



September 20, 2005

Secretary Margaret Spellings
U.S. Department of Education
400 Maryland Avenue, SW,
Washington, DC 20202

RE: Students with Disabilities Displaced by Hurricane Katrina

Dear Secretary Spellings:

The National Disability Rights Network is comprised of 57 Protection and Advocacy Systems (P&A) throughout the United States. Every U.S. State and Territory has a federally funded P&A System to protect the rights of individuals with disabilities in their State. One major area of concern and focus for P&A's is ensuring students with disabilities receive a free appropriate public education in accordance with the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504) and that students' rights under the Americans with Disabilities Act (ADA) are protected.

As you know, the recent disaster of Hurricane Katrina hitting the gulf coast region has left approximately 373,000 students from kindergarten to secondary school displaced and in need of school services in their current location. The Department has released vague information about a flexible approach to federal statutes as schools, whose budgets were not prepared for such an influx of students, provide education services to the evacuees.

We are concerned, however, that the Department is virtually silent on the needs of students with disabilities. Some States, based on information we have received from our members and the information available on State websites, have taken positions on how to ensure students with disabilities receive services. While this state-based action is heartening, the Department has not yet provided guidance or information on what the federal government will be doing to assist some of the most needy and vulnerable children that were displaced by this disaster.

At the press conference on September 14, 2005, it was indicated that the Department would seek latitude in federal laws and provide the maximum amount of flexibility within your power to States impacted by evacuees. NDRN's concern is not only that the rights of students with disabilities are protected, but that additional resources are acquired to properly meet the needs of students with disabilities – including, but not limited to, resources for additional teachers, related service providers, assistive technology equipment and evaluators.

We understand, based on your September 12, 2005 letter to the Superintendent of Schools in Mississippi that the Department will consider waivers of IDEA requirements. Based on census data we estimate that approximately 10 percent of the students displaced by Hurricane Katrina are students with disabilities. Based on this estimate approximately 37,000 students may need immediate services and on-going assessment and services to meet their needs. We understand that in some circumstances, waivers will benefit these students with disabilities by making certain that students receive needed services immediately. However, waivers that delay delivery of services to children with disabilities or that otherwise weaken the protections of the IDEA are unacceptable. At this time of crisis, we must be vigilant in our efforts in finding a means to properly assist students, while still maintaining their civil rights.

At the September 14 press conference it also was indicated that the Department is conducting outreach meetings and seeking support from the community by meeting with approximately 50 different groups and organizations. In order for the Department to get a perspective from the disability community the meetings should include advocates for students with disabilities, as well as the parents of students with disabilities. NDRN is available and willing to speak to the Department about these issues if you would like to schedule a meeting with us.

Again, we are concerned about the lack of public information and guidance from the Department regarding students with disabilities affected by Hurricane Katrina. Specifically the U.S. Department of Education must:

- provide guidance that directs States to ensure that the full panoply of protections of IDEA, Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA) are met for students with disabilities affected by Hurricane Katrina;
- provide the necessary resources in States impacted by Hurricane Katrina, including, but not limited to: additional teachers, related service providers, assistive technology equipment and evaluators;
- monitor and Enforce the requirements of the IDEA, and Section 504 in areas impacted by Hurricane Katrina; and
- ensure when developing policies, procedures or guidance regarding students impacted by Hurricane Katrina that the Department meets with advocacy organizations for students with disabilities.

If you have any questions, contact Elizabeth Greczek, Staff Attorney, 202-408-9514, ext. 104. Thank you.

Sincerely,

Lynn Breedlove
Board President
National Disability Rights Network