

## THE SECRETARY OF EDUCATION WASHINGTON, DC 20202

July 6, 2011

Honorable John Kline Chairman Committee on Education and the Workforce U.S. House of Representatives Washington, DC 20515

Dear Mr. Chairman:

Thank you for your June 23 letter concerning reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) and your concern about flexibility that the Department may provide to States and local educational agencies in case of ongoing delay in completing reauthorization. I agree with you that our education system is in great need of reform and that all of our children deserve a world-class education. I also believe that we must continue to work together to fix the ESEA without delay.

As you know, under the ESEA as reauthorized by the No Child Left Behind Act (NCLB), an overwhelming number of schools around the country soon may be labeled as "failing" and subject to a series of one-size-fits-all mandates. Many States have responded to the law's perverse incentives by lowering their academic standards. This means that each school year, many students in States around the country are told that they are ready to compete in the 21<sup>st</sup>-century economy when in fact they are not. In addition, States and local communities around the country are trying to move forward with reforms not envisioned when NCLB was enacted nearly ten years ago, reforms focused on improving outcomes for students – and the law is getting in their way.

That is why we must act soon, so that our laws and policies are supporting State and local innovation and reform and are enabling States and school districts to focus their attention on the schools that most need it – the lowest performing and those with the greatest achievement gaps – and on improving teacher and leader effectiveness. ESEA was due for reauthorization in 2007, and students and teachers should not have to be burdened by its flaws for much longer.

For two years, President Obama and I have been working diligently with Congress on reauthorization, which remains our top priority for ESEA. However, I also am receiving more and more requests from States, local communities, and other educators for flexibility, and I am convinced that current law increasingly is discouraging them from implementing important State and locally developed reforms and other innovations to the detriment of students.

That is why we have begun to consider how to exercise our authority, if Congress does not reauthorize the ESEA soon, to invite requests for flexibility to support State and local reforms under section 9401 of the law, which authorizes the Department to waive most statutory and regulatory requirements if needed to "increase the quality of instruction for students; and improve the academic achievement of students." This would not be a permanent solution, but a temporary one, while reauthorization moves forward, as it must for the long-term good of our nation's students and educators. As part of our consideration, we have begun to reach out to educators and other stakeholders around the country for their views, and of course we welcome your views as well.

Again, thank you for your letter and for your commitment to our country's children. If you have any questions, please do not hesitate to contact me or our Assistant Secretary for Legislation and Congressional Affairs, Gabriella Gomez. I am sending an identical letter to Congressman Hunter.

Sincerely,

Arne Duncan