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April 21, 2020

The Honorable Gavin Newsom
Governor of California
California State Capitol
1303 10th Street, Suite 1173
Sacramento, CA 95814

Dear Governor Newsom:

One month ago, we wrote to you about the pressing issues facing Californians with disabilities because of the COVID-19 pandemic. We deeply appreciate the strong actions that you and your administration have taken on many of the issues we identified. In particular, we note the State's guidance prohibiting discriminatory rationing of medical services, the suspension of Medi-Cal redeterminations and flexibility regarding IHSS program rules, and the authority you provided to the Judicial Council to issue statewide orders regarding court proceedings during the pandemic.

Today, we ask you and your administration to take additional steps to protect the health and safety of Californians with disabilities in four areas:

- Protections for those in congregate settings, including nursing facilities, developmental centers, jails and the state hospitals;
- Protections for those who remain homeless and those who are at risk of homelessness;
- Guidance to ensure that people with disabilities have access to familiar support people when hospitalized and to Medi-Cal, IHSS and medical equipment when at home; and
- Additional supports for families and individuals with disabilities in the community who relied on schools and day programs that are now closed.

These and other requests are outlined in the attached “Disability Rights California COVID-19 Call to Action,” which includes summaries of recommendations made by DRC and other advocacy groups in earlier letters. Since people with disabilities are disproportionately low-income, our statement also addresses the needs of low-income Californians generally, including a call for a ban on garnishment of CARES Act stimulus payments.

Many have noted that the COVID-19 pandemic has exposed long-standing racial and economic disparities in access to health care, technology, jobs, communication and social services. These disparities intersect with disability, doubly disadvantaging adults and children with disabilities from immigrant communities, other communities of color and poor families. Disparity in access to information is also widespread, we commend you for ensuring that your public talks include ASL interpretation, but we have found that many other urgent announcements and talks from local government entities are not accessible to people who are Deaf or blind/low vision.

California must take lead on eliminating the inequities in how we deal with the homelessness crisis, the disparities highlighted by the pandemic, the economic fragility of Californians with unstable or marginal employment, and the dangers of congregate living facilities. In our call to action, we propose measures to create near-term defenses against the pandemic, and begin to improve the longer-term strength of those systems.

Thank you again for your continuing leadership and for considering the recommendations outlined below. We are proud to stand with you, other advocates for disability rights, and all Californians to keep our communities safe and healthy.

Sincerely,



Andrew J. Imparato
Executive Director
Disability Rights California

Disability Rights California COVID-19 Call to Action

April 20, 2020

Protections for those in congregate settings including nursing facilities, jails, and state hospitals

1. Implement recommendations from UC medical experts regarding nursing facilities, developmental centers and other state licensed congregate facilities.

Your recent order providing stipends to certified nurse assistants and other critical staff at nursing facilities is a positive step. However, more must be done.

Across California, hundreds of thousands of individuals live in congregate living institutions licensed by state agencies. These individuals are particularly vulnerable to severe illness from COVID-19. Data about the rates of infection and mortality rates in these settings is limited, but the state's single largest known outbreak is in a nursing home in Visalia, Redwood Springs Healthcare Center. As of April 15th, two thirds of the 176-bed facility's residents have tested positive and six residents have died. The cases in the facility account for half of Tulare County's 296 cases and 13 deaths. Incidences of rapid spread in nursing homes and other communal living institutions have been widely reported in media both in California and nationally. A New York Times review of recent data found that about a fifth of deaths from the virus in the United States have been tied to nursing homes or other long-term care facilities.

On April 10, 2020, a group of 32 noted medical leaders, researchers and gerontologists from University of California medical facilities and other prominent institutions issued a public letter¹ with important recommendations for nursing facilities and assisted living facilities. These recommendations address data transparency, distribution of Personal Protective Equipment, testing and screening, appropriate staffing,

¹ Letter from Charlene Harrington, Ph.D. RN. and thirty-one other medical professionals from UCSF, UC Berkeley, UCLA, Stanford and other California medical institutions, April 10, 2020, available from <https://sanfrancisco.cbslocal.com/wp-content/uploads/sites/15116056/2020/04/Governor-Newsom-letter-re-Corona-virus-april-10-2020.pdf>.

affirmation of residents' rights, development of an emergency complaint system, dedicated post-acute care facilities, and rigorous state oversight to include state and county strike force teams.

DRC strongly endorses these recommendations and urges your administration to adopt and implement these as soon as possible.

2. Direct the Department of State Hospitals (DSH) to release vulnerable residents, divert others and increase social distancing options.

Your recent Executive Order gave DSH discretion to waive provisions of state law, which it has used to limit admissions and discharges.² However, DSH facilities and existing protocols do not meet CDC recommended standards, such as social distancing and providing masks for all residents. The common areas and dining facilities in state hospitals must accommodate many individuals at any given time who may find it difficult to maintain the necessary separation. Staff and patients interact in close proximity, putting both at risk for infection. Even patients isolated to their room risk contamination by roommates. Recent media reports of COVID-19 outbreaks in a state hospitals in New York that left ten dead and hundreds infected underscore these dangers.³

We request that you direct DSH to take three steps to protect the safety of vulnerable residents. First, DSH should identify patients with a high risk for complications and proactively contact their families and community supports to identify any alternate, non-congregate community settings for the patients. Of the more than 6000 state hospital residents, 750 are over age 65 and many more have underlying medical conditions such as diabetes and heart disease that increase the likelihood of serious complications if they contract the virus. The same should be done for patients who came to the hospitals because of low-level criminal charges, since they might have been eligible for release if they were still in jail.

Second, DSH should commit its own staff to assist the counties in assessing the more than 800 people on the waitlist for admission to its facilities to see if any can be diverted to other community settings. With the

² Executive Order 3.21.20 EO-N-35-20, <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.21.20-EO-N-35-20.pdf>

³ See, <https://www.gothamgazette.com/state/9321-ten-dead-hundreds-infected-new-york-state-psychiatric-facilities-crisis-coronavirus-outbreak>; <https://www.recordonline.com/news/20200417/covid-19-cases-at-state-mental-hospitals>.

current suspension of admissions to DSH facilities, the waitlist is likely to balloon dramatically, leading to even greater delays in transferring people out of county jails and into needed treatment.

Third, DSH should take steps to reduce the likelihood of COVID-19 transmission within the facilities. DSH can increase social distancing by creating transitional step-down units in vacant buildings on hospital campuses and moving some patients there; these new units will also support independent living skills for patients to prepare for discharge. DSH has now provided staff with masks but should also provide masks to patients, along with access to extra soap and hand sanitizer. DSH should also offer patients the option of receiving meals in their rooms, since social distancing is not an option in the dining halls.

3. Give the Department of Developmental Services (DDS) the discretion to release vulnerable residents from DDS-operated facilities and increase options to divert individuals on waiting lists out of jails to the community.

Your Executive Order authorized DDS to deny admission and delay discharges of all individuals with Intellectual and developmental disabilities (I/DD) placed at DDS-operated facilities, but did not give DDS the authority to waive provisions of state law that you granted to DSH. In light of the known dangers of congregate settings during this public health crisis, DDS should have comparable discretion to discharge residents on a case-by-case basis.

We request that you grant DDS the same discretion you have given DSH to waive provisions of state law to limit – but not prohibit – admissions and discharges. For example, with this discretion, DDS could immediately identify residents with a high risk for complications and determine, on a case-by-case basis, if there are alternative community supports that can meet their needs, just as we have proposed DSH do.

Additionally, the moratorium on admissions to and discharges from DDS-operated facilities is placing people with I/DD who are waitlisted for admission to these facilities at additional risk. Many are languishing in overcrowded jails as they await admission to Porterville Developmental Center for competency restoration training. DDS should direct regional centers to immediately assess individuals on the waitlist for diversion to community settings. We also call for the suspension of overly-restrictive eligibility requirements for regional center diversion programs, including requirements that categorically preclude individuals charged with felonies,

regardless of the nature of the offense, from participating in these diversion programs.

4. Ensure that every county is conducting mandatory mental health hearings for people in psychiatric facilities.

Under the Lanterman Petris Short (LPS) Act, patients in psychiatric hospitals have a right to hearings regarding their continued detention and right to refuse medication. These hearings protect significant liberty interests and cannot be delayed until courts reopen. On April 14, the Judicial Council issued a statement encouraging courts to prioritize mental health hearings and meet the statutory deadlines in the LPS Act.

Through an informal survey, DRC learned that at least four counties have suspended or delayed provision of mental health hearings; this number may be higher because some counties failed to respond to our inquiry. We request that your administration confirm that, in fact, every county is now conducting LPS Act hearings, either remotely or in person, consistent with staff and patient safety.

5. Protect people with disabilities in county jails.

Outbreaks among people in custody and detention facility staff have already occurred in multiple jurisdictions, including in San Francisco, Riverside County, Orange County, and Santa Barbara County. Jails and other detention facilities remain among the most dangerous places for mass transmission of the virus. In monitoring and communicating with multiple county jail systems, we have observed variation in the precautions county jails are taking to protect the health of people in custody. We were heartened to see the Judicial Council acting to move the counties to reduce crowding in the jails, including setting new bail standards based on the emergency powers granted by the Governor's Office.

DRC is monitoring the COVID-19 situation in multiple county jail systems, including those in which we are class counsel in federal jail conditions litigation. We have urged counties to take immediate action to protect the health and safety of the jail population, jail staff, and the community at large.⁴

⁴ DRC Correspondence to Sacramento County (<https://www.disabilityrightsca.org/cases/mays-v-county-of-sacramento>) and to Santa Barbara County (<https://www.disabilityrightsca.org/cases/murray-v-county-of-santa-barbara>).

There are two areas in which county jails have consistently come up short in meeting the challenge of this crisis. First, we understand jail systems have been unable to develop and implement plans to ensure adequate physical distancing consistent with California guidelines for all Californians and with CDC's guidance for Correctional and Detention Facilities, particularly for people in congregate living units.

Second, jail systems continue to house significant numbers of people at high risk for severe illness from COVID-19. Through our monitoring work, we have learned that between 15% and 25% of people in jail have at least one risk factor for severe illness from COVID-19. A significant proportion of this high-risk population is held in congregate living units where adequate physical distancing is not provided. Such steps have been mandated by at least one federal court in California.⁵

We urge you to take a leading role in addressing these areas in this next stage of the pandemic response. Some ways you can take the lead are:

(1) providing further guidance to the Judicial Council and local jurisdictions, including to expand on the recent "Zero Bail" order, to expedite bail and plea hearings, and to prevent other procedural delays in the courts;

(2) funding methods of community-based supervision and services to facilitate alternatives to jail detention (home confinement, etc.); and

(3) communicating to Sheriffs and other criminal justice agencies the importance of providing for adequate physical distancing in all jail facilities and the need to prioritize people at high risk for severe illness from COVID-19 who can be safely released or subject to alternative methods of supervision.

6. Protect youth with disabilities in county juvenile halls and camps.

Youth with disabilities make up a high proportion of those detained in county juvenile halls and camps, as many studies and DRC's own monitoring has confirmed. In a letter to you on April 10, 2020, sixty-two children's advocacy organizations, including DRC, outlined the steps

⁵ *Order* (4/15/2020), *Gray v. County of Riverside*, C.D. Cal., No. CV-13-0444 VAP, available at <https://prisonlaw.com/news/riverside-covid-19/>.

needed to ensure the safety of youth in county juvenile facilities.⁶ We reaffirm these requests, which include guidance regarding early release, limits on new detentions and diversion from custody, enhanced re-entry services, monitoring of local custody facilities to ensure they follow CDC guidelines and a moratorium on collection of fines, fees and restitution.

Protections for those who remain unhoused and those at risk of homelessness

7. Support a full eviction moratorium.

We appreciate the actions that you and the Judicial Council have taken to delay new evictions and pending eviction trials. However, our clients continue to face eviction actions for other reasons, often related to their disabilities. California needs a full moratorium on evictions, which should follow on the March 25 recommendations of 43 California Senators and Assembly members.⁷ A full moratorium must suspend all evictions, not just those for nonpayment of rent, and ensure that all actions related to evictions are also suspended, ensuring that Californians can stay in their homes in compliance with your Stay-at-Home Order and in the aftermath of this crisis.

8. Create an emergency rental assistance fund.

The pandemic has magnified our state's epic housing and homelessness crisis; we urge you to take action to ensure our most vulnerable have safe, healthy, and stable housing. We ask your administration to set aside funds for emergency rental assistance so that California does not see a wave of evictions and new homelessness once the emergency is lifted. Housing access is already precarious; we cannot allow the pandemic to roll back any progress that has been made in addressing the state's housing crisis.

⁶ Letter to Governor Newsom and legislative leaders from the Children's Defense Fund, DRC and 60 other groups requesting additional protections for youth in juvenile facilities, April 10, 2020, available from https://www.disabilityrightsca.org/system/files/file-attachments/Protect_System-Involved_Youth_0.pdf.

⁷ Letter from Assemblyman Rob Bonta and 42 other members of the California Assembly and Senate, March 25, 2020, available from <https://a18.asmdc.org/press-releases/20200325-bonta-and-40-plus-colleagues-call-moratorium-evictions-updated>.

9. Mitigate harm for individuals living in homeless encampments, vehicles or congregate shelters.

The State should address inconsistencies in homelessness mitigation efforts since most counties and cities continue to sweep homeless encampments, fail to provide adequate hygiene facilities, and continue to issue tickets or tow the vehicles on which many rely as their only form of shelter.

We appreciate that your administration has authorized \$250 million in funding to local government to assist unsheltered people in this crisis.⁸ However, on March 27, 2020, DRC sent a letter⁹ asking your administration to add funding conditions that will reduce the risk of harm to individuals who rely on congregate shelters and ensure that local jurisdictions refrain from mass sweeps of homeless encampments, consistent with new guidance from the CDC for homeless service providers.¹⁰

We ask that your administration implement the funding conditions outlined in our earlier letter and require counties to follow the new CDC guidance regarding shelter conditions as well as protocols developed by the federal court in *Ramirez et al. v. County of Orange*.¹¹ We also ask that your

⁸ Cal. Exec. Order No. N-32-20 (signed March 4, 2020), available online at: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.18.20-EO.pdf>.

⁹ <https://www.disabilityrightsca.org/post/drc-letter-to-governor-newsom-requests-for-covid-19-state-action-on-behalf-of-homeless>

¹⁰ Interim guidance for homeless service providers to plan and respond to coronavirus disease 2019 (COVID-19). Centers for Disease Control and Prevention. Available online at: <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html> (accessed on March 24, 2020).

¹¹ *Ramirez et al. v. County of Orange*, Case no. 8:18-cv-00220-DOC-KES, U.S.D.C., C.D. Cal., Case no. 8:18-cv-00220-DOC-KES. The protocols developed by Judge Carter in that case require congregate emergency shelters to do the following:

1. For shelter residents, allow them to self-identify the appropriate housing options, funded by the State and counties, to leave the shelter and provide the means to achieve this:
 - a. Prioritize individuals in the CDC higher-risk categories;
 - b. Provide rental assistance to include security deposit and six months' rent for individuals to find private market housing;

administration monitor the counties to ensure that they follow these protocols and procedures.

New conditions on homelessness funds must also instruct counties to refrain from mass sweeps of homeless encampments during this pandemic and instead offer homeless people a choice of housing options, including remaining safely in place in a tent if they wish. As the CDC has said, “[i]n the context of COVID-19, the risks associated with sleeping outdoors in an encampment setting are different than with staying indoors in a congregate setting such as an emergency shelter or other congregate living facility. Outdoor settings may allow people to increase distance between themselves and others.” People with disabilities are in the best position to know about their own health conditions and disability-related needs. The most effective service delivery systems recognize an individual’s right to self-determination. Moving individuals into over-crowded congregate facilities against their wishes will result in serious and possibly life-threatening harm.

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- c. Provide emergency housing vouchers in conjunction with the local public housing authorities, immediately, through all homelessness and housing initiatives;
 - d. Provide stays at motels or hotels with long-term options with ability to store belongings and property; and
 - e. Arrange for food vouchers and basic expense vouchers for all individuals relocated;
 2. Staff healthcare professionals at all sites to ensure ongoing care and education on health and safety during a pandemic;
 3. Provide sanitation stations, soap, and additional accessible bathrooms and showers;
 4. Do not lock down shelters so that individuals will be able to practice social distancing during the day;
 5. Follow CDC recommendations for emergency plans;
 6. Identify and address potential language, cultural, and disability barriers to ensure effective communication about COVID-19 information to workers, volunteers and individuals at the shelters;

The *Ramirez* protocols also require counties to ensure that Medi-Cal managed care plans and County Operated Health Systems provide homeless Medi-Cal recipients and other eligible recipients access to housing through projects such as Whole Person Care or Health Homes.

Guidance to ensure that people with disabilities have access to care givers when hospitalized and to Medi-Cal, IHSS and medical equipment when at home

10. Require hospitals to post their acute care triage protocols

California has already issued important guidance banning discriminatory rationing of acute care in hospitals. We are still analyzing the updated guidance on rationing released by Secretary Ghaly and will respond at later date regarding this document.

In the interim, we ask that you work with the California Hospital Association to ensure that hospitals publicly disclose, through posting on their websites, their ventilator use policy and the steps they have taken to comply with the state's medical rationing guidance.

11. Require hospitals to adopt visitor policies permitting caregivers to assist patients with disabilities.

People with disabilities, especially those with intellectual or developmental disabilities or cognitive impairments such as dementia, need the support of their familiar caregivers as a necessary accommodation when they go to a hospital to receive medical treatment. For example, the American Academy of Developmental Medicine and Dentistry has just issued helpful visitation guidance to hospital operators.¹² The Academy recommends that "hospitals provide reasonable accommodations in accord with the Americans with Disabilities Act in their visitor policies for persons who need support from

¹² American Academy of Developmental Medicine and Dentistry, "Providing hospitalized patients with Intellectual and Developmental Disabilities (IDD) with Designated Support Staff During the COVID19 Pandemic: Rationale for Revised Visitor's Policy," April 2020, available from <https://static1.squarespace.com/static/5cf7d27396d7760001307a44/t/5e9e1cbefc832d0a6866fed4/1587420352080/Visitation-PolicyStatement.pdf>.

The Academy explained: "Such designated support personnel are not passive "visitors," they can provide vital information that can impact clinical decisions and outcomes. Such information may include previous hospitalization information, preferences for therapeutics, sensory accommodations, fall prevention, swallowing and feeding techniques, positive behavioral tactics, and other personal care information not readily available from hospital intake notes. They may also provide communication support between the patient and hospital staff or implement specialized support strategies to aid the patient to comply with clinical treatments.

known and acknowledged support persons (such as family, designated support personnel such as direct support professionals, or other designated caregivers).

The New York Department of Health recently issued a visitation guidance to hospital operators that states:

For patients for whom a support person has been determined to be essential to the care of the patient (medically necessary) including patients with intellectual and/or developmental disabilities (I/DD), and patients with cognitive impairments including dementia, the Department considers one support person at a time as essential to patient care in the emergency room or during hospitalization.¹³

California hospitals have a patchwork of policies – some of which completely bar visitation in order to prevent spread of COVID-19 – that are causing confusion and unnecessary anxiety in our community.

We request that your administration issue guidance as New York State did, directing hospitals to adopt a uniform statewide policy that allows patients with disabilities who require it to designate a support person who can assist them physically, emotionally and with communication during their hospitalization. The designated support person could be a family member, personal care assistant or other service provider who is knowledgeable about the person's needs. The policy should also ensure that the designated support person take proper precautions and wear protective equipment to contain the spread of COVID-19.

12. Ensure that people who currently rely on ventilators at home have continued access to supplies and equipment.

Many of our clients living in the community have long relied on ventilators to survive – before and during the pandemic. We ask that you ensure that essential equipment – ventilators, circuits, tubing and ventilator

¹³ New York State Department of Health, Health Advisory: COVID-19 Updated Guidance for Hospital Operators Regarding Visitation, April 10, 2020, available from https://opwdd.ny.gov/system/files/documents/2020/04/doh_covid19_hospit_alvisitation_4.10.20.pdf. See also, Visitation policy from Rush Hospital, Chicago Illinois, available from <https://www.rush.edu/patients-visitors/covid-19-resources/coronavirus-patient-visitor-updates-covid-19-patient>

accessories, and oxygen – continue to be available to the children and adults who need them because of their disability.

We appreciate that CDSS just announced that 250,000 sets of Personal Protective Equipment (mask and gloves) will be distributed to IHSS providers caring for individuals with suspect or confirmed COVID-19 cases.¹⁴ We request that your administration confirm that this essential equipment also will be available to all recipients as well as all providers, and in sufficient quantity to meet their needs.

13. Expand Access to Medi-Cal and Related Services

DRC re-affirms the recommendations made on expansion of health care and related services in the April 3rd letter by ten advocacy organizations.¹⁵ These include expediting implementation of the Health4All Elders/Older Californians Medi-Cal eligibility expansion, strengthening county Medi-Cal application processing requirements, suspending Medi-Cal asset limits, and others.

14. Increase access to In-Home Supportive Services (IHSS).

We appreciate your executive order granting CDSS flexibility to modify IHSS program rules. Significantly, CDSS also stepped in to ensure that counties create a network of emergency IHSS providers and business processes that support timely assignment of back-up providers, with additional funding to support the cost of implementation and support of IHSS emergency back-up systems.¹⁶

¹⁴ CDSS All-County Letter 20-41, April 16, 2020, <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2020/20-41.pdf>.

¹⁵ Letter to Secretary Mark Ghaly from DRC, Western Center on Law and Poverty, National Health Law Program, ACLU of California, CPEHN, Maternal and Child Health Access, Children’s Partnership, Children Now, Health Access, April 3, 2020, available from https://www.disabilityrightsca.org/system/files/file-attachments/Advocate_Request_to_Improve_Access_to_Health_Care_During_Pandemic.pdf and https://www.disabilityrightsca.org/system/files/file-attachments/Addendum-Additional_Changes_to_Medi-Cal.pdf.

¹⁶ CDSS ACL 20-29, <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2020/20-29.pdf>.

However, CDSS has still not addressed several critical areas. First, we ask that your administration temporarily suspend parent provider rules that bar a second parent from serving as a provider, so children who receive IHSS can have their needs met when other providers are unavailable. Second, although CDSS has now agreed that face-to-face assessments for new applicants may be conducted remotely, some families may not have access to the technology to do so. For these applicants, the requirement must be suspended to protect applicants and county social workers. Third, provider enrollment must be streamlined, including waiver of the live-scan requirement, in order to ensure recipients can get the services they need to remain safely in their homes.

Additional supports for families and individuals with disabilities in the community who rely on schools and day programs that are now closed.

15. Monitor Regional Centers to ensure that they remove barriers to respite care and other interim services until schools and day programs re-open.

We appreciate the recent DDS directives that have expanded the types of services that can be delivered in the homes of consumers and their families. Regional centers are also commonly authorizing additional hours of in-home supports, such as respite, due to school and day program closures.

However, even with this flexibility, consumers and their families still face regional center-specific barriers to accessing these services, such as policies that require in-home supports to be delivered by individuals that do not live with the consumer, that arbitrarily limit the number of respite hours that can be approved, and that needlessly delay the approval and delivery of critical services.

DDS must direct regional centers to: 1) suspend all policies mandating that in-home supports be delivered by individuals outside the family home; 2) suspend all policies creating caps or limitations on the number of respite hours that can be approved; 3) waive requirements that consumers and their families exhaust natural supports and generic resources when necessary to protect a consumer's health and safety due to the public health crisis; 4) waive requirements that regional centers establish internal processes to review purchase of service decisions or ensure that these internal processes do not delay the approval of critical supports; 5) hold IPP meetings and addendums on an expedited timeline, such as 7 days;

and 6) review and modify existing policies, as necessary, to create additional flexibility in the provision of services and supports.

16. Ensure that special education students have access to distance learning, technology, assessments and coordinated services.

We appreciate the support and collaboration that the leadership of the California Department of Education has provided regarding equal access to education for children and youth with disabilities. However, more needs to be done.

We reaffirm the special education recommendations made in an April 6 letter to your office from fifteen non-profit advocacy agencies, including DRC.¹⁷ These recommendations include requiring districts to develop a distance learning IEP for all special education students and closing the technology gap by ensuring equal access and connectivity, including parent support in their native language and expedited access to assistive technology.

We also affirm the request from a large coalition of school advocates to direct districts not to proceed with school expulsions during the pandemic and to permit expelled students to return to their districts for distance learning and when schools reopen.¹⁸

In addition, we are extremely concerned by the waivers of special education permitted under SB 117, which appear to infringe on students' federal IDEA rights. The Legislature waived timelines that the IDEA leaves up to the States, such as the timeline for assessment plans that the State had set as 15 days. By waiving the assessment plan timeline altogether, no students will be assessed at all. California must not approve any additional waivers of special education rights under the IDEA.

Under the CARES Act, Congress has authorized Secretary DeVos to suggest a plan to waive portions of the Individuals with Disabilities Education Act (IDEA), the law that guarantees students with disabilities a

¹⁷ Letter to Governor Gavin Newsom from the Alliance for Childrens Rights, DRC and 13 other agencies, April 6, 2020, available from <https://www.disabilityrightsca.org/post/coronavirus-joint-letters>.

¹⁸ Letter to Governor Newsom and Superintendent Thurmond from 42 advocacy groups, April 13, 2020, available from https://www.disabilityrightsca.org/system/files/file-attachments/Expulsion_Moratorium_Request.pdf

free and appropriate public education (FAPE). Regardless of what the federal government contemplates, we urge California to stand firm in ensuring students' right to receive a FAPE. This includes parents' procedural due process rights, and in particular, parents' right to meaningful participation in the educational planning process.

We are also concerned that students with disabilities have been harmed and are regressing because they are not receiving the services they are entitled to under their Individualized Education Plans and 504 plans. The negative impact of school closures due to COVID-19 have been particularly acute for children of color, English-language learners, and socio-economically disadvantaged families, who are less likely to have adequate access to the internet and technology. California must ensure that sufficient educational funding is available to meet the needs of students with disabilities; therefore, we urge the state make more funds available for special education, or at the very least, maintain special education funding levels. Otherwise, special education and 504 plan students will be deprived of essential educational supports and services.

Children and youth with disabilities often rely on a complex patchwork of services from diverse agencies, that make up a fragile safety net. As a result of the COVID-19 crisis, this safety net is unraveling for many families. These families need more coordination between school districts, Regional Centers, county departments of mental/behavioral health, Department of Rehabilitation, Medi-Cal, California Children's Services, and others, to ensure they are not lost in the gaps. We urge the state to release guidance clarifying the responsibilities of the different educational, health care and social services agencies, and ensuring coordination of services.

Protections for people with disabilities who are low-income

17. Ban garnishment and other collection actions against CARES Act stimulus payments.

We were disturbed to find that the federal government has not protected CARES payments from private debt collectors. For many persons with disabilities this money is critical to immediate basic needs. Therefore, we are asking you to follow the recommendations made by our consumer protection sister agencies in their letter dated April 10, 2020 and titled "Prohibiting Debt Collectors from Garnishing CARES Act Payments and Other Necessary Funds." An order immediately halting all garnishment of bank accounts, as well as other harmful collection activity will ensure that

the many low-income Californians with debt will be able to buy food and other necessities for their families during this crisis.

18. Ensure that accessible in-person voting remains an option in the next election.

We appreciate your encouragement to make voting accessible in your recent Executive Order concerning special elections. However, we are requesting that the State make clear that the November election should include clear requirements for in-person voting locations and accessible voting options. While we strongly support sending all voters a vote-by-mail ballot, all counties need to abide by minimum requirements for in-person voting. Some people with disabilities need an accessible voting machine in order to vote privately and independently. Additionally, people with disabilities or who do not have a home, like other low propensity voting groups, are less likely to have steady mail access or be able to navigate the unfamiliar challenges of the vote-by-mail process.

On April 14, 2020, DRC and other voting rights advocacy organizations wrote to you and the Secretary of State¹⁹ accepting some reduction of in-person voting due to the pandemic but proposing hard requirements for a minimum amount of in-person voting locations. We believe this strikes a balance between guaranteeing sufficient in-person voting opportunities and the very real challenges of opening voting locations during a pandemic. We fully support requiring more amounts of in-person voting than what was proposed as the floor amount in our letter. Importantly, if you issue an order approving the reduction of in-person voting locations, all locations must be physically accessible and have at least three accessible voting machines. All in-person voting locations must meet the Secretary of State's Polling Place Accessibility Checklist. Additionally, county election offices should be required to provide information on their websites about Remote Accessible Vote-by-Mail and accessible options for in-person voting for voters with disabilities.

¹⁹ Letter from Common Cause, League of Women Voters, NALEO Education Fund, ACLU of California, and Asian Americans Advancing Justice, April 14, 2020, available from <http://www.commoncause.org/california/wp-content/uploads/sites/29/2020/04/Advocates%E2%80%99s-Recommendations-for-California%E2%80%99s-November-2020-Elections.pdf>

19. When the economy restarts, give people with disabilities a fair chance for competitive, integrated employment.

We support your vision to reanimate the economic landscape and build a California for All. We urge you to consider the needs of people with disabilities as California recovers from COVID-19 related shutdowns. In 2018, the California employment–population ratio for people with a disability was 19.1 percent compared to 65.9 percent compared to people without disabilities (Bureau of Labor Statistics, U.S. Department of Labor, The Economics Daily, Employment of people with a disability in 2018). In California, over 10,000 people with disabilities work in segregated sub-minimum wage employment under Fair Labor Standards Act 14(c) special wage certificates, all of whom are deprived of the opportunity to work alongside individuals without disabilities while making at least a minimum wage. Most of these employment settings, commonly known as sheltered workshops and work enclaves, are currently closed under the shelter in place order.

We ask that state agencies focus efforts on providing services now that move toward competitive integrated employment for sheltered workshop employees. These services include holding Individualized Program Plan meetings and increasing Career Counseling Information and Referral services to prepare them for the new economic landscape.

As the California economy reopens, all individuals with disabilities, including individuals working in sheltered workshops and work enclaves, must have the same opportunity as everyone else to join the economic recovery. We ask that you cement California’s status as a national leader in the employment of people with disabilities and direct state agencies to accelerate existing transformational initiatives that move California away from its reliance on segregated subminimum-wage employment and towards competitive, integrated employment for all.