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February 9, 2009

The Honorable Arne Duncan
Secretary of Education
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan:

Congratulations on your appointment and confirmation as the ninth United States Secretary of Education. You are taking the helm of the Department at a time when America is facing unprecedented competitive challenges from all around the world. Our education system offers some of the best opportunities in the world. Unfortunately, those opportunities are uneven, leaving some students unable to compete on the international stage and undermining the strength of tomorrow's workforce. I know how hard you have fought to improve educational opportunity, particularly for disadvantaged students, during your time atop the Chicago public school system, and I believe that same commitment will serve all of America's underprivileged students as you assume leadership of the U.S. Department of Education. I look forward to sitting down with you in the near future to discuss these issues and how we can work together to help ensure that all students have access to a high quality education.

Because of what I believe is our shared commitment to improving educational opportunity for disadvantaged students, I am writing to express my strong concerns over recent press reports that the Department is planning to weaken the public school choice and Supplemental Educational Services (SES) provisions that were included in the final regulation implementing Title I of the Elementary and Secondary Education Act (ESEA). This regulation is critically important to ensuring that parents have access to and knowledge of the parental choice options guaranteed under the law. President Obama spoke compellingly about the importance of parental empowerment in education during the campaign, saying that he believes we should "...foster competition within the public school system. Let's make sure that charter schools are up and running. Let's make sure that kids who are in failing schools, in local school districts, have an option to go to schools that are doing well." I could not agree with that sentiment more, which is why I am so troubled by reports that parental options may be in jeopardy. I firmly believe that any attempt to weaken or failure to enforce the public school choice and SES provisions of ESEA would undermine both congressional intent and the spirit of reform championed by our new President.

February 9, 2009

As you know, the final Title I regulation issued by the Department in October 2008 after an extensive public comment period include new protections for parents. The regulation would ensure that parents be given adequate notice of their right to transfer their children from underperforming schools 14 days before the beginning of a new school year. This important change addressed the ongoing problem that parents with students trapped in failing schools were often not provided notice that they could transfer their child to a better performing public school until after the child was already enrolled in their existing school, sometimes months into the fall semester. The regulation would also ensure that federal funds set aside to support disadvantaged children seeking free tutoring or the option to transfer to a better performing public school are actually used for that purpose. This important change addressed the problem that local educational agencies were not conducting proper community outreach activities to parents whose children were not receiving a high quality education, choosing to spend as little of the money out of their 20 percent set-aside as possible so that they could roll it over into their general fund. Both of these vital provisions, as well as others to strengthen state oversight of providers participating in the program, addressed problems that were undermining parental choice options that were occurring on the state and school level; circumstances that were clearly against the intent of the law.

Recent press reports have indicated that the Department is reviewing the final Title I regulation and considering possible changes that could have the effect of weakening parental options guaranteed under the law. The October regulation included several provisions that were aimed at helping parents understand the choices available for their children's education. The new report card requirement should help highlight what is happening in their children's schools and allow parents to make more informed choices. If the SES and public school choice provisions are weakened, those choices become non-existent and parents will be left with nothing but the knowledge that their children are trapped in underperforming schools. These provisions were included in the law and in the regulation to strengthen parental control over their children's education and any attempt to amend the regulation is a clear decision to appease the education establishment rather than ensure students have access to the best education possible.

Once again, I want to congratulate you on your appointment to the top education post in the nation. Your reputation as a reformer precedes you, and I am confident that, in the spirit of reform, we can work together to improve opportunities for all our nation's students. As an important first step in that process, I urge you to reject attempts to weaken the public school choice and SES provisions included in the Title I regulation.

I would appreciate a response as to whether the Department is intending to revise the final Title I regulation, at your earliest convenience. If you have any questions, please do not hesitate to contact me.

Sincerely,



Howard P. "Buck" McKeon
Senior Republican Member