

October 30, 2021

The Honorable Katherine Neas
Acting Assistant Secretary, OSERS
U.S. Department of Education
400 Maryland Avenue, SW
Washington DC, 20202

David Cantrell, Ph.D.
Acting Director, OSEP
U.S. Department of Education
550 12th Street, SW
Washington, DC 20202

Dear Assistant Secretary Neas and Dr. Cantrell:

The Council of Administrators of Special Education (CASE) and our undersigned partners are writing to express concerns about the *Return to School Roadmap* guidance document on Individualized Education Programs (IEP) issued by OSERS on September 30, 2021.

The attached memo provides our comprehensive review of Section D in the context of the pandemic, school closures, and ongoing national circumstances. While we believe it is helpful and appropriate for OSERS to attempt to provide clarity for SEAs and LEAs as they move forward, we have some important concerns where OSERS guidance appears to be in conflict with applicable case law and the language of the Individuals with Disabilities Education Act (IDEA). Specifically, we believe Section D of the guidance document provides a new and incorrectly expanded interpretation of "compensatory services," particularly with respect to when and whether such services are appropriate and by whom this determination is made.

CASE and other groups listed here have expressed concerns about the use of the term "compensatory services" since March 2020 when the term was first incorrectly used in COVID-19 guidance. The 2021 guidance continues that incorrect usage and expands it further by conflating the legal remedy of compensatory services with the established functions and procedures of the IEP team.

We urge OSERS to issue a clarification of the September 2021 guidance, so that students receive appropriate services and limited resources are not used on unnecessary legal proceedings. We are happy to engage further to this end. Please feel free to contact Phyllis Wolfram, CASE Executive Director, pwolfram@casecec.org, or Myrna Mandlawitz, CASE Policy/Legislative Consultant, mrmassociates@verizon.net.

Thank you.

Council of Administrators of Special Education
AASA, The School Superintendents Association
Association of Educational Service Agencies
Association of School Business Officials International (ASBO)
Council of the Great City Schools
National Association of Elementary School Principals
National Association of Secondary School Principals