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LEGISLATIVE AFFAIRS

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## THE SECRETARY OF EDUCATION

WASHINGTON, D.C. 20202

April 13, 1999

Dear Conferee:

I am writing to express my views on the House- and Senate-passed versions of H.R. 800, the Education Flexibility Partnership Act of 1999. As you know, "ED-Flex" authority permits States to waive certain statutory and regulatory requirements that apply to Federal education programs in a manner that complements State educational reform efforts and promotes achievement to high standards by all students. The Administration has long supported the concept of expanding ED-Flex authority beyond the 12 States allowed under current law, so long as that expansion does not undermine the purposes of those Federal programs and maintains a high degree of accountability for results. I am very pleased, therefore, that both bills would expand eligibility for ED-Flex status to all the States, as well as the District of Columbia and the Commonwealth of Puerto Rico, and couple that increased flexibility with a serious attention to maintaining accountability at the State and local level. The Senate bill, however, contains provisions that retreat from last year's bipartisan commitment regarding the class size reduction authority and are unrelated to the expansion of the ED-Flex authority. If adopted by the Conferees, I would be forced to recommend to the President that he veto the conference report. I urge the Conferees to avoid such a disappointing and unnecessary result.

Turning to the ED-Flex provisions, I am very pleased that both bills have strong provisions for ensuring State monitoring of local ED-Flex activities and termination of waivers that have inadequate or harmful results. With regard to the following provisions, I offer the following views:

- Public notice and comment. I am pleased that both the Senate and House versions contain provisions to enhance parental involvement in the ED-Flex waiver process. In order to maximize parental involvement and improve ED-Flex waivers, I support the Senate's provision on this issue, with the addition of language included in the House bill requiring the public notice to contain a description of any expected improvements in student performance and the public comments received by the State and local education agencies to be made available for public review.
- Expansion of ED-Flex Authority. With regard to the expansion of the ED-Flex authority, I support the Senate version of the bill, which would make very clear that a State may not waive Federal requirements applicable to itself.

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- **Accountability Provisions.** With respect to State eligibility for ED-Flex status, I support the more rigorous conditions in the House bill, as they apply to implementation of standards and assessments under Title I of the Elementary and Secondary Education Act of 1965 (ESEA). With respect to the State's application for ED-Flex status, I support the language in the Senate bill, which focuses on how ED-Flex authority will assist in implementing the State's comprehensive reform plan. Regarding the renewal of Ed-Flex authority, I support the more rigorous requirements in the House version that require the State to show measurable progress toward achieving the State's educational objectives.
- **Targeting Provisions.** With respect to waivers that would not be authorized, I strongly support both the House and Senate versions regarding school eligibility for Title I Part A since both these provisions target funds more directly to high-poverty schools.
- **State Reporting.** I believe that complete State reporting of ED-Flex results is important and so support the provisions of the House bill relating to annual State reporting to the Secretary about the numbers and characteristics of waivers granted.
- **Sunset Provision.** Finally, I strongly support the provision of the House bill that would "sunset" this Act upon enactment of the upcoming reauthorization of the ESEA, because it is vitally important that continuation of ED-Flex authority be made consistent with changes to the underlying Federal programs to which it applies.

### Class Size

Last fall, Congress enacted and funded, on a bipartisan basis, a down payment on the President's plan to help the Nation's school districts reduce class sizes in the early elementary grades. Regrettably, the Senate bill contains amendments to the class size reduction authority that would undermine its impact by permitting local school districts to use funds received under that initiative not to reduce class size, but to meet obligations they are already required to meet under Part B of the Individuals with Disabilities Education Act. The value of reducing class size in the early elementary grades is supported by research, and doing so is one of the most important things we can do to honor our national commitment to ensuring equal educational opportunity for all our children. Moreover, reducing class size in the early grades allows teachers to identify, and work more effectively with, students who have learning disabilities, thereby potentially reducing those students' need for intensive special education services in the later grades. Rather than undermining the bipartisan effort to reduce class size -- and setting parent against parent in school districts across the country -- I would have supported a bill that extended the President's initiative, so that school districts could plan to hire additional qualified teachers, provide additional classrooms, and take the other steps necessary to reduce class size. I certainly cannot support a bill that contains these Senate amendments and would recommend that the President veto it if it were presented to him.

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The Office of Management and Budget advises that there is no objection to the submission of this report and that from the standpoint of the Administration's program, enactment of H.R. 800 containing the Senate's amendments relating to the class size reduction initiative would not be in accord with the President's program.

Yours sincerely,

  
Richard W. Riley