NEWS RELEASE:
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GROUPS APPLAUD NEW DEPT. OF EDUCATION GUIDANCE ON PROVIDING SERVICES TO STUDENTS WITH SPECIAL NEEDS

In response to concerns raised by attorneys and advocacy organizations that remote learning during COVID-19 related school closures was, in violation of the laws that protect some vulnerable students with disabilities, causing significant educational harm, Commissioner of Elementary and Secondary Education Angélica Infante-Green has issued important policy guidance to school districts confirming their obligation to provide in-person services to those students.

The concerns were voiced last month by four advocacy organizations (Disability Rights Rhode Island, the ACLU of Rhode Island, the Center for Justice, and Rhode Island Legal Services) and four private attorneys (Kristen Sloan Maccini, Christine Marinello, Ellen Saideman, and Amy Tabor) who represent students with special needs.

In her guidance issued at the end of last week, the Commissioner recognized that, as the result of school closures, some students with disabilities entitled to special education services have not been able to fully access all of the services required by their individualized education plans (IEPs) and, as a result, have not made progress on their goals in the absence of direct in-person instruction and related services. In order to address these deficiencies, the Commissioner has advised school districts that:

- Since entering Phase III of re-opening on June 29th, in-person Extended School Year (ESY) services – e.g., services provided over the summer or during vacation time – are not per se excluded from taking place;
- Now is the time for school officials and parents to meet and review the availability of such services, and if appropriate, revise a student’s IEP;
- When school districts are unable to provide necessary services, they can and should contract with a qualified third party that is safely able to do so;
- If, due to the school closures caused by the pandemic, there has been a delay in providing ESY or other services, appropriate personnel must make individualized determinations whether and to what extent compensatory services may be needed when schools resume normal operations; and
- Schools should reach out to parents with this information and provide updates to RIDE on compliance.

The organizations and attorneys applauded the Commissioner’s guidance for clarifying school districts’ obligations to provide critically needed in-person services to special education students. “We are
pleased that Commissioner Infante-Green has instructed school districts to abide by legal protections for students with disabilities in accordance with their state and federal educational rights,” said Anne Mulready, Legal Director for Disability Rights Rhode Island. “Students with disabilities have individualized education plans to ensure they have the supports they need to maximize educational progress, and school districts must take all necessary steps to ensure that ongoing progress, even during a pandemic.”

“This guidance makes it clear to both parents and school districts that school districts must now provide in-person services, either themselves or by contracting with outside providers, for those students who require in-person services to learn,” said Ellen Saideman.

“This welcome guidance helps districts and families support students by providing a framework for individualized determinations, ensuring communication between parents and districts and establishing timelines for determinations and compliance updates to RIDE,” added Christine Marinello.

FOR MORE INFORMATION, CONTACT:
Anne Mulready: 401.527.4493
Ellen Saideman: 401.258.7276
Christine Marinello: 401.757.3968