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September 21, 2012

VIA FACSIMILE – 202-401-2098

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Room 7W301
Washington, DC 20202

Dear Secretary Duncan:

I write to express my deep concern over aspects of the accountability systems that the Department of Education (ED) has approved under ESEA flexibility. Of most immediate concern are those new state accountability systems approved by ED that I believe undermine the role of graduation rates in determining school performance; are not supported by research or best practice; and erode the recent progress states have made on improving graduation rates. I urge you to work with states that currently have waivers under ESEA flexibility to ensure they adhere to best practices on graduation rate measures and, specifically, are in compliance with the letter and spirit of the 2008 regulation on graduation rate accountability (34 C.F.R. § 200.19(b)).

The President has rightfully established new education goals for our nation including college and career readiness and returning the United States to first in the world in college graduation rates. You and President Obama have consistently recognized the critical links between the strength of our education system and the long-term strength of our nation's economy. Over the last decade, we have learned much about the critical role graduation rates play in measuring the quality of our nation's schools. More importantly, we know the significant impact that increasing graduation rates will have on growing our economy and on the future economic security of those students who earn a diploma.

After the enactment of the No Child Left Behind Act (NCLB), many states adopted weak policies with regard to graduation rate accountability to mask low performance. States used a range of inaccurate graduation rate calculations; measured completion through non-regular diplomas such as general equivalency diplomas (GEDs); set meaningless goals and growth targets for improvement; and did not account for the graduation rates of subgroups of students. Additionally, as was well documented, students who performed poorly on state tests were

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“pushed out” of school to increase the school’s overall performance on assessments with little to no consequences. In 2008, in response to these practices, Secretary of Education Margaret Spellings issued a graduation rate accountability regulation (34 C.F.R. § 200.19(b)) that ensured the use of common and accurate graduation rate calculations; that regular diplomas were used to measure graduation rates; that graduation rates overall and for subgroups of students played a significant role in accountability systems; and that states had to establish meaningful goals and targets to improve the graduation rates of all students.

Under your leadership, ED has continued to support and utilize this regulation for graduation rate accountability. Furthermore, ED’s ESEA flexibility package did not waive this regulation. Specifically, ED’s *“ESEA Flexibility: Frequently Asked Questions”* document states in response to a question on whether states and districts have to comply with accountability provisions that are not waived:

“All accountability provisions that are not waived still apply. For example, SEAs must use a four-year adjusted cohort graduation rates, as set forth in 34 C.F.R. § 200.19(b), and disaggregate that rate for reporting and determining AYP.”

However, despite this critical standard for ESEA flexibility, some state systems that clearly do not uphold graduation rate accountability under 34 C.F.R. § 200.19(b) have received waiver approval from ED. Some examples of such state systems include the use of dropout rates and GEDs in addition to regular diplomas to measure completion; minimal or no accountability for subgroup graduation rates; use of multiple calculations for different purposes in the systems; and overall minimal weight to graduation rates in their accountability indexes that may result in incenting the “push out” challenge experienced prior to the 2008 regulation.

Since 1965, the federal role in education has been to focus on the core values of equal opportunity. You have a tremendous opportunity through the state waiver process to ignite innovative ideas, but you also have the responsibility to protect our nation’s core principles of equity. Research is clear that a diploma is the gateway to a student’s future. Now is not the time to go back to policies where some students were not expected to get a diploma or that did not take into account whether historically underserved populations graduate at the same rates as their classmates. The federal government has the responsibility to ensure that the graduation gateway is open to all students, regardless of their background. Students, our nation and our economy cannot afford anything less.

Sincerely,



GEORGE MILLER
Senior Democratic Member