

BY ELECTRONIC MAIL

Interim Commissioner Betty Rosa
New York State Education Department
89 Washington Avenue
Albany, NY 12234

October 23, 2020

Dear Interim Commissioner Rosa:

We write today to share our escalating concerns about the lack of consistent and equitable access to education for New York's school-age children during the ongoing pandemic. We ask you to take immediate action to restore the right to education to all students in New York.



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Over the past several weeks, it has become clear that many school districts, particularly those that serve the highest-needs student populations, are unable to adequately deliver education to their students in a remote or hybrid format. Thousands of young people in New York are completely cut off from their schools because of a lack of internet access and devices.¹ Thousands more are being denied access to virtual classrooms because of outdated and illogical policy enforcement, for example marking students absent because they haven't turned on their web camera², or cutting off students' access to virtual education because families cannot prove up-to-date vaccinations.³

At the end of the 2019-2020 school year, students, parents, and school districts were all struggling to manage in the face of unpredictable and terrifying circumstances. Schools and families extended a spirit of generosity and flexibility to each other as the entire nation grappled with sudden and drastic changes to everyday life. But now, more than half a year into the pandemic, students are paying an unconscionable price for the failures of local and state governments to adequately plan and provide for education.

As we feared when we wrote to former Interim Commissioner Tahoe in May,⁴ inequalities have been deeply exacerbated by this crisis. Students from low income families, students of color, students with disabilities, English Language Learners,

¹ See, e.g., Hempstead, <https://www.newsday.com/long-island/education/hempstead-schools-laptops-remote-learning-1.49869925>; New York City, <https://www.thecity.nyc/2020/9/22/21451878/nyc-school-students-ipads-online-remote-learning-carranza>; Hudson Valley, <https://www.lohud.com/story/news/education/2020/09/30/mount-vernon-city-schools-push-in-person-november/3584995001/>; Capital Region, <https://www.timesunion.com/news/article/A-month-into-COVID-19-many-students-still-offline-15197395.php>.

² We have anecdotal reports from students that school attendance is based, at least in part, on appearing on camera at designated times; these policies take for granted that students have the equipment and internet bandwidth and stability to support live video, that they are in private and classroom-appropriate locations, and that they are emotionally and psychologically comfortable on camera.

³ See, e.g., <https://www.wkbw.com/news/local-news/buffalo-students-say-they-are-blocked-from-virtual-learning-because-of-vaccines>

⁴ We refer you to our letter of May 4th which provided a complete list of technology access and privacy recommendations; to the best of our knowledge these have not been adopted widely and continue to be of concern. We are happy to provide additional copies of this letter if needed.

immigrant students, undocumented students, and students who lack permanent housing are disproportionately facing barriers to remote learning, such as lack of access to remote learning devices and the internet, language barriers, discontinuity in special education services, and more. For school districts to still be offering nothing more than physical packets of schoolwork to students without internet access seven months into remote learning is an abrogation of the duty to educate. It is incredible that this is the case in 21st century New York. We are asking you to act immediately to ensure all children have access to public education.

To ensure that all students have access to public education will require more than putting a laptop into every child's hands (were that even possible). NYSED must require thoughtful plans from school districts that are falling behind. School districts must be held accountable for delivering meaningful education during the pandemic, which may mean prioritizing full-time in-person learning for students who cannot learn online; working with local governments and the private sector to turn underutilized spaces (office buildings, libraries, and museums for example) into socially distanced classrooms; adopting intelligent policies that maximize rather than complicate access to learning; and adapting pedagogy and curriculum to our present circumstances.

The failure to act immediately to address these compounded inequities will likely escalate to a violation of students' Constitutional right to an education and other laws. Worse, it means abandoning a generation of children, virtually guaranteeing the opportunity gap will widen past the point of return.

We are aware of the intense pressures on your time, but we request a meeting to discuss these paramount issues. The COVID-19 public health crisis has catapulted us all into uncharted territory. As New York State grapples with a remote learning infrastructure, there is an opportunity to build a strong and equitable digital foundation that will affirm students' rights in this moment and prepare us for the increasingly digital future ahead. But that opportunity is slipping away from us.

To follow up with questions or to schedule a meeting, please contact Johanna Miller at jmiller@nyclu.org.

Sincerely,



Donna Lieberman
Executive Director



Johanna E. Miller, Esq.
Education Policy Center Director