About this Template:

**Sample letter begins on page 2 after the submission instructions*

Healthy Schools Campaign developed the following comment template regarding the proposed Department of Education rule to "amend the IDEA Part B regulations to remove the requirement for public agencies to obtain parental consent prior to accessing for the first time a child's public benefits or insurance (e.g., Medicaid, Children's Health Insurance Program (CHIP)) to provide or pay for required IDEA Part B services."

This comment period is an important opportunity to address a significant burden that schools face in funding school health services, and to clarify and streamline parental consent processes for students with IEPs and those in general education.

Healthy Schools Campaign encourages a wide range of stakeholders to write in support of the proposed rule. Comments must be submitted before August 1, 2023. Anyone can submit a comment as an individual. Organization and state employees may also be in the position to submit comments and are strongly encouraged to do so.

Submitting comments helps build a regulatory basis of support. We encourage you to use this template, and add your own comments and input; this helps to ensure each comment is considered uniquely and builds an even stronger base of support for the proposed rule. Feel free to also offer improvements, concrete suggestions, and a wish list in your comments.

If you have any questions regarding the comment template, please contact Jessie Mandle, National Program Director at Healthy Schools Campaign (jessie@healthyschoolscampaign.org).

Template Instructions

The Department of Education must receive all comments before August 1, 2023.

Please review the Comment Template, and update it with comments specific to your organization. Each comment received by the comment deadline will receive consideration by the Department of Education; **it is therefore important to make your comment unique, rather than merely submitting the template in its entirety**.

Please copy and paste the template onto your organization's letterhead and adjust to include the specifics of your organization's support. Commenters should include only the information that they wish to be made public.

The final rule includes a supplemental information section that proposes three questions concerning the "no cost" provisions. A proposed response affirming Question 1 is included in the template. This content can be removed if your organization is not responding to those questions, or a separate submission can be drafted in response. The supplemental questions do not impact

the proposed parental consent rule but do provide information for the Department of Education to consider as it reviews this issue for future changes.

Comment Submission

To submit your electronic comment, please go to THIS link to access the comment portal directly and click "submit a formal comment".

It can also be accessed by going to www.regulations.gov. In the search bar type in Docket ID: ED-2023-OSERS-0052. (Please note that the Docket ID was updated May 26, 2023.)

Click the "Documents" tab, then click on either: "Comment" tab under the heading "Assistance to States for Education of Children with Disabilities; Correction" or "Assistance to States for Education of Children with Disabilities." This will take you to the "Write a Comment" screen.

You have the option to write a comment or upload a document. If uploading a file, click the "Browse" button and search your files for the document that you want to post. (Please note the file type and size limitations.) Then select one of the three boxes under the heading "Tell us about yourself," and fill in the requested information. Next, insert your email address, click "I am not a robot," and submit your comment. If you wish to post another comment, repeat the process.

August 1, 2023

Dr. Miguel A. Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

Ms. Katherine Neas
Deputy Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

RE: Docket ID ED-2023-OSERS-0052; RIN 1820-AB82

Dear Secretary Cardona and Deputy Assistant Secretary Neas,

On behalf of [insert name of organization], I am writing to provide our full support for the proposed revisions to 34 CFR 300.154(d)(2). Rescinding 34 CFR 300.154(d)(2)(iv) and revising 34 CFR 300.154(d)(2)(v) would streamline and reduce administrative burdens for schools and school districts as health and behavioral health providers in the schools strive to meet the healthcare needs of students.

Medicaid is a critical source of funding for student health services, providing significant, sustainable funding for physical and behavioral health services. Guidance released by the Centers for Medicare & Medicaid Services (CMS) makes clear that investments in school-based health services are a priority for the Biden administration, and that states are encouraged to provide services in schools to all Medicaid-enrolled students. This is a huge victory. It gives state Medicaid agencies the ability to create a school-based health services ecosystem that works for local education agencies (LEAs), providers and students. But there are challenges for full participation by school districts.

Results of a recent survey show that there is a significant burden for school staff to acquire parental consent for school-based Medicaid billing. School personnel meet with parents, call and text to explain the form and what is needed, and yet they cannot get the forms signed. These efforts divert valuable time from providing services to students who require assistance in meeting their healthcare needs. [Add a description of difficulties your organization has experienced in acquiring signed parent consent forms.] This proposed rule helps reduce the administrative burden on school personnel by minimizing the amount of forms that the school needs signed and removing duplicate processes, and treats all students equally. We strongly support the effort to reduce the red tape for school districts.

The same survey found that parents may have different concerns about signing consent or release forms regarding Medicaid, or may be confused about their purpose; when parents have to sign multiple consent or release forms, it can contribute to confusion or perceived concerns. [Add a description of concerns you have heard from parents regarding the signing of parent consent forms.] With this proposed rule, parents would have one less form to sign–but no less control over giving consent.

Parents already sign a consent to bill Medicaid as part of Medicaid enrollment. Parents would continue to give permission for their child to be evaluated to determine whether there is a disability under IDEA; for the provision of initial special education and related services; and for reevaluation of the disability. The proposed rule is a simple, commonsense fix that aligns the consent process to ensure parents still have control but that they are not forced to do additional, duplicate paperwork.

Based on CMS' 2014 guidance, schools in 21 states can seek Medicaid reimbursement for school-based health services provided to students with disabilities and students without disabilities. Currently, there is no parental consent requirement for students receiving services without disabilities. Under the proposed revisions that your office is recommending, both groups

of students would be treated equally, and parental consent would not be required to access Medicaid reimbursement.

The administrative burden of sorting out which students have a disability from those who do not would be discontinued, and Medicaid reimbursement claims would be processed for all students who meet medical necessity requirements.

It is important to note that two important requirements are retained and not altered by this rule. First is the consent required by parents to release personally identifiable information (PII), which is necessary for the transfer of information to bill Medicaid 34 CFR 99.30 (FERPA), and 300.622 (IDEA), the privacy right for children that should be maintained in order to prevent the unnecessary release of PII without appropriate consent.

Secondly, the proposed rule as currently drafted would maintain the requirement to include an annual written notification to parents that would include the "no cost" provisions in 34 CFR 300.154(d)(2)(i) through (iii). The "no cost" provisions protect a parent from mandatory enrollment in Medicaid for their child to receive a free, appropriate public education (FAPE); from being required to pay for certain out-of-pocket costs; and from causing insurance premiums to rise, or lead to certain other financial consequences.

A request was made in the proposed rule to comment on whether the "no cost" language should be included in the written notification, and, if so, should it be included annually. The first option would provide the most information to parents and would decrease the administrative burden of having to sort out if parents have received this annual written notification for the first time or in subsequent years.

The first option reads: "Should the "no cost" provisions in § 300.154(d)(2)(i) through (iii) continue to be included in the written notification to parents prior to accessing the child's public benefits or insurance for the first time and annually thereafter?" [Add a description of why you believe the second or third option would be a better choice if you disagree with recommending the first option.]

In summary, it is important that this proposed rule be implemented as written, reducing an administrative burden for schools while maintaining other parental consents and notifications. Medicaid and CHIP provide health coverage to more than half of all U.S. children for preventive care, behavioral health, physical and occupational therapy, and disease management in the schools.

A recent survey by the American Psychiatric Association found that more than half of all adults with children under age 18 said they are concerned about their child's mental health. The impact of the pandemic on K–12 student learning is significant and has resulted in students who are, on average, five months behind in mathematics and four months behind in reading, according to this study. Medicaid providers and support personnel in schools now are working harder than ever to address the physical and behavioral health needs of students, and they need streamlined tools to work effectively and efficiently.

Sincerely,