



The Council of Parent Attorneys and Advocates, Inc.
A national voice for special education rights and advocacy

May 15, 2014

Louisiana State Senate Education Committee
Via email

Dear Senator:

The Council of Parent Attorneys and Advocates, Inc. (COPAA) is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA members in Louisiana and nationwide work to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America – including the 71,000 students with disabilities in Louisiana. COPAA’s mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community.

COPAA is **writing to oppose HB/SB 1015** because it is in direct conflict with federal law and would violate the civil rights of children with disabilities in Louisiana by:

1. Eliminating all state high school graduation requirements for students with disabilities, authorizing the student’s IEP team to subjectively determine the student’s potential and substitute requirements.
2. Authorizing a student’s Individualized Educational Program (IEP) team to dictate all decisions regarding whether every student with a disability can progress from grade to grade.
3. Removing ALL accountability requirements for ALL students with disabilities. By doing so, Louisiana would treat students with disabilities differently than their peers, solely on the basis of their disability; making them invisible in state, district and school accountability systems and *violating their civil rights* in the following ways:
 - a. Denying their right to participate and have access to the general curriculum under the Individuals with Disabilities Education Act (IDEA) and Elementary and Secondary Education Act (ESEA).
 - b. Denying their right to comparable [aids and] benefits under the IDEA, Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA).
 - c. Denying their right to not be discriminated against under the IDEA, Section 504 and the ADA.

On point #1: It is already well understood that students with disabilities are at significant risk of not graduating from high school with a regular diploma. Thirty-seven percent of Louisiana's students with disabilities between the ages of 14 to 21 dropped out of school in 2011.¹ While disturbing, the solution is not to create policy that completely removes the expectation and accountability to presume competence and a quality outcome for all students with disabilities. Allowing a lowered set of expectations for graduation requirements to be applied to students with disabilities is a policy that must be rejected.

On point #2: IEP teams *should not* have the authority to subjectively lower graduation and promotion expectations for all students with disabilities. Although this may be appropriate for a minute percentage of students who have the most severe cognitive disabilities, the vast majority – over 85 percent – of Louisiana students with disabilities *do not have intellectual or cognitive disabilities*. With proper instruction and support, all of these students can meet grade-level standards. Even if IEP team members do not intend to discriminate against students with disabilities by unreasonably reducing expectations, this is a predictable result of this bill. Many IEP teams will inevitably make decisions driven by school culture and biases, limited local resources, belief in stereotypes and a whole host of known and unknown issues that will result in [IEP] teams being left unchecked.

It is important to bear in mind that, from a civil rights perspective, students with disabilities are the only group to have to contend with an IEP team as a potential barrier.² Such a team, with unequivocal authority, does not exist for any other student. COPAA hears from parents and disability advocates daily about the wide variety of bad (documented and undocumented) programming and placement decisions made by IEP teams that lead to very real and negative social, emotional and academic impact on students.

As in many states, Louisiana's poor student academic and graduation outcomes are, in large part, directly related to how IEP teams currently function across the state. This poor performance indicates that Louisiana needs to invest in professional development and intensive teacher training, not water down the opportunities for students with disabilities to graduate with a meaningful diploma.

On point #3: The proposed bill makes local education authorities and the state of Louisiana vulnerable to charges of civil rights violations for failing to provide students with disabilities the opportunity to learn the knowledge and skills *expected of all other children*.

The strong presumption against applying lower standards to the education of students with disabilities under IDEA and ESEA is heightened by the mandates of Section 504 and the ADA. Section 504 and its long-standing regulations require that students with disabilities not be discriminated against or denied comparable aids, benefits, or services.³ In order for aids, benefits, and services to be "equally effective," they must provide "an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement."⁴

Setting lower standards and limiting access to benefits that flow from having direct access to the general curriculum for students with disabilities will inevitably mean that most of the students will not have the opportunity to be taught the skills and bodies of knowledge expected for all students, at the levels expected for all students. Rather, the lower standards will *set the ceiling of their education* as the

¹ Table 11.7: Special Education—Dropout Rate[1] among Students Ages 14 to 21 Served under IDEA, Part B: 2010-2011, U.S. Department of Education

² See Boundy, K., Karger, J. RESPONDING TO "A Blueprint for Reform" THROUGH THE LENS OF STUDENTS WITH DISABILITIES (2011)

³ 34 C.F.R. § 104.4(b).

⁴ 34 C.F.R. § 104.4(b)(2)

standards are incorporated into their IEPs and their overall instruction. Codifying such a reduction in standards and access to the general curriculum as an acceptable approach and mandate for students with disabilities is completely unacceptable.

Finally, COPAA urges you to oppose any bill that flagrantly disregards the rights of students with disabilities and disrespects their opportunity to achieve meaningful academic, social and emotional outcomes alongside their peers, through access to a regular high school diploma. Avoiding accountability, lowering expectations, and providing a piece of paper called a diploma without assuring the student receives a meaningful education is not acceptable.

Parents and advocates nationwide have fought for over forty years to help guarantee that students with disabilities' potential not be overlooked, undermined or diminished. Supporting this bill would in effect write off the future for over 70,000 students in your state. Therefore, we ask that you **VOTE NO on HB/SB 1015** and give every student a real chance to succeed.

Sincerely,



Denise Marshall
Executive Director

cc: Representative John M. Schroder, Sr., Louisiana House of Representatives
John White, State Superintendent of Education
Sandee Winchell, Executive Director, Louisiana Developmental Disabilities Council