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April 27, 2021

Chair Alonso Leon  
Vice-Chair Neron, Vice-Chair Weber  
Members of the House Committee On Education

**RE: HB 3350 – Prescribes requirements for providing education to student with disability during COVID-19**

Chair Alonso Leon, Vice-Chairs Neron and Weber, and Members of the Committee,

FACT Oregon is the US Department of Education Office of Special Education Programs designated Parent Training Information (PTI) Center serving Oregon families as they navigate Special Education services. Providing peer delivered support, training, and resources, we equip and empower families of youth experiencing disability to have high expectations as they pursue whole, full lives in community.

It will take time before we can see the full impact school closures have had on the academic performance and social and emotional well-being of students as result of the COVID 19 pandemic. However, FACT Oregon calls to your attention that, while all students and families have been impacted, many students experiencing disability, including those with significant support needs, were unable to access education services or supports that worked for them at all.

We cannot allow this frustrating fact to be glossed over. There is much to learn and improve upon if the state is open to truly addressing these inequities. Meaningful data will be critical to understanding the true impact of learning loss, regression, and social-emotional needs of students experiencing disability during COVID 19. And honest evaluation of this data will need to inform future legislative, ODE, and district efforts to learn from it and better plan for school closures in the future.

Our hope is that this informational hearing be the first of many, as it provides us with the opportunity to name a few of the concerning barriers experienced by families in advocating for and receiving special education services and the Free Appropriate Public Education afforded them by IDEA. Here are three systemic barriers and how we believe they contributed to the inability of many students experiencing disability to succeed in Comprehensive Distance Learning (CDL).

1. **Systemic ableism in education** has manifested into low expectations, less rigor, limited access to general education curriculum, and segregation. Far too many students experiencing disability feel invisible and hear messaging that makes their needs less important or more of a burden to schools and teachers than those of their nondisabled peers. Families hear this, too, resulting in families acquiescing to mediocre goals, services, and supports. IDEA establishes special education services with three outcomes in mind – prepare students for additional learning, employment, and increased independence. In other words, to prepare them for life after

school. But we see students stuck under the weight of the readiness model; students with pencil-holding goals instead of being supported with a keyboard or speech-to-text, or a student with bubble-blowing speech goals that would be more appropriately supported by augmentative communication. Students experiencing disability do not have equal access to Assistive Technology. CDL would have looked completely different had students had access to AT consults and all that AT makes possible.

2. **Long standing issues of disproportionality and lack of culturally responsive parent engagement** manifests into inequitable access to services and supports. English speaking families able to maintain employment, fared better in CDL than families that speak a language other than English, that were unable to work from home or lost their job, and those experiencing home, health, internet, and food insecurity. They did not have capacity or bandwidth to support their child's accessing school. While early ODE guidance communicated the need for application of graciousness for the varied circumstances families were in, many families felt shamed for their inability to make CDL work for their student. They were told that they "failed to engage." We must ensure that they are not penalized for that when addressing COVID 19 related learning loss, regression, and recovery.
3. **Procedural Safeguards and Dispute Resolution Options are out of reach for most families.** The Individuals with Disabilities Education Act (IDEA) assures eligible students' provision of a Free Appropriate Public Education (FAPE) that includes access to the supplemental services, supports, accommodations and/or modifications identified within the students Individualized Education Program (IEP). Despite ODE's efforts to provide guidance and districts' efforts to support students, the reality is that many students were not able to access FAPE. IDEA provides procedural safeguards to families when there has been a failure to provide FAPE, which can include compensatory education services, but most families find they cannot exercise their procedural safeguards due to complexity and opacity of processes, language barriers, and expense.

Because of COVID 19 related school closures and widespread difficulties that families had accessing and meaningfully engaging in CDL, we expect to see unacceptable outcomes that will need to be addressed quickly and with great intention. This is not a time to allow for splintered approaches. Application of Oregon's equity lens should support efforts to slow the widening disparity gaps experienced for students with disabilities, students who are English language learners, students of color, and students experiencing poverty.

**We recommend the following approaches** to meaningfully address COVID 19 related learning loss, regression, and recovery in a manner that is accessible, equitable, engages parents, and recognizes the responsibilities of the Local Education Agencies (LEAs). We strongly recommend that ODE draft a guidance document instructing LEAs to use a universal COVID recovery services form that is shared, discussed, completed, and then signed by the parent, at each student's next IEP meeting. This would ensure that within one year's time every student with an IEP have an IEP meeting at which the team, including the parent, would fully track and examine the following:

1. Present Levels of Academic Achievement and Functional Performance – noting comparison of the IEP present levels from a year ago (pre-COVID 19) to the most recent (present) to identify if learning loss or regression exists.
2. Specially Designed Instruction, Supplemental Aids and Services – identify if these services were delivered during CDL or hybrid at the levels agreed upon in the IEP, or if they were changed in any way, postponed, or put on hiatus, etc.
3. Goals – revisit goals to identify changes that may have been made during COVID 19, compare to goals before COVID 19, if goals meet the student’s needs at this time, and if goals need to be revised or added to address COVID 19 related learning loss, regression, or recovery.
4. Placement – ensure that thoughtful, personalized, intensive support for re-entry be tried in the least restrictive environment before any discussion of need to change placement occurs.

We have tremendous appreciation for the efforts of educators across the state that did what they could to meet the needs of students with disabilities. We are so proud of families and students who did everything they could to simply survive. No one was prepared for the challenges this year presented, and, similarly, there is no one way to instantaneously remedy its aftermath. But we ask that all due diligence be applied to make sure that we make right for students with disabilities and their families.

Thank you for your consideration of this testimony.

Roberta Dunn, Executive Director  
FACT Oregon