COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

September 10, 2009

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan:

I am writing to express my concern with the Department's recently proposed regulation that would raise the statutory caps on state administration under Title I of the Elementary and Secondary Education Act (ESEA) and part B of the Individuals with Disabilities Education Act (IDEA). The Department's proposal would allow states to retain almost $40 million in Title I and IDEA funding that was included in the American Reinvestment and Recovery Act (ARRA) for administrative purposes, instead of being released to school districts.

When Congress provided an additional $10 billion for Title I and $11.3 billion for part B of IDEA in ARRA, it did so to help school districts mitigate the effect of the reduction in local revenues and state support for education and intended that the money be allocated to states and school districts using the criteria and formula allocations contained in the authorizing statutes.

While the Recovery Act authorizes the Department to adjust limits on administrative expenditures to help recipients defray the costs of data collection, I have not seen any evidence to indicate this action is warranted at this time. As the Department pointed out in the proposed regulation, ARRA allows states to use a portion of their Government Services grant under the State Fiscal Stabilization Fund (SFSF) to administer the law's reporting requirements, including those activities that the Department is proposing to allow states to cover using Title I and IDEA funds. In addition, most of the reporting requirements included in ARRA actually require school districts, not states, to collect the data.

I understand that additional reporting requirements in ARRA may place an extra burden on states and require additional resources. However, it has come to my attention that, despite assurances that the necessary information would be provided in July, the Department still has not provided states with the guidance on how they are to meet the reporting requirements under ARRA. Therefore, it is difficult to ascertain what the true administrative burden of these activities will be.

I believe the Title I and IDEA funding included in ARRA should be used primarily to support activities at the school district level which directly benefit children. It is my hope that the Department will allow states to retain only the absolute minimum amount necessary to carry out the administration of ARRA. Accordingly, I would appreciate your prompt response to the following questions:

1. When does the Department plan to release guidance to states on the law's reporting requirements, considering that the first reports are due to the federal government by October 10, 2009?

2. How did the Department develop the new state administration funding figures and tables contained in the proposed regulation? What criteria did the Department use when calculating the funding levels? For example, did the Department analyze individual state capacity to meet the law's reporting requirements? Did the Department survey a certain number of SEAs to see if their current data systems can provide the necessary information to the federal government?

3. In the proposed notice, the Department states that it "...arrived at the proposed percentages, floors, and ceilings following consultations with staff in several SEAs (state education agencies)..." Which SEAs did the Department consult with in the drafting of the proposed regulation? Did the Department consult with any local educational agencies when determining whether the proposed increase in the statutory cap would adversely impact the ability of school districts to fund Title I and IDEA activities?

4. How did the Department arrive at the calculation that states would need an additional ten full time employees to administer the Title I program and an additional five full time employees to administer IDEA?

5. Can the Department provide a breakdown of the estimated number of hours and cost that will be required to comply with each of the reporting requirements listed in the proposed regulation? If so, please provide this information for both the SEA and local education agency (LEA).

6. In approving state applications under the Government Services grant of the SFSF, did any state indicate that they were going to use this funding to meet the law's reporting requirements? Did any state indicate that SFSF funding had freed up other state funds that could be used to meet the law's reporting requirements?

Thank you for your prompt attention to these questions. I would also ask that this letter be submitted as part of the official comment period on the proposed rule. If you have any additional questions, please contact James Bergeron or Mandy Schaumburg on my staff at (202) 225-6558.

Sincerely,

John Kline

John Kline
Senior Republican