August 7, 2015

VIA EMAIL

Carmen Fariña  
Chancellor  
New York City Department of Education  
52 Chambers Street  
New York, NY 10007  
CGFarina@schools.nyc.gov

Vanessa Leung  
Panel for Educational Policy Chair  
New York City Department of Education  
52 Chambers Street  
New York, NY 10007  
VLeung@schools.nyc.gov

Victor Calise  
Commissioner  
New York City Mayor’s Office for People with Disabilities  
100 Gold Street  
New York, NY 10038  
mopdcommissioner@cityhall.nyc.gov

Re: Proposed Contract Between the New York City Department of Education and Amazon Digital Services, Inc.

Dear Chancellor Fariña, Ms. Leung, and Commissioner Calise:

We recently learned that the Panel for Educational Policy will be considering at its meeting on August 26, 2015, a $30 million contract between the New York City Department of Education and Amazon Digital Services, Inc. Our understanding is that, under this contract, Amazon would construct an electronic storefront for DOE and thereby become DOE’s primary distributor of electronic textbooks and related educational materials. We are extremely concerned that such an agreement will not adequately address the rights of the numerous New York City students, teachers, and parents who are blind or have other print disabilities.
Our concern is based in no small part on Amazon’s track record on accessibility. Despite repeated requests by the National Federation of the Blind and other organizations, Amazon has spent the better part of a decade producing devices, platforms, and e-books that are entirely inaccessible or minimally accessible to blind and print-disabled users who rely on text-to-speech and/or Braille output. Many of Amazon’s inaccessible offerings have found their way into the K-12 and post-secondary educational market. For example, in 2009 and 2010, the U.S. Departments of Justice and Education resolved complaints against five post-secondary schools that used Amazon’s inaccessible Kindle DX e-reader device in their classrooms with agreements that required these schools not to purchase any e-reader device for their classrooms or to require use of any device “unless or until such electronic book reader is fully accessible to individuals with visual impairments...”\(^1\) In 2011, the U.S. Department of Education Office for Civil Rights made clear that K-12 schools likewise must refrain from using technology like the Kindle DX that denies students with disabilities equal access.\(^2\) More recently, Amazon has signed contracts with several universities to create online storefronts through which students can purchase e-textbooks, including Kindle print replica e-textbooks that are completely inaccessible to the blind.

We are also concerned because the publicly-available documentation about the proposed contract between DOE and Amazon, including the Request for Proposal notice and the Request for Authorization, demonstrates that accessibility for the blind and print-disabled has not, to this point, been a factor considered by DOE. Indeed, the Request for Authorization\(^3\) indicates that the DOE committee evaluating the fourteen vendor proposals to create a storefront and manage and provide e-content considered the following five criteria, with their relative weights of importance: Breadth of Catalog (30%); Prices/Discounts (30%); Program Plan (15%); Organizational Capacity (15%); and Demonstrated Effectiveness (10%). This list of criteria should also have included: Accessibility for Disabled Students and Teachers. Moreover, this same document makes clear that Amazon was chosen over the other finalist, Overdrive, largely because of Amazon’s more desirable pricing structure. While we appreciate that DOE must take budgetary concerns into account when making contracting decisions, we trust you agree with us that such cost-cutting measures should not come at the expense of students and employees with disabilities.

Given these concerns and the Panel’s impending vote on the Amazon contract in less than three weeks, we are asking to meet with you as soon as possible to discuss how this contract would meet DOE’s legal obligations under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and comparable New York state and city provisions. Please respond to Mehgan Sidhu, Esq., General Counsel

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to the National Federation of the Blind, at 410-659-9314 extension 2314 or msidhu@nfb.org, no later than Friday, August 14, 2015, to inform us if you are amenable to such a meeting.

Sincerely,

[Signature]

Mark A. Riccobono, President
National Federation of the Blind

MAR/ms

cc: Robert Powell, Panel for Educational Policy Bronx Representative and Contracts Committee Chair, New York City Department of Education

Fred Baptiste, Panel for Educational Policy Brooklyn Representative, New York City Department of Education

T. Elzora Cleveland, Panel for Educational Policy Contracts Committee Member, New York City Department of Education

Deborah Dillingham, Panel for Educational Policy Queens Representative and Contracts Committee Member, New York City Department of Education

Norm Fruchter, Panel for Educational Policy Member, New York City Department of Education

Kamillah Payne-Hanks, Panel for Educational Policy Staten Island Representative

Lori Podvesker, Panel for Educational Policy Member, New York City Department of Education

Isaac Carmignani, Panel for Educational Policy Contracts Committee Member, New York City Department of Education

Roberto Soto-Carrión, Panel for Educational Policy Contracts Committee Member, New York City Department of Education
Laura Zingmond, Panel for Educational Policy Manhattan Representative, New York City Department of Education

D. Miguelina Zorilla-Aristy, Panel for Educational Policy Member, New York City Department of Education

Ben Shuldiner, Panel for Educational Policy Member, New York City Department of Education

Eve L. Hill, Esq., Deputy Assistant Attorney General, U.S. Department of Justice


David Ross, Executive Director of the Division of Contracts and Purchasing, New York City Department of Education

Xavier Cerda, Director of IT Procurement, New York City Department of Education

Daniel F. Goldstein, Esq., Brown, Goldstein & Levy, LLP

Carl Jacobsen, President, National Federation of the Blind of New York

Mehgan Sidhu, Esq., General Counsel, National Federation of the Blind

Peter Korn, Accessibility Architect, Amazon.com, Inc.

David Zapolsky, Esq., Senior Vice President and General Counsel, Amazon.com, Inc.