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April 24, 2020

The Honorable Greg Abbott
Governor of Texas
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

Re: Education Stabilization Fund under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Dear Governor Abbott:

Texas will soon receive financial grants for education under the CARES Act, Public Law 116-136. We write today to urge you and state leaders planning the allocation of this new federal assistance to prioritize the needs of infants, toddlers, children, and youth receiving early childhood intervention (ECI) and special education services.

CARES Act

Under the Education Stabilization Fund of the CARES Act, there are two programs benefiting public education. The Texas Education Agency (TEA) will receive a projected \$1.285 billion to distribute to school districts through the **Elementary and Secondary School Emergency Relief (ESSER) Fund**. The Office of the Governor will receive a projected \$307 million to distribute to public schools, colleges, and universities that are particularly affected by the coronavirus pandemic through the **Governor's Emergency Education Relief (GEER) Fund**. The Office of the Governor has discretion in distributing aid under the GEER Fund. TEA has the authority to retain a projected \$128 million for statewide emergency education needs related to COVID-19 under the ESSER Fund.

Needs of Students with Disabilities

Texas public schools are educating 587,987 students with disabilities in special education in the 2019-2020 school year. In addition, Texas public schools also serve students with disabilities under Section 504 of the Rehabilitation Act. Under the ECI program, approximately 60,000 infants and toddlers with disabilities and developmental delays receive services.

During the COVID-19 school closures and shelter in place orders, local school districts and local ECI providers have acknowledged that they have temporarily reduced some required

evaluations and services, if not completely stopped them for some students. State agencies have already notified school districts and ECI local providers that they will owe compensatory services to infants, toddlers, children, and youth with disabilities.

Infants, toddlers, children, and youth with disabilities suffer when there are delays in testing and evaluation because of the lag in planning and initiating services on an individualized basis. **They suffer** when there is a suspension of services because they are particularly vulnerable to falling behind and never catching up with their peers. **A generation is at risk of being lost through no fault of their own.**

Recommendation

Together, we strongly urge you and Commissioner of Education Mike Morath to **prioritize the ESSER Fund and GEER Fund aid that Texas will receive under the CARES Act to ensure that infants, toddlers, children and youth with disabilities receive the services to which they are legally entitled under the Individuals with Disabilities Education Act.**

Specifically, there should be no financial consideration in the calculation of **compensatory educational services** that will be due infants, toddlers, children, and youth with disabilities. Not only is it illegal to consider cost, it is unethical for professionals licensed by the state to render opinions about individual needs based on external factors such as expense of services. Whether the need for compensatory services is determined by minutes of services lost or regression of skills, there is no doubt that the amount owed statewide will be unprecedented. To avoid any shortcoming in the delivery of compensatory services across Texas in the months to come, state officials must ensure that school districts and local ECI providers have the resources they need. Together with state aid maintained at the required level, the ESSER Fund and GEER Fund under the CARES Act can help alleviate this problem.

Conclusion

Continuing **stakeholder engagement** will serve the interest of all when it comes to making decisions about ESSER Fund and GEER Fund aid under the CARES Act. Stakeholder engagement will inform TEA and the Office of the Governor about the magnitude of need. It will also demonstrate a good faith effort to communicate with affected parties. We stand ready to join you in further discussions about the utilization of ESSER Fund and GEER Fund aid under the CARES Act.

Sincerely,

The Arc of Texas (Jennifer Martinez, j.martinez@thearcoftexas.org)

Autism Society of Texas (Chris Masey, chris@texasautismsociety.org)

Coalition of Texans with Disabilities (Jolene Foster, jsanders@txdisabilities.org)

Disability Rights Texas (Dustin Rynders, drynders@disabilityrightstx.org)

Easterseals Central Texas (Tod Marvin, tmarvin@eastersealstx.org)

Texans Care for Children (Stephanie Rubin, srubin@txchildren.org)

Texans for Special Education Reform (Christine Broughal, christine@texans4spedreform.org)

Texas Parent to Parent (Laura J. Warren, laura@txp2p.org)

cc:

Dan Patrick, Lt. Governor

Dennis Bonnen, Speaker of the House of Representatives

Larry Taylor, Chair, Senate Education Committee

Dan Huberty, Chair, House Public Education Committee

Mike Morath, Commissioner of Education

Governor's Committee on People with Disabilities