



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

August 23, 2011

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

Dear Secretary Duncan:

When No Child Left Behind (NCLB) Act of 2001 was first signed into law in 2001, it marked an important change in the way schools, districts, and states were held accountable for the performance of each and every student. However, the NCLB accountability model has not kept pace with the next generation of school and teacher accountability systems that many states, including California, are working hard to develop. Now four years overdue for Congressional reauthorization, flexibility from the flawed NCLB policy is urgent and necessary. Relief is needed immediately before more schools suffer for another school year under inappropriate labels and ineffective interventions.

One of the widely recognized problems with NCLB is the "one-size-fits-all" approach to labeling schools that fail Adequate Yearly Progress (AYP), regardless of the reasons for the failure or whether the school fell short by a little or by a lot. We project that a significant number of California's schools, approximately 4,600, or nearly 80 percent of our schools that receive federal Title I funds, will be in improvement status for the 2011–12 school year. Even more are expected to fail AYP over the next few years as targets rise, and as such, the federally-imposed labels cease to provide any meaningful information to stakeholders who deserve a more comprehensive understanding of a school's performance.

NCLB's mandatory identification also places restrictions on how districts can use funding to meet the unique needs of its schools. Such funding restrictions impose huge burdens on the schools of California, which have already experienced \$18 billion in cuts in state and local funding over the last four years and face looming triggered cuts for the upcoming year. The economic crisis has hit California harder than nearly any other state. We do not have the luxury of dedicating scarce resources to meeting the rigid requirements of an outdated and ineffective federal law.

Additionally, NCLB's flawed accountability system places undue stress on the districts' and the state's capacity to meet the needs of increasing numbers of identified schools. School districts, as well as the California Department of Education (CDE), are forced to dilute resources and attention to the point of being potentially ineffective in those schools that most urgently need district and state support. Capacity is stretched to the limit in trying to meet the needs of increasing numbers of identified schools.

Because of these shortcomings of the NCLB accountability system, I believe flexibility is appropriate, warranted, and urgently needed. California schools require immediate relief from the escalating sanctions imposed on schools that fail to make AYP. Thus, for the 2011–12 school year, I propose that California be permitted to freeze sanctions and mandatory identification required under NCLB Section 1116 at the 2010–11 level. Schools that have not made AYP would not be subject to initial identification nor to escalating sanctions, but rather, would remain in their current status of school improvement, corrective action, or restructuring, giving the district and state additional time to provide positive supports. This approach will give California schools additional time to implement current interventions without forcing them into a new, short-term model while the state moves forward in developing our next generation accountability system.

In the absence of Elementary and Secondary Education Act (ESEA) reauthorization beyond this year, I urge you to support individual state-determined accountability initiatives already in place in many areas of the country. In California, we have a strong history of focusing on local school accountability, including through our Public School Accountability Act. I am now working with our state Legislature on the next generation of school accountability systems in order to evaluate schools more appropriately and effectively. Moreover, we are moving toward a more robust teacher and principal evaluation system that considers numerous researched-based elements, including student outcomes, multiple observations, and the California Standards for the Teaching Profession. California is ready and willing to hold our schools and systems accountable to the high standards set by our state, and I hope to work with the Administration in partnership toward this goal.

Finally, the conditional nature of the waivers presents problems for California. I understand that waivers may be granted only if a state commits to certain policy priorities of the Administration, including adopting college- and career-ready standards, imposing a differentiated accountability system, and adopting a teacher/ principal evaluation system that incorporates student test results. These policy priorities would mark dramatic deviations from the existing policies required under NCLB. States would be asked to make commitments beyond NCLB with no commensurate funding to provide the state capacity to implement such requirements. The appropriate forum for consideration of any new legal mandates is through the reauthorization process involving transparency and Congressional democratic debate.

If the Administration is unable to support robust state-determined accountability systems prior to ESEA reauthorization, I urge you to ensure that states are not held hostage to new and under-funded policy requirements in order to receive necessary relief from the unrelenting march toward mislabeling hard-working and effective schools for improvement, corrective action, and restructuring.

I appreciate your leadership in recognizing states' need for immediate flexibility from an outdated and ineffective federal law. I hear daily from superintendents and educational leaders across the state about the urgent need for swift action on this issue. I trust you will take this proposal into consideration before finalizing requirements for waivers. My staff, California State Board of Education staff, and I, welcome the opportunity to meet with you and your staff to begin a dialogue concerning flexibility options available to California, and would be pleased to host your team to discuss California's vision for a relevant and effective accountability system.

If you have any questions regarding this subject, please do not hesitate to contact me, or have your staff contact Cathy McBride, Federal Policy Liaison, Office of the State Superintendent of Public Instruction, by phone at 916-319-0650.

I appreciate your support and assistance, as we work to find the best ways to benefit our students.

Sincerely,

Tom Torlakson

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cc: The Honorable Edmund G. Brown, Jr., Governor, State of California
The Honorable Tom Harkin, Chairman, U.S. Senate Committee on Health, Education, Labor, and Pensions
The Honorable Michael Enzi, Ranking Member, U.S. Senate Committee on Health, Education, Labor
The Honorable John Kline, Chairman, House Education & the Workforce Committee
The Honorable George Miller, Ranking Member, House Education & the Workforce Committee
Members, California Congressional Delegation
The Honorable Darrell Steinberg, California State Senate
The Honorable John Perez, California State Assembly