational and related services are provided, the overarching standard from US DOE affirms that even in periods of school closure, school districts must provide a FAPE to the greatest extent possible to all students with disabilities.

US DOE’s guidance concerning the COVID-19-related school closures is consistent with prior US DOE guidance that LEAs’ fundamental responsibility to provide a FAPE persists even during times of public health-related school closures. In response to the 2014 Ebola outbreak, US DOE stressed that LEAs must take affirmative steps to ensure that students with disabilities continue to receive appropriate, individualized services through remote learning options, even when schools are closed.<sup>9</sup> Even in situations where an emergency school closure is more temporary in nature, as was expected to be the case following Governor Cooper’s first executive order, OSERS does not provide an exception to an LEA’s responsibility to make a FAPE available to students with disabilities. Instead, LEAs are expected to provide remote learning options that would be triggered if a student with a disability were denied a FAPE for more than 10 days.<sup>10</sup>

In sum, US DOE has consistently affirmed that, even during periods of public health-related school closures, all central guarantees of the IDEA remain in effect, including the right of all students with disabilities to receive a FAPE. While LEAs may be afforded necessary flexibility to adapt the methods through which they provide a FAPE, their fundamental responsibility to ensure that all eligible students with disabilities do in fact receive a FAPE is unaltered.

*B. LEAs are expected to offer remote education to all students to the greatest extent possible while North Carolina school buildings remain closed for in-person instruction due to COVID-19.*

On March 14, 2020, Governor Roy Cooper issued Executive Order 117, directing that “all public schools close for students effective Monday, March 16, 2020 until March 30, 2020, unless

---

<sup>8</sup> US DOE, [Questions and Answers on Providing Services to Children with Disabilities during the Coronavirus Disease 2019 Outbreak](#) (March 12, 2020).

<sup>9</sup> OSERS, [Preparing for Infectious Disease: Ebola: Department of Education Questions and Answers on Providing Services to Children with Disabilities During Extended Student Absence or School Dismissal](#) (December 15, 2014) (“If a child with a disability is absent from school for an extended period of time because . . . the school has been dismissed at the request of public health authorities, then school administration officials and the child’s IEP Team (or appropriate personnel under Section 504), in collaboration with public health authorities, must determine whether the child is available for instruction and could benefit from homebound services such as instructional telephone calls, homework packets, Internet-based lessons, and other distance-based learning approaches, to the extent available.”).

<sup>10</sup> *Id.* (“If the exclusion is a temporary emergency measure (generally 10 consecutive school days or less), the provision of homebound services such as instructional telephone calls, homework packets, Internet-based lessons, and other available distance-based learning approaches is not considered a change in placement. During this time period, a child’s parent or other IEP Team member may request an IEP meeting to discuss the potential need for services if the exclusion is likely to be of long duration (generally more than 10 consecutive school days).”).

extended beyond that date.”<sup>11</sup> Through this order, it was intended that “school facilities be closed as *instructional settings* for K-12 students.”<sup>12</sup> During this period of closure, LEAs were instructed that they “may provide remote or distance learning opportunities for students if they are able,” and “should continue current virtual learning opportunities.”<sup>13</sup> On March 23, 2020, Governor Cooper issued Executive Order 120, which extended existing school closures through May 15, 2020.<sup>14</sup> On April 24, 2020, Governor Cooper announced that the school closures would be extended through the end of the 2019-2020 school year.<sup>15</sup>

On March 27, 2020, the SBE approved guidance pertaining to remote learning and grading standards for students during COVID-19-related closures. Remote learning was defined broadly by the SBE as “learning that takes place outside of the traditional school setting using various media and formats, such as but not limited to: video conference, telephone conference, print material, online material, or learning management systems.”<sup>16</sup> LEAs were then strongly encouraged to take steps to “provide a variety of remote learning opportunities to engage all students, continue academic growth, and respond to social and emotional needs.”<sup>17</sup>

At no point in the March 27, 2020, guidance did the SBE create discrete tiers of remote learning. Instead, the guidance encompassed *all* forms of remote learning within the same category. The sole distinction among remote learning options pertained to what “critical factors” a remote learning model had to satisfy before an LEA could assign grades to remote coursework.<sup>18</sup> The critical factors otherwise had no bearing on students’ legal rights or access to education.<sup>19</sup> Yet somehow DPI conflated the SBE’s guidance related to assigning grades with the LEA’s obligation to provide a FAPE.

Importantly, SBE policy released on April 23, 2020, which supersedes the March 27, 2020, guidance, eliminates the critical factors analysis in favor of a standardized grading method that

---

<sup>11</sup> State of North Carolina, [Exec. Order 117](#) (March 14, 2020).

<sup>12</sup> State of North Carolina, [Frequently Asked Questions \(“FAQ”\) for Executive Order No. 117](#) (March 17, 2020).

<sup>13</sup> *Id.*

<sup>14</sup> State of North Carolina, [Exec. Order 120](#) (March 23, 2020).

<sup>15</sup> [Governor Cooper, State Education Leaders: Remote Learning to Continue Through End of 2019-2020 School Year](#) (April 24, 2020).

<sup>16</sup> SBE, [Guidance for Remote Learning, Evaluation of Student Progress, and Graduating Seniors](#) (March 27, 2020).

<sup>17</sup> *Id.*

<sup>18</sup> The five critical factors required that remote instruction: “is accessible by all students for which the learning is intended and is responsive to diverse learning groups; maintains consistent communication between instructional staff and students; addresses the curricular and instructional needs associated with appropriate standards; includes evidence of student learning; and considers the whole child as well as the home learning environment.”

<sup>19</sup> See, e.g., SBE, [Guidance for Remote Learning, Evaluation of Student Progress, and Graduating Seniors - Frequently Asked Questions](#) (April 2, 2020) (“School is still on for learning. Student grades can improve and the content can be new content. It is important to consider the critical factors for remote learning in determining how grading will occur locally.”).

applies regardless of the nature of remote learning being provided to a student.<sup>20</sup> Accordingly, the rule from the SBE continues to be that all students are to be treated equally, regardless of the scope or nature of remote learning services they are able to access.

### **Legal Issues Related to North Carolina DPI's COVID-19 Special Education Guidance**

North Carolina's recent guidance to LEAs, issued by DPI's Exceptional Children Division, includes several provisions that are not in accordance with SBE guidance or with federal special education laws and guidance. Specifically, DPI establishes tiers of rights and services for students with disabilities based on whether the general student population is offered remote learning services that are "Optional/Supplemental" or "Mandatory," and also asserts that students' right to a FAPE may be summarily denied during periods of COVID-19-related closures.<sup>21</sup> These provisions have no foundation in SBE guidance or federal special education law, nor in federal guidance, including federal guidance specifically issued in response to COVID-19-related school closures. These provisions violate students' rights under the IDEA and have harmed—and will continue to significantly harm—students with disabilities.

*A. DPI's creation of a tiered "Optional/Supplemental Remote Learning" vs. "Mandatory Remote Learning" framework is incongruent with SBE guidance.*

The "Optional/Supplemental" and "Mandatory" categories of remote learning that form the foundation of DPI's guidance are not part of the remote learning structure the SBE has established for all students across the state. Instead, the SBE establishes one all-encompassing category of "remote learning."<sup>22</sup>

While the undersigned have heard arguments that the five critical factors set forth in the March 27, 2020, guidance establish the criteria that must be met under the "Mandatory Remote Learning" category, there is no support for this interpretation in SBE guidance. First, the critical factors never created a separate tier of services or rights: their sole purpose was to create a framework for determining whether or not students' grades may be negatively affected by remote coursework. Further, those critical factors were removed from the SBE's grading policy released on April 23, 2020. To assert that students' special education rights are in some way conditioned on whether those factors are met for all students has no grounding in SBE guidance and, as described in greater depth below, flagrantly violates central protections of the IDEA.

*B. DPI's creation of a tiered "Optional/Supplemental Remote Learning" vs. "Mandatory Remote Learning" framework violates federal special education laws and guidance.*

---

<sup>20</sup> SBE, [Statewide Grading Policy for K-11 due to COVID-19 Pandemic and Extended School Building Closures](#) (April 23, 2020).

<sup>21</sup> See DPI, [EC Processes Points for Consideration During School Closure](#) (March 27, 2020).

<sup>22</sup> See SBE, [Statewide Grading Policy for K-11 due to COVID-19 Pandemic and Extended School Building Closures](#) (April 23, 2020); SBE, [Guidance for Remote Learning, Evaluation of Student Progress, and Graduating Seniors](#) (March 27, 2020).

As outlined previously, longstanding federal guidance establishes that, while LEAs may be afforded necessary flexibility to adapt the methods through which they serve students, their fundamental responsibility to ensure that all eligible students with disabilities receive a FAPE remains unchanged during public health-related school closures. Yet, in its March 27, 2020, and subsequent guidance, DPI has instructed LEAs to afford students with disabilities varying levels of protection based on a threshold determination of whether the instruction provided to the general student population is considered to be “Optional/Supplemental Remote Learning” or “Mandatory Remote Learning.”<sup>23</sup> The primary differences between services and protections for students with disabilities in each of the two categories include, but are not limited to, the following:

- **Entitlement to a FAPE.** DPI’s guidance erroneously indicates that LEAs are only required to determine and offer a FAPE under the IDEA if they are providing “Mandatory Remote Learning.”<sup>24</sup> DPI makes no reference to a FAPE in the “Optional/Supplemental Remote Learning” category. Instead, the guidance states that students with disabilities are expected to receive “accommodations/modifications as appropriate based on the student’s unique needs” and “access to their specially designed instruction outlined in their IEP to the greatest extent possible.”<sup>25</sup> While this statement tracks some of the language in the IDEA’s definition of a FAPE, it does not explicitly state that for students with IEPs, a FAPE under the IDEA is triggered when schools offer “Optional/Supplemental Remote Learning” opportunities. Instead, the statement suggests a watered-down obligation limited to accommodations and modifications, rather than including the provision of specially designed instruction; the hallmark of services under the IDEA. This is contrary to the IDEA, federal guidance, and SBE directives. Further, the term “access to” is not synonymous with “provision of” specially designed instruction, and LEAs are interpreting it to diminish their obligations to students with disabilities, as described below.
- **Written notice.** DPI’s guidance directs LEAs to provide a written notice outlining what services will be offered in order to afford a FAPE only if the LEA uses a “Mandatory Remote Learning” structure.<sup>26</sup> (“Whether with or without a meeting, the LEA must provide the parent with a written document (Prior Written Notice) outlining the offer of FAPE.”) By comparison, there is no explicit requirement that written notice be provided for students receiving “Optional/Supplemental Remote Learning.” Instead, plans for those students must simply be “developed with parental input” and “communicated to families.”<sup>27</sup> The option to provide notice of services verbally rather than in writing for LEAs in the “Optional/Supplemental Remote Learning” category violates the IDEA.

---

<sup>23</sup> See DPI, [EC Processes Points for Consideration During School Closure](#) (March 27, 2020).

<sup>24</sup> See *id.* (“If districts move to a mandatory remote learning structure, then FAPE must be determined for students with disabilities . . .”).

<sup>25</sup> *Id.*

<sup>26</sup> See *id.*

<sup>27</sup> *Id.*

- **Related services.** DPI’s March 27, 2020, guidance makes no reference to related services. In subsequent guidance, DPI indicates that related services for students under the “Optional/Supplemental Remote Learning” category can be proportionally reduced according to the length of the school day, without an individualized determination being made regarding what the student’s IEP says the student needs.

“Q: Are we required to continue providing related services based on the students’ IEP frequency?”

A: If the district moves to a mandatory remote learning plan, then, yes, unless the IEP Team determines otherwise. If the district is providing supplemental/optional remote learning, then the frequency of service may be commensurate with the learning structure for all students.”<sup>28</sup>

Federal guidance does not include any such tiers of services or protections based on the level of educational opportunities the general student population is receiving. Instead, federal guidance establishes that the FAPE standard and all related safeguards are triggered and apply to all students with disabilities, irrespective of the nature of the educational opportunities and services the rest of the student population is receiving. On its face, DPI’s guidance is not in accordance with federal law and guidance related to special education services during the COVID-19-related school closures.

Further, DPI’s guidance affords students in districts providing only “Optional/Supplemental Remote Learning” *fewer* rights than they would be entitled to under federal law and guidance in areas including, but not limited to, notice standards, related services standards, and the application of the FAPE standard. Given that most LEAs in the state appear to be trending toward providing instruction that is not mandatory, the undersigned have grave concerns that DPI’s guidance will be interpreted by LEAs as absolving them of their duty to provide a FAPE to most students with disabilities in North Carolina during the school closures.

As attorneys representing parents and students across the state, we are already hearing from parents who are being told they do not have to be provided anything in writing because the services are “Optional/Supplemental” rather than “Mandatory.” Other parents are being told that, because the instruction is “Optional/Supplemental” rather than “Mandatory,” their students are entitled only to a *de minimis*, standardized amount of specialized instruction and related services based not on the student’s individualized needs but on an arbitrary formula that decreases services proportionally to the reduction in the remote school day.

Multiple districts are implementing DPI’s guidance by recalculating special education and related services via a formula based on the hours of general education provided. For example, one specific district has decided to provide remote instruction on a modified academic schedule, which is approximately 30% of a typical school day, and as a result, the district implemented a blanket reduction in students’ special education and related services that is proportional to the modified

---

<sup>28</sup> DPI, [Virtual Related Services Frequently Asked Questions](#) (April 15, 2020).

schedule.<sup>29</sup> Further, in addition to this blanket reduction in services, the district is requiring that any special education services only be provided within this reduced school day.<sup>30</sup> It appears DPI agrees that this interpretation of its policy is appropriate based on its condoning of this practice in its Virtual Related Services Frequently Asked Questions: “Special education and related services follow the instructional model provided for all students. Therefore, if a school day is abbreviated for all, the abbreviation of EC services commensurate (or in proportion) with the abbreviated school day is likely to be appropriate.”<sup>31</sup> This interpretation and implementation are wholly based on administrative convenience rather than instructing schools to make individualized determinations of FAPE in the least restrictive environment as required by the IDEA.

Furthermore, North Carolina is the only state that makes a distinction between "Optional/Supplemental" and "Mandatory" instruction.<sup>32</sup> Our state’s two-tiered analysis, with lesser rights for students in “Optional/Supplemental” LEAs, is unique. No other state’s guidance makes this distinction. Instead, the prevalent standard fully aligns with the IDEA and federal guidance, and generally states that if a school continues to provide educational opportunities to the general student population during a school closure, then it must ensure that students with disabilities have equal access to the same opportunities, including the provision of a FAPE; schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student's IEP developed under the IDEA.

North Carolina’s tiering of rights is directly at odds with central guarantees under the IDEA and with federal guidance issued in response to the COVID-19-related school closures. As such, DPI’s guidance creating a tiered right to a FAPE is preempted by federal special education law and federal guidance that establishes that schools are required to provide a FAPE as defined by the IDEA to the greatest extent possible to all students with IEPs, even during school closures.

*C. DPI’s assertion that students with disabilities may summarily lose their right to access special education services during periods of COVID-19-related closures violates special education law and guidance.*

Longstanding federal guidance pertaining to special education rights during school closures establishes that students’ special education rights under the IDEA are not fundamentally altered during periods of public health crisis and school closures.<sup>33</sup> Instead, LEAs are expected to take steps to ensure that students’ needs are met to the greatest extent possible via remote instruction options.

---

<sup>29</sup> Charlotte-Mecklenburg Schools Programs for Exceptional Children, [CMS EC Parent Communication](#) (April 3, 2020).

<sup>30</sup> *Id.*

<sup>31</sup> DPI, [Virtual Related Services Frequently Asked Questions](#) (April 15, 2020).

<sup>32</sup> See National Federation of the Blind, [State Guidance for Schools](#) (April 7, 2020).

<sup>33</sup> See [Letter to Geary and DeLorenzo](#), 120 LRP 10281 (November 20, 2012) (“the Department does not have the authority to waive the requirements in Part B of the IDEA.”); see also OSERS, [Preparing for Infectious Disease: Ebola: Department of Education Questions and Answers on Providing Services to Children with Disabilities During Extended Student Absence or School Dismissal](#) (December 15, 2014).

In guidance from March 15, 2020, DPI asserted that “for the weeks of March 16-20, 2020, and March 23-27, 2020, North Carolina Public Schools are closed . . . [and] there is no expectation that EC staff are to deliver special education and related services through an alternative format during this two-week period.”<sup>34</sup> In supplemental guidance released the same day, DPI indicated that “if school is closed for all students, then compensatory education is not required.”<sup>35</sup> Accordingly, students appear to have been deemed by DPI to have summarily forfeited all rights to a FAPE during times when schools are closed to all students.

DPI’s position that compensatory education is not required if schools are closed and not providing any educational services directly conflicts with US DOE guidance issued on March 12, 2020. US DOE states that in such cases “an IEP Team and, as appropriate to an individual student with a disability, the personnel responsible for ensuring FAPE to a student for the purposes of Section 504, would be required to make an individualized determination as to whether compensatory services are needed under applicable standards and requirements.”<sup>36</sup>

Because neither US DOE nor DPI have the authority to waive central requirements of the IDEA, including the requirement that students be provided a FAPE, a blanket assertion that students are not entitled to a FAPE and/or compensatory services during periods of full school closure has no lawful grounding. Any assessment of whether an LEA is required to offer a FAPE during a period in which it is not instructing any students must be part of an individualized, case-by-case inquiry.

### **Conclusion**

We believe we share the common goal of fully supporting the educational rights of students with disabilities, especially in these challenging circumstances. Therefore, we send you this letter to notify you of the current and ongoing violations of the IDEA, and the resultant harm to students with disabilities, due to the fundamental flaw in the guidance that has been issued thus far.



Stacey M. Gahagan  
Gahagan Paradis, PLLC



Ann M. Paradis  
Gahagan Paradis, PLLC

---

<sup>34</sup> DPI, [Important Reminders/General Information Concerning COVID-19](#) (March 15, 2020).

<sup>35</sup> DPI, [COVID-19 EC Director’s FAQ](#) (March 15, 2020).

<sup>36</sup> US DOE, [Questions and Answers on Providing Services to Children with Disabilities during the Coronavirus Disease 2019 Outbreak](#) (March 12, 2020).



Alice Tolin  
Gahagan Paradis, PLLC



Elizabeth Horton  
Gahagan Paradis, PLLC



Iris Sunshine  
Executive Director  
Children's Law Center of Central North Carolina



Chrystal Clodomir  
Children's Law Center of Central North Carolina



Daniel Brown  
Council for Children's Rights



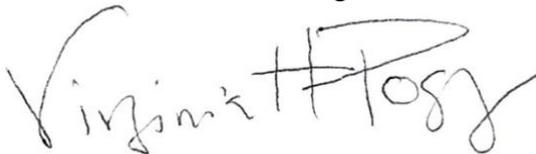
Hayley Lampkin Blyth  
Council for Children's Rights



Caitlin Whalan Jones  
Council for Children's Rights



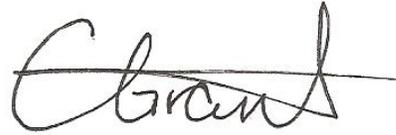
Stephanie R. Klitsch  
Council for Children's Rights



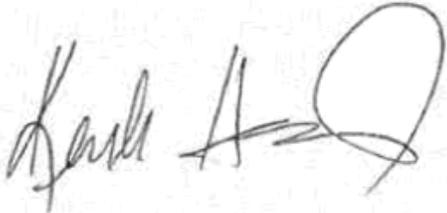
Virginia Fogg  
Disability Rights of NC



Peggy D. Nicholson  
Supervising Attorney  
Duke Children's Law Clinic



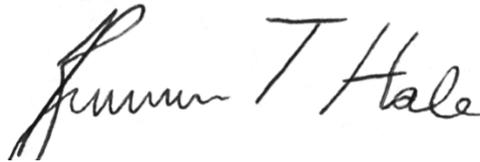
Crystal M. Grant, JD, MSW  
Interim Director  
Duke Children's Law Clinic



Keith L. Howard  
The Law Offices of Keith L. Howard, PLLC



Cari Carson  
Legal Aid of North Carolina



Tessa Hale  
Legal Aid of North Carolina



Jennifer Story  
Legal Aid of North Carolina



Hope Williams  
Legal Aid of North Carolina



Tammy H. Kom  
Legal Services for Children of North Carolina



Neubia L. Harris  
The Law Office of Neubia L. Harris, PLLC

*Elizabeth Sydnor, Esq.*

Elizabeth L. Sydnor  
Sydor Law Firm, PLLC

cc: Mark Johnson, Superintendent, NC Public Schools ([mark.johnson@dpi.nc.gov](mailto:mark.johnson@dpi.nc.gov))  
Ryan Boyce, Counsel to the Superintendent ([ryan.boyce@dpi.nc.gov](mailto:ryan.boyce@dpi.nc.gov))  
Eric Snider, Counsel to DPI ([eric.snider@dpi.nc.gov](mailto:eric.snider@dpi.nc.gov))  
Sherry Thomas, Director, DPI EC Division ([sherry.thomas@dpi.nc.gov](mailto:sherry.thomas@dpi.nc.gov))