



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

MICHAEL P. FLANAGAN
SUPERINTENDENT OF
PUBLIC INSTRUCTION

September 26, 2007

TO: Intermediate and Local School District Superintendents
Public School Academy Directors

FROM:  Mike Flanagan, Superintendent of Public Instruction

SUBJECT: Michigan's Impact on the Reauthorization of the Federal Elementary
and Secondary Education Act (ESEA)/No Child Left Behind (NCLB)

As the Congress is poised to reauthorize ESEA/NCLB this fall, Michigan is in a strategic position to have a significant impact on improving and finetuning this far-reaching legislation. Our very own Congressman Dale E. Kildee (D-Flint) is the Chairman of the House Subcommittee on Early Childhood, Elementary and Secondary Education, and we have three members on the full House Committee on Education and Labor: Congressman Pete Hoekstra (R-Holland), Congressman Vern Ehlers (R-Grand Rapids), and Congressman Tim Walberg (R-Tipton).

The House Committee recently reached out to the education community with staff bill drafts for the reauthorization and requested our input. I am acutely aware of the challenges local and intermediate school districts have faced in implementing this law, and thus I was compelled on your behalf to share some thoughts with the Committee. We've taken your concerns into consideration in this collaborative effort. I wanted you also to have the benefit of my two submissions in the form of letters (attached) to Committee Chairman Congressman George Miller (D-California) and Members of the Committee, one solely on Title I, and the other on Titles II-IX.

Since I submitted these letters by the Committee's deadlines of September 5 and 14, I have learned that the Committee is still seeking more input from the field. Because federal education law reauthorization only occurs every five years, I strongly encourage you to weigh in and directly submit your thoughts, too. The bill drafts may be accessed on the committee's website at <http://edlabor.house.gov/micro/nclb.shtml>. Then, your comments should be sent to ESEA.Comments@mail.house.gov. It would be advisable to copy your own Member of Congress on your submission. Attached, to assist you, is a list of the Michigan Congressional Delegation and their contact information. The current, most effective method to communicate with Congressional Offices is by way of the education legislative assistants' email.

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This presents us with a special opportunity. It is my hope that you will avail yourself of it to be a part of the process to improve and finetune ESEA/NCLB in a constructive way. It would be advisable to send your comments as soon as possible.

If you have any questions about this process, or desire more background, please contact Ms. Roberta E. Stanley, Director of Administrative Law and Federal Relations, MDE, at stanleyr@michigan.gov.



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JENNIFER M. GRANHOLM
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PUBLIC INSTRUCTION

September 5, 2007

Honorable George Miller, Chairman
Honorable Howard P. "Buck" McKeon, Senior Republican Member
Honorable Dale E. Kildee, Vice Chairman
Honorable Michael Castle, Senior Republican Member,
Subcommittee on Early Childhood, Elementary and Secondary Education
Committee on Education and Labor
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515-6100

Dear Mr. Chairman and Members:

Thank you for the opportunity to provide feedback on the staff discussion draft for Title I of the Elementary and Secondary Education Act (ESEA) and for conducting hearings in Washington, D.C. and throughout the country. On behalf of the elected bipartisan, State Board of Education and the Michigan Department of Education, we appreciate your willingness to open up the reauthorization process and solicit our input on the staff discussion draft for Title I of the Elementary and Secondary Education Act.

We genuinely appreciate reinforcement throughout the draft of the role of education service agencies (ESAs) in school improvement activities, an effort that strongly complements initiatives in Michigan with our 57 ESAs. Legislative inclusion of growth models, confidence intervals, and the option of a five-year graduation cohort are particularly welcome. Our experience suggests that this latter policy will especially benefit pupils in special education and alternative schools, as well as students who have experienced significant mobility or family dysfunction. The adoption of a three-year rolling average for adequate yearly progress (AYP) represents a very positive adaptation.

Other issues we would like to address are:

Coordination Between Federal Programs and Special Education

- The draft's emphasis on coordination between and among the various federal programs is positive. We particularly like the references to "response to intervention" and early intervening services distributed throughout the bill. Dual references in the Individuals with Disabilities Education Act (IDEA) and ESEA serve to reinforce the commonality and cross-cutting nature of these programs

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and the constituencies that are served. We also support the exception for programs serving exclusively, or predominantly, students with severe cognitive disabilities, from needing to request waivers to the one percent cap in calculating proficient scores on state assessments. We are also supportive of the ability to count state assessment results for students who no longer receive special education services for up to three years. Lastly, we appreciate very much the expansion of the list of allowable accommodations on state assessments for students with disabilities.

- Sec. 1112 (b)(1)(F)(i), p. 122, requires joint professional development between ESEA programs and Head Start. We believe it would be constructive to also include IDEA-funded preschool programs and state pre-Kindergarten programs. A similar inclusion should be made in description of funds being used to support preschool programs on Page 125, Sec. 1112, (b)(1)(N).; and on Pages 156-158, in Sec. 1114(b)(1)(G) relating to transition from pre-Kindergarten programs to Kindergarten; and likewise on Page 304, Sec. 1122 (b).

Assessment and Accountability

- In Section 1006, on page 19, Lines 17-21, this section would be enhanced and provide for stronger continuity by adding a reference to Section 1111(A) Postsecondary and Workplace Readiness that start on Page 115, by adding an amendment : Amend Page 115, Line 15, (%), after “supports” by adding “in conjunction with Sec. 1111(A)”.
- In Section 1111 (b)(3)(E)(ii) (IV), Pages 77-78, all alternate assessments are lumped together. This paragraph reflects current regulation for Alternate Assessments based on Alternate Achievement Standards, since we must have assessments for English Language Arts, mathematics, and science, but each state should continue to be allowed to determine what content areas they will develop in Alternate Assessments based on Modified Achievement Standards. We would suggest that the bill refer to “for the content areas the state has developed alternate assessments based on modified achievement standards they should yield results that measure the achievement separately.”
- In Section 1125, we believe the “Pilot Program to Include Locally Developed Measures” is a positive and useful addition to the Elementary and Secondary Education Act. Extending to states the flexibility of using locally-developed assessments, as well as formative assessments to determine AYP, is constructive. However, much more information is needed on how locally-developed assessments “may be used for purposes of determining adequate yearly progress” under section 1111 (b)(2), lines 10-11 on Page 333. Without more clarification of the processes, states thinking about applying may be hesitant to do so because they don’t know what criteria will be used to judge how adequately they have implemented such assessments.
- On Page 82, Lines 12-25, the language that requires states to develop and use native language assessments for language groups that comprise 10 percent or

more of the non-English speakers is a positive step. It is our sincere hope that specific resources would accompany this provision for states to develop such measures. We have noted that criteria that will be used to judge the technical adequacy of these assessments are not provided. It would be instructive to add some additional language to make that clarification.

Peer Review Process

- States uniformly were troubled by the peer review process developed by the U.S. Department of Education. In some cases, state officials found peer reviewers to be less than well skilled or knowledgeable in basic functions of state education agencies and/or the provisions of ESEA, the General Education Provisions Act, and EDGAR. It is critical that peer reviewers be given adequate training, and likewise that states being reviewed receive training opportunities, including those being given the option of participating in a mock peer review process so as to see in-depth the types of issues that might arise. Further, peer reviewers should be permitted to interact in person or in writing with the state they are reviewing to obtain more information, seek clarification, ask questions, and provide feedback.

Data Systems and Requirements

- On Page 306, a considerable number of data elements are to be included in the data system--some required and others permissive. Upon review, the sum total of all these elements is literally overwhelming. While there is relative universal agreement that data is needed, we hope that it is the intent that the resources necessary to develop and implement these statewide longitudinal data systems will be made available.

Comprehensive School Improvement and Assistance Plans

- In Sec. 1116 (a)(2), schools in Year 1 must develop a comprehensive school improvement and assistance plan to address the causes for not making AYP. Also, the local education agency (LEA) must approve the plan and in Year 2, or as soon as the plan is approved, the plan must be implemented. It is our stance that this plan really needs a modicum of outside assistance or intervention because the school and LEA are "co-dependents" in the school's current problems. Specialists in school improvement from ESAs or the state have capacity to serve this function. This section could be strengthened by requiring and suggesting that an independent third party sign off on the veracity of the data, that the data define vertical causes of the school's current achievement issues, and the plan will actually address these issues and work toward changing the achievement pattern.
- Later in Sec. 1116 (b)(3)(A)(i), we view the language as too prescriptive and suggest leaving in only the primary language in Subsections (A)-(F), and omitting the detail in (A)(i-v), (B)(i-vii). By way of explanation, the subparagraphs are not an all inclusive list. Some will only help in limited

situations and others may be less important. We do not believe these subparagraphs address many of the key principles behind the school improvement framework and in the research on effective schools, e.g. leadership. Also some schools are greatly restricted in addressing some of the infrastructure issues, e.g., data systems, district policies, and other issues. These are district level changes that are necessary to enable the school to address building level changes. The system would be well served by returning to simply requiring a plan based on a comprehensive needs assessment and by eliminating the more prescriptive and complex language. The SEA should be required to develop a comprehensive needs assessment that ensures that schools identify strengths, weaknesses, and needs, based upon a data driven comprehensive review. The defined needs then should lead to an achievement action plan. The SEA should also be required to develop a planning model with defined elements for all schools in improvement to use, e.g. statements of needs, goals, objectives, strategies and action plans delineated with timelines and responsible parties.

- Also later in Sec. 1116(b)(4), we believe there are some potential difficulties. Here, the LEA identifies which of its schools are considered high priority versus priority from the list of schools not making AYP. As above, the schools and the districts are co-dependents and it would seem that the SEA might be better able to objectively identify the high priority versus priority schools based on achievement data. The accountability of P.L. 107-110 was effective in part because it held schools responsible for improving achievement, but also because it held them responsible to an objective outside party.
- In Sec. 1116(b)(4)(D), in the Alternative Process, the situation arises whereby the LEA is in the position of identifying high priority versus priority schools. Admittedly the state has some role, and from our viewpoint it could work if the wording and the direction are slightly changed, as per Page 182, starting with Line 11 "(i) In General – A state may apply to the Secretary to use a State developed process to be applied to all schools in the State designating schools as High Priority Schools."

Supplemental Education Services

- On Page 213, Lines 1-11, it appears as though Priority Schools were excluded from receiving services. In the case of Michigan, this would exclude 90 percent of the current schools that we believe should be receiving such services.
- On Page 214, we believe it would be wiser to have Supplemental Education Services (SES) providers determine which LEAs they will offer their services to rather than having LEAs decide which providers are to offer services in their LEA.
- On Page 215, Lines 4-5, we caution requiring the LEA to post SES enrollment forms on their website. We have found that this allows the providers to forge or otherwise distort the application process.

- On Page 218, Lines 3-9, the requirement on providing notice to potential SES providers is too ambiguous. It is too difficult for the state to determine who the potential provider is, e.g., all for-profits and not-for-profits with any interest in students.
- We recommend that states within two years be encouraged to develop an automated and integrated SES application, evaluation, and billing system for all priority and high priority schools. This would serve to significantly reduce much of the tugs and pulls and administrative burden of schools.
- On Page 220, Lines 1-7, we believe the language is too restrictive. A provider would need to be actually offering tutoring for two years prior to applying for SES state approval to be eligible.
- On Page 225, Lines 14-25, it may be instructive to rethink the approach of financial support for administration of SES. We caution taking this level of funding from the LEAs.

Again, we appreciate this exceptional opportunity to provide input on the front end of the legislative process in the House Committee on Education and Labor. We look forward to working with the Committee leadership, as well as the three other Michigan Members of Congress serving on Education and Labor. Again, thank you. Please feel free to call upon me or my staff if we may further elaborate on the recommendations we have made.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Flanagan". The signature is fluid and cursive, with a prominent flourish at the end.

Michael P. Flanagan
Superintendent of Public Instruction



JENNIFER M. GRANHOLM
GOVERNOR

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September 14, 2007

Honorable George Miller, Chairman
Honorable Howard P. "Buck" McKeon, Senior Republican Member
Honorable Dale E. Kildee, Vice Chairman
Honorable Michael Castle, Senior Republican Member,
Subcommittee on Early Childhood, Elementary and Secondary Education
Committee on Education and Labor
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515-6100

Dear Mr. Chairman and Members:

Thank you for the opportunity to provide feedback on the staff discussion drafts for Title II through XI of the Elementary and Secondary Education Act, and once again for conducting hearings in Washington, DC, and throughout the country. On behalf of the bi-partisan, elected State Board of Education and the Michigan Department of Education, we continue to be appreciative of your willingness to open up the reauthorization process and for soliciting our input on these drafts.

Initially, on the issue of requiring match in cash or in-kind, the State of Michigan finds this particularly problematic in light of our severe economic crisis. While we recognize the availability of waiver possibilities, in all honesty, we have found it extremely difficult in recent years negotiating with federal agencies to receive such waivers. Our State and Michigan local education agencies (LEAs) have stretched their imaginations and capabilities to meet match requirements across the board for a number of years, whether it is in education or child nutrition programs. We fear that those LEAs and schools that are most in need of receiving the benefit of your many innovative programs in the draft bills will not be able to participate. The state of the Michigan economy is such that we do not expect any up turn in the near future.

In general, we are especially concerned throughout all three bill drafts of increased data collection, monitoring, and reporting requirements for State Education Agencies (SEAs) without any commitment to accompanying increases in funding, or for some sections, any increases in the administrative set asides.

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Title II, Teacher Excellence for All Children

Overall, we think very highly of the construction of Title II in the draft bill. Again, it is our hope that funding will be provided to implement these very thoughtful sections of legislation. The common thread you provide is what we will need if we are going to move into the high effective teaching arena.

- In Chapter A, Troops-To-Teachers Program, on page 53, Section 2503(a)(1)(A), it appears as though the drafters inadvertently changed the effective date after which military personnel can participate in the program. Using the 1999 date provided in this section would severely limit the number of potential participants.

Then, in Section 2504(c)(1), Participation Agreement and Financial Assistance, we sincerely believe that a stipend level of \$10,000 would be a more appropriate level, given that the \$5,000 figure was set in 1994, and the costs of attending institutions of higher education, becoming certified in the required number of subject areas under the Highly Qualified Teacher (HQT) provisions of the No Child Left Behind (NCLB), and acquiring necessary state certification have increased tremendously. Likewise, it would be our hope that the committee would increase the bonus level in Section (d)(1) to \$15,000 from the \$10,000 amount.

- Section 2111 is a very positive step in providing grants to offer cash incentives to experienced and National Board certified teachers to teach in high needs districts and high need content areas. We must be aware; however, that work needs to be dedicated to the area of performance assessment/observation that could potentially be refined to meet this requirement. We are also highly supportive of the mentor teacher provisions.

The work that the Michigan Department of Education is conducting with its Teacher Preparation Study Policy Group and the Michigan Professional Standards Commission for Teachers positions our state very well to be able to apply for grants under the Teacher Policy Center Section.

- Section 2241(d)(6)(B)(7)(A)(i) – Cost Sharing. We strongly suggest that this section be deleted or significantly modified for the reasons stated above. The statute requires that the partnership entity identify and document a dollar-for-dollar cost share over the life of the grant. Although there is provision for waiver/modification of this requirement, the economic reality of working in communities in which the majority of families have incomes below the federal poverty line may impact both the number and quality of the applications. Selection of high-quality proposals includes a review of budgets that must include the required cost-share; but consideration regarding a waiver is made after awards are made.

Title III – Language Instruction for Limited English Proficient and Immigrant Students

The concept of a student data collection system with agreed-upon elements is an excellent one since the information that is collected, such as language spoken, may have a different interpretation, depending on the region or state preference. It should be noted that this would be an additional cost to states, depending on the nature of the decisions on the elements to be collected.

Title IV

The increased emphasis on school climate in this bill is a positive one. We have noted strong emphasis placed on "bullying, harassment, and gang activity" throughout the bill draft. Michigan has learned through our own community service grant program data that students who feel more connected to their school community perform more highly on the Michigan Education Assessment Program (MEAP), regardless of their Supplemental Educational Services status.

Our reading of these Title IV amendments suggests the intent is to eliminate the Governor's set aside dollars and target this funding toward a new initiative, Challenge Schools. Challenge Schools would be those determined not to have a safe climate for academic achievement (currently designated as unsafe schools). The legislation would mandate the Chief Executive Officer of a state set aside 20% of a SEA or Safe and Drug Free Schools (SDFS). It is our belief that this would not be a good use of those dollars in our state, because for the 2005 school year, there were only five school buildings that would meet our current unsafe definition, thus directing a potential of millions of dollars to only five schools. Overall, however, we believe the concept of Challenge Schools is good. It provides focused support to our most unsafe school districts but locking the state into an absolute 20% simply isn't reasonable. The existing governors' set aside program that is currently part of NCLB for SDFS allows the Governor more flexibility to set aside "up to" 20%. This approach would be preferable.

The amendment incorporates more of a coordinated school health program's approach by identifying what an LEA's multi-disciplinary advisory team should look like, and what the responsibilities of that group are. We believe the law is strengthened significantly by references to the Department of Health and Human Services. We have observed, over the last 18 months, an increased collaboration at the federal level between the U.S. Department of Education (USED) Office of Safe and Drug Free Schools and other federal agencies. The reinforcement of this interagency collaboration is excellent.

- In the 21st Century Community Learning Center Program revisions, Section 402a inserts "service learning, nutritious food, and nutrition education" into allowable services. This connects very well with Michigan's system partnerships at the state level, as driven by the research on asset building and obesity prevention. Further, the removal of "recreation programs" from the services increases the focus on local practices away from sports-related activities that have no research to align them with student outcomes. Clearly, adding the desire to provide unique approaches that match a community (4) to the purposes of the centers ensures the flexibility needed in some of the segregated communities that exist in our state, supporting the practices we have implemented in our grant proposal system.

The suggested changes provided in Section 402a for the definition section (4201[b]) further support the changes to this purpose.

Many other suggested additions to the language are very strongly supported by Michigan, so that the accountability measures for quality programming that we have already implemented are reaffirmed in federal law. These include:

- Requiring professional development plans for staff working in local programs.
 - Enacting the requirement that renewal applications must be based on grantee performance.
 - Prioritizing grant awards to those schools that may not be meeting annual performance targets for groups of students.
- In Title IV, Part D, Full-Service Community Schools, we believe it is critical to include state human service agencies as a required partners in state partnerships, and in full service community school grant partnerships, given the central importance of insuring that children’s basic needs are met in order for them to succeed academically. This make up reflects the structure at the federal level that requires that the Secretary of Health and Human Services be included on federal advisory boards charged with evaluating the effectiveness of education in human service integration in schools, and ensures that service delivery systems will supplement rather than supplant existing networks of services.
 - The amendment would permit the Secretary of Education to establish a National Resource Center for Positive Youth Development and School Success. Our understanding is that the Center would provide resources, publications, and training to states and LEAs on positive relationships, opportunities, and skills that students need to stay in school and avoid risky behavior. We believe that individual states or consortia of states could do a better job of accomplishing this.

Title V

The up-and-down history of Title V, State Innovative Programs, borders on being a federal legend. Many, many of us, from time to time, gravitate toward preferring the block granting of federal programs. Almost without exception, appropriations have declined and the need for the funding of numerous critical federal functions has been overlooked. Certainly, such is the case with Title V. It began as Title V of the Elementary and Secondary Education Act of 1965 as “Improving State Departments of Education,” when the Congress determined there was an over-riding and over-arching interest in supporting critical education functions in the states and improving educational opportunities for all pupils. The needs of states and their services to LEAs are no less important today. In fact, with the advent of the most recent chapter of ESEA, No Child Left Behind, the role of states for educational leadership, technical assistance, program development, and coordination is as important today as it has ever been in history.

Our goal would be for Title V to continue to be available for states and LEAs at a respectable level of funding, containing sufficient flexibility for the multitudes of demands and issues being faced by state and local education systems.

Title VI – Flexibility and Accountability

The assessments required by ESEA/NCLB are many and varied. It is critical that states have the ability to form consortia and work with one another to develop the best possible assessment instruments.

- Developing college-and work-ready standards and assessments opens the doors for the use of assessments (taken over time), in the use of multiple measures—including performance-based measures—to increase the liability and validity of

state assessment systems. This will allow states to customize their assessment requirements, especially at the high school level. It also will lead to more complex measures and systems—especially noting that they will have the “maximum number of accommodations that do not impact the validity and reliability of assessment instruments.” The provisions regarding the assessment of English Language Learners, for example, allow states to develop or improve Native language assessments, modified English assessments and portfolio assessments. From the collaborations we have made with other states, we definitely believe there is a widespread desire for this flexibility. However, it seems highly unlikely that the myriad of related costs could possibly be provided through solely a grant process, which underlines the proposed legislative emphasis on the cost for developing these assessments and systems. With the multiple populations of refugees and immigrants in Michigan, it has been our experience that the ongoing implementation costs are difficult to anticipate and typically more than planned.

Once again, we appreciate this exceptional opportunity to provide input on the front end of the legislative process in the House Committee on Education and Labor. We look forward to working with the Committee leadership, as well as the three other Michigan Members of Congress serving on Education and Labor. Thank you. Please feel free to call upon me or my staff if we may further elaborate on the recommendations we have made.

Sincerely,

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Michael P. Flanagan
Superintendent of Public Instruction

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