June 22, 2011

U.S. Senate
U.S. House of Representatives
Washington, D.C.

Dear Senator/Representative,

Less than a month ago, the American Association of School Administrators and the National School Boards Association joined forces to issue a resolution calling for targeted regulatory relief for the nation’s schools before the start of the 2011-12 school year. In just over three weeks, more than 1,000 individuals from all 50 states have signed on to the joint resolution, and countless others have personally adopted the resolution within their school board and school district. In light of recent communications from the Department of Education about providing relief to school districts (via conditional waivers) in exchange for adopting policy priorities, AASA and NSBA wanted to share our very clear resolution and reiterate our commitment to straight, targeted regulatory relief for the upcoming school year.

Everyone agrees that No Child Left Behind (NCLB), the current authorization of the Elementary and Secondary Education Act (ESEA) is long overdue for reauthorization and that reauthorization is behind schedule if it is to be completed this year. AASA and NSBA made a bold proposal for regulatory changes if ESEA is not reauthorized. Bold proposals usually stir discussion, and opposition. We welcome debate on the need for revised regulations if ESEA is not reauthorized

NCLB was a sea change in public education policy, directing authority away from local school districts and toward the federal government. The regulations for NCLB magnified the shift to federal authority, expanding the federal role in critical education decisions that were historically under local control: who should be teaching, what is to be learned, how much is to be learned, how learning will be measured, and how failure to hit learning targets would be treated. Overly prescriptive federal regulations were developed because the US Department of Education could not have a presence in all of school districts, and regulations provided a vehicle for both prescribing exactly what was to be done and putting the state educational agencies in charge of implementation.

The joint AASA /NSBA resolution asks that these very ESEA regulations—cumbersome, burdensome, and not working well--be changed to make the implementation of law more effective and efficient. That said, our joint resolution is not a call for blanket regulatory relief from all regulations. Not all of the regulations need to be changed and, in fact, only a small portion need immediate action. Blanket waivers are terrible policy and would simply make a bad situation worse.

Our joint resolution calls for regulatory relief to suspend sanctions under the current law’s AYP mechanism. Improved accountability for student outcomes is an important advancement in leading schools and school systems. AASA and NSBA want the new ESEA to improve accountability so success and problems are more accurately described and improvements are more likely to succeed. School administrators and school boards have no qualms about being accountable for the federal funds they receive and demonstrating what works and what needs improvement in their districts. The disaggregation of accountability data examining smaller groups of students to insure that minority and
low income children, students with disabilities and students who do not speak English are making adequate yearly progress is applauded by administrators and school boards as one of the strengths of the law. Unfortunately, regulations that ratchet the bar for adequate yearly progress up every year to a point where 100% of students are expected to get a high score on a challenging test subverted accountability to a point where, according to Secretary Duncan, more than eighty percent of the nation’s schools will be labeled as failing in the upcoming school year and even more the next year. There is wide recognition that as much as schools can always make an improvement, there is no way that our nation’s public schools are that underperforming.

There is consensus that the accountability structures need to be improved in the ESEA reauthorization. In fact, AASA and NSBA both prefer complete reauthorization over regulatory relief. Unfortunately, the likelihood of reauthorization prior to the school year is slim to none. The nation’s public schools should not be held hostage to a broken law, three years past-due for reauthorization, and put in a position that requires further diversion of federal funds.

A specific example of freezing sanctions through regulatory relief relates to Supplemental Education Services (SES). Current law requires LEAs not making AYP to set aside 20 percent of their Title I funds to provide SES/choice, encouraging parents to choose supplemental services or move their children to other schools. These regulations have floundered since the beginning: parents didn’t want to move children and SES turned out to be unpopular, not useful, or not feasible in many cases. Most egregiously, the regulations held that LEAs should set-aside the dollars—not available for any other district need—even if parents failed to use SES/choice. The billions of dollars held for SES/choice simply sat in the bank, not available for instruction or parental engagement. Especially in these financially distressed times as school budgets continue to be cut in response to the cessation of ARRA and EduJobs dollars and the continued effect of the recession on state/local budgets, investing these funds in Title I schools will better serve the educational needs of students than continuing the poor experience with the current choice/SES mandates.

Regulatory relief around sanctions and SES/choice would both make the law more functional as schools wait for reauthorization and make a larger portion of federal dollars available for their original intent: helping improve achievement for low-income and minority students.

AASA and NSBA welcome discussion about our bold proposal. We are wary of proposals that provide schools with conditional relief through waivers, in a ‘quid pro quo’ manner that requires adoption of education reform policies that come without the appropriate federal resources and have questionable levels of support with both practitioners and policymakers. Recognizing that regulations have compounded current problems with ESEA, including the SES/choice component, AASA and NSBA advocate a simple freezing of sanctions, repealing some of the overreach associated with current regulations. We feel this proposal appropriately addresses the obstacles school districts face implementing aspects of a law three years past-due for reauthorization while maintaining incentive to complete a thorough reauthorization of the law through the full, traditional process.

Please let me know if you have any questions.

Sincerely,

Ellerson

Noelle Ellerson  
Assistant Director, Policy Analysis & Advocacy  
American Association of School Administrators  
nellerson@aasa.org