

**Congress of the United States**  
**Washington, DC 20515**

August 3, 2009

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

Dear Secretary Duncan:

We write to express serious concern surrounding recently proposed regulations for States implementing the State Fiscal Stabilization Funds included in Public Law 111-16, the *American Recovery and Reinvestment Act* (ARRA). In particular, we are disappointed and frustrated by the failure to require States to collect and report data related to the inequitable distribution of teacher talent in our nation's public schools. Public Law 107-110, the reauthorization of the *Elementary and Secondary Education Act* (ESEA), requires the State educational agency "...to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers...." The statute also requires the State educational agency to evaluate and publicly report its progress on the teacher equity provisions. Congress underscored the importance of the teacher equity provisions by including the following language within ARRA and further made clear that States receiving recovery dollars should comply with the teacher equity provisions within ESEA:

*ACHIEVING EQUITY IN TEACHER DISTRIBUTION. The State will take actions to improve teacher effectiveness and comply with section 111(b)(8)(C) of the ESEA (20 U.S.C. 6311(b)(8)(C)) in order to address inequities in the distribution of highly qualified teachers between high- and low-poverty schools, and to ensure that low-income and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.*

Congress intentionally included this language to address the previous Administration's troubling and longstanding disregard of the teacher equity requirements included in ESEA and to provide the current Administration with the opportunity to break with that record and align itself squarely with the interest of some of our nation's most vulnerable students.

The teacher equity provisions are of particular importance to the Congressional Black Caucus because of their potential to dramatically improve educational opportunities for African American children. While imperfect, the ESEA teacher equity provisions require school level reporting of three specific teacher quality/qualification indicators and that states develop plans to ensure that low-income and minority students are not taught disproportionately by inexperienced, unqualified or out-of-field teachers.

We are concerned by the Notice of Proposed Requirements, Definitions, and Approval Criteria that appeared in the Federal Register (Vol. 74, No. 144) on Wednesday, July 29, 2009. The proposed

regulations related to Achieving Equity in Teacher Distribution do not address the statutory requirement that States take action to address disparities, fail to recognize the inequities based on race, and replace the three statutorily specified indicators with the single and fatally flawed "Highly Qualified Teacher" indicator. Both the Education Trust and the Citizens' Commission on Civil Rights released reports in 2006 demonstrating large discrepancies between the qualifications of teachers in high-poverty, high-minority schools and teachers serving in schools with a low poverty/minority student population. For example, a third of classes in high minority schools are taught by out-of-field teachers. In California, almost 1 in 5 teachers in high poverty schools are uncertified, twice the rate of teachers in other schools. By ignoring data related to whether teachers are out-of-field or inexperienced and by failing to disaggregate this data by race/ethnicity, we cannot truly understand whether there is an equitable distribution of experienced and qualified teachers. Moreover, the regulations fail to enforce the statutory requirements to address these inequities.

While we recognize the limits of proxy measures of teacher quality as well as the Department's intention to move toward demonstrated effectiveness through the Race to the Top, we believe the proposed State Stabilization Fund regulations guidance abandons prematurely what is currently the only available avenue toward achieving—for all students—equitable access to strong teachers.

As you finalize this guidance, we hope that you will take our concerns into consideration. We look forward to your leadership, and that of President Obama, to improve educational opportunities for all students. We believe this improvement will only happen if civil rights issues are consistently taken into consideration. Please do not hesitate to contact Liz King in Congressman Fattah's office with any questions at [Elizabeth.King@mail.house.gov](mailto:Elizabeth.King@mail.house.gov) or (202) 225-4001.

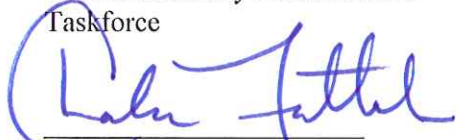
Sincerely,



Hon. Danny K. Davis  
Co-Chair  
CBC Community Reinvestment  
Taskforce



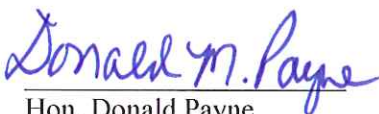
Hon. Eddie Bernice Johnson  
Co-Chair  
CBC Community Reinvestment  
Taskforce



Hon. Chaka Fattah  
Co-Chair  
CBC Education Subcommittee



Hon. Bobby Scott  
Co-Chair  
CBC Education Subcommittee



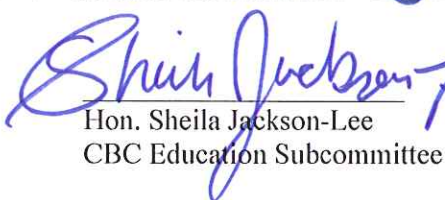
Hon. Donald Payne  
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