The Honorable Ned Lamont
Office of the Governor
State Capitol
210 Capitol Avenue
Hartford, CT 06106

March 19, 2020

Dear Governor Lamont:

We represent Connecticut’s Legal Services Programs (Connecticut Legal Services (CLS), Greater Hartford Legal Aid (GHLA), and New Haven Legal Assistance (NHLAA)) and are writing this letter out of concern for our clients. We ask you to consider their particular needs during school closures due to the COVID-19 pandemic.

Our organizations represent very low-income clients across the state in a variety of legal practice areas, including education. Our clients have many unique needs due to their socioeconomic status, and are disproportionately people of color and people with disabilities. Due to these intersectional identities, the effect of a crisis like the COVID-19 pandemic and resulting school closures have a particularly dire impact on our clients.

We understand that local education agencies, and the State of Connecticut generally, are facing incredibly difficult times. The uncertainty in the weeks ahead makes planning to provide services and meet the needs of the children and families of Connecticut arduous. We ask that our legal services organizations be included in the ongoing discussions to support students and families during the current crisis, as well as conversations to plan for students’ return to school.

To ensure more equitable opportunity and delivery of services, we have a number of important recommendations regarding the impact of prolonged school closures. Students in Connecticut have a constitutional right to a public education. Keeping in mind the challenges low-income families distinctly face, and the legally required provision of public education in Connecticut, we ask you to consider the following proposals:

1. **Access to Internet, cell phone minutes and data, and digital devices**

Due to the declaration of a state of emergency by both Governor Ned Lamont and President Donald Trump, financial resources have become available for creative solutions to the challenges unfolding as a result of the COVID-19 pandemic. The increased use of distance learning opportunities presents challenges unique to the low-income student population. We propose allocating funds to addressing educational needs through increased access to the
Internet, addressing data and minute caps put in place by cell phone providers, and providing digital devices like tablets or laptops for students to be able to access distance learning opportunities being offered by their school districts.

We are aware that some Internet service providers have already agreed to provide free access for a limited period of time to Wi-Fi hotspots for low-income families. With an eye toward equitable access, we ask that it be ensured all families have the ability to log onto a reliable Internet connection so all students can access these distance learning opportunities.

Additionally, we ask that the State work with cell phone providers to lift data and minute caps for low-income families for the duration of school closures. Now more than ever, it is necessary for parents to be able to keep abreast of the ever-changing conditions surrounding the COVID-19 pandemic and its effect on school districts. Especially with the increased need for remote communication, parents need reliable and unlimited access to cell phone data and minutes. For example, low-income parents of a student with disabilities might need to call into a meeting with school staff to discuss their child’s education program, or for support and guidance for the provision of their child’s distance learning opportunity. If a parent has limited access to minutes or access on their cell phone, they may not be able to meaningfully communicate with the school or participate as an equal member of their student’s team, as is required under federal law. Some families may also need to be provided with a cell phone.

Finally, we ask that emergency funds be allocated, and coordination efforts be made to ensure that every student in the State of Connecticut have access to a digital device on which they can access distance learning opportunities, even if these opportunities are optional. The need to provide devices to all students, in all districts, addresses a major equity concern. While some districts are providing devices to all students, or are making efforts to do so in light of current school closures, a number of the state’s urban and rural districts do not have the resources to do so. If a plan is not put in place to make distance learning opportunities available to all students in all districts, inequitable opportunity will persist, and the current academic achievement gap will only widen over this period of time.

2. Access to other school-based services

In addition to creating an inability to access educational services, school closings preclude low-income families and students from accessing crucial social services such as mental health treatment, medical services, other therapies, and meals they would otherwise have received in school. Many parents must also navigate continuing to go to work while children may have to be left home unsupervised, especially if those parents cannot afford child care. Low-income families now face a reality in which they may lose access to these essential services during a time where they need them most.

We would encourage you to consider developing creative and safe delivery systems for these services so that families that rely on schools to provide these supports can still access them. We recommend allocating emergency financial resources to this purpose.
Access to these services is an essential component to mitigating the disproportionate negative effects that low-income students, students of color, and students with disabilities will face as a result of the COVID-19 school closures.

3. Binding requirements regarding education for students with disabilities

Further, clear, binding, and uniform requirements on all local education agencies regarding the needs of students with disabilities must be issued. We understand the universally negative effects that prolonged closure of schools will have on all students; however, these disruptions will have an even more profound effect on the development and progress of students with disabilities.

We acknowledge the huge challenge of mitigating the negative impact that prolonged school closure will have on students with disabilities. However, by being proactive and clear in expectations for school districts, the State can develop effective and practicable solutions to the challenges ahead.

We recommend clear guidance to school districts focusing on their ongoing obligations to provide a free and appropriate public education (FAPE) for students with individualized education programs (IEP) and 504 plans. When distance learning is made available, districts have an obligation to make those opportunities available to all students, including students with IEPs and 504 plans. Districts must also be required to provide any services students are entitled to according to their IEP, to the extent possible.

Although we acknowledge some services and supports might be impossible to deliver to students without in-person interactions, we believe PPTs will be able to develop reasonable and effective solutions for some required services. For example, provision of tutoring, counseling, or other related services might be delivered via telephone calls or video conferencing. Students are still entitled to make meaningful progress toward their goals and objectives through an educational program reasonably calculated for their individual needs.

We recommend guidance that specifically requires that a PPT meeting be convened to plan for an extended period of school closure or distance learning. Because a school closure or distance learning for more than 10 days would qualify as a change of placement under the IDEA, a PPT meeting is required. Guidance should also make clear that holding PPT meetings via telephone or web conference is acceptable, but schools must make every effort to ensure the meeting is accessible for the parent. Furthermore, discussions during this PPT meeting should include any new considerations for assistive technology, as well as training and instruction for parents.

We also recommend specific requirements for the PPT process once schools reopen. We propose that all PPTs must consider any regression, or disruption in progress toward annual goals and objectives. While making these considerations, the presumption should be that students will require additional services or compensatory education in order to compensate for
services or time lost, and to catch students up. Most, if not all, students will lose some academic progress, similar to the expected regression educators frequently see after any school vacation. However, it is essential to consider the heightened and specialized needs of students with IEPs. PPTs should apply the same analyses that are applied in making decisions for extended school year (ESY), including considering regression, recoupment, emerging skills, and the nature and severity of the child’s disabilities.

Additionally, every PPT should be required to discuss ESY for every special education student. In this discussion, in light of extended school closures, the presumption should be that the student requires ESY. This ESY discussion, however, must be had in addition to the discussion regarding compensatory education.

Finally, we acknowledge the significant investment of time, financial resources, and personnel that these measures will require. We recommend allocating emergency funding to finance these measures and ensuring that this programming would be fully and adequately staffed, including through the summer months as needed.

4. Opportunities for expanded summer programming

We recommend making expanded summer programming an option for all students. Distance learning will be a new challenge for many districts, but we anticipate an even greater one for low-income districts and communities. Many students with special needs simply do not learn well online, even if levelled content is made available. Many parents are not computer savvy, are English language learners, or struggle with learning themselves, which will make supporting their students all the more difficult. Because all students, not just special education students, may fail to make academic progress during school closure, it is important that summer programming be made available to everyone.

Summer learning opportunities should be tailored to the individual needs of students, whether based on disability, or individual academic needs of the student. For students with disabilities, especially those with IEPs, compensatory education can be provided as an extension of the available summer programming, based on the decision of the PPT.

5. Conclusion

The State, local education agencies, administrators, teachers, families, service providers and students can work together to successfully emerge from this unprecedented and challenging time. We believe the above recommendations are reasonable and practicable for districts and families alike.

Because this is a novel circumstance filled with great uncertainty, we acknowledge that planning and implementing programs for students will be difficult. It is inevitable that districts, as well as students and parents, will face pitfalls. We believe that a spirit of collaboration, patience, and
understanding will result in our communities emerging from these school closures successfully. We know districts are working tirelessly to be as proactive as possible, as parents await anxiously for guidance on how to support their children. We look forward to assisting in these efforts in any way we can. Please do not hesitate to contact us.

Sincerely,

Agata Raszczyk-Lawska, Connecticut Legal Services, Inc.
arlawska@ctlegal.org
(860) 357-9316

Maria Morelli-Wolfe, Greater Hartford Legal Aid, Inc.
nmorelli-wolfe@ghla.org
(860) 541-5042

Erin Shaffer, New Haven Legal Assistance Association, Inc.
eshaffer@nhlegal.org
(203) 946-4811 ext. 1151

Cc: Josh Geballe, Chief Operating Officer for the State of Connecticut
    Dr. Miguel A. Cardona, Commissioner of Education
    Bryan Klimkiewicz, Bureau Chief, Special Education Division Director
    Sen. Douglas McCrory, Education Committee Co-Chair
    Rep. Robert Sanchez, Education Committee Co-Chair
    Allan B. Taylor, Chairperson, State Board of Education