



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

July 1, 2011

Honorable Denise Juneau
Superintendent of Public Instruction
State Office of Public Instruction
P.O. Box 202501
Helena, MT 59620-2501

Dear Superintendent Juneau:

I am writing in response to your letter and to follow up on your subsequent telephone conversation with senior U.S. Department of Education (Department) officials regarding the fact that Montana has delayed its scheduled increase of the State's annual measurable objectives (AMOs) for the 2010-2011 school year instead of increasing those AMOs consistent with the requirements of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act (NCLB).

I appreciate Montana's interest in transitioning to college- and career-ready standards and the State's participation as a governing partner State in the SMARTER Balanced Assessment Consortium. I also am fully aware that many NCLB policies could pose potential barriers to State implementation of forward-looking reforms such as raising expectations for students by transitioning to college- and career-ready standards. Please understand, however, that there is no statutory authority for Montana to freeze its AMOs as you have indicated and maintain flat expectations for schools for the fourth year in a row.

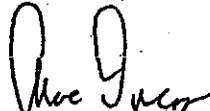
As you know, Montana has already taken advantage of available flexibility in the current law. Montana uses a "small school review" process, which permits it to use multiple criteria to determine adequate yearly progress (AYP) for small schools, of which Montana has many. More significantly, consistent with ESEA section 1111(b)(2)(H), Montana chose to increase its AMOs only once every three years. As a result, Montana's AMOs remained the same for school years 2007-2008, 2008-2009, and 2009-2010, resulting in flat expectations for schools for three years. By issuing AYP determinations in June 2011 that are based on the same annual targets used for the previous three years, Montana is now out of compliance with the federal law. Unfortunately, this action leaves the Department no alternative but to pursue enforcement action. Thus, we are placing a special condition on Montana's FY 2011 Title I, Part A grant award that will require Montana to comply with the statutory requirements and indicate that, if Montana does not comply, the Department will pursue further enforcement actions that may include the withholding of Montana's Title I, Part A funds. We urge you to reconsider your decision, and we welcome the opportunity to discuss this matter further.

As I indicated recently, the Obama Administration recognizes the challenges that States moving forward with reform are facing. We are developing a plan to consider regulatory flexibility in

return for reform that advances the academic achievement of students and the quality of their instruction in the event that reauthorization does not occur soon. However, I continue to believe that a reauthorized ESEA, which remains my top priority, is necessary for reforms to fully flourish and am hopeful that Congress will soon take action to strengthen and upgrade the nation's education law. I welcome any suggestions you may have for what a regulatory flexibility package might include should it be necessary to proceed in this manner.

Again, I appreciate your interest in implementing forward-looking reforms such as the transition to college- and career-ready standards. We look forward to working with you to put in place policies that more effectively meet the needs of Montana's children. However, until such policies are in place, Montana does need to comply with existing federal requirements.

Sincerely,



Arne Duncan