

DRAFT MINUTES

JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE

March 10, 2010

The Joint Legislative Education Oversight Committee met on Wednesday, March 10, 2010, at 9:00 a.m. in room 544 of the Legislative Office Building. Senator Tony Foriest, Senate Co-Chairman, presided and the following senators were in attendance: Senators Atwater, Dannelly, Davis, Dorsett, Goss, Hartsell, Queen, Stevens, Swindell, and Tillman. The following House members were present: Representative Douglas Yongue, House Co-Chairman; Representatives Bell, Blackwood, Cotham, Fisher, Glazier, Jeffus, Johnson, Lucas, McLawhorn, Rapp, Tolson, Warren, and Wiley. The following members of the Legislative Research staff were in attendance: Shirley Iorio, Drupti Chauhan, Kara McCraw, Sara Kamprath and Dee Atkinson. Member of the Fiscal Research Division were present. Committee Clerks Jackie Ray and Katie Stanley were present as well. Member of the sergeant-at-arms staff were present as well.

Chairman Foriest convened the meeting and welcomed members, staff and guests.

Exceptional Children ARRA Update

Chairman Foriest introduced March Watson, Director of the Division for Exceptional Children, NC Department of Public Instruction (DPI), who addressed the Committee regarding the American Recovery and Reinvestment Act (ARRA) funding (Attachments 1 and 2).

Ms. Watson talked about the ARRA funding sources under IDEA Part B for services to children and youth with disabilities. She noted that all IDEA ARRA funding must be used consistently with IDEA ARRA legislation and must follow the GEPA (General Education Provisions Act) and EDGAR (Education Department General Administrative Regulations). An LEA must use the IDEA ARRA funds only for the excess cost of providing special education and related services for children with disabilities except where IDEA specifically specifies otherwise.

The following allocation of IDEA ARRA funds were for Part B, Section 611:

DATE	AMOUNT	DESCRIPTION
April 2009	\$ 157,205,020	Ages 3 - 21
October 2009	\$ 157,205,020	Ages 3 - 21

TOTAL ALLOCATION:	\$ 314,410,039	
EXPENDITURES:	\$ 16,543,108	2008-2009
	\$ 73,852,454	2009- through 01/31/2010
TOTAL EXPENDITURES:	\$ 90,395,562	

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The following allocation of IDEA ARRA funds were for Part B, Section 619:

DATE	AMOUNT	DESCRIPTION
April 2009	\$ 6,035,571	Preschool
October 2009	\$ 6,035,571	Ages 3 - 21
TOTAL ALLOCATION:	\$ 12,071,141	
EXPENDITURES:	\$ 473,346	2008-2009
	\$ 2,487,079	2009- through 01/31/2010
TOTAL EXPENDITURES:	\$ 2,960,425	

Ms. Watson indicated that the vast majority of the expenditures were spent on salaries, with the balance being spent on other categories (employee benefits, supplies and materials, purchased services, other, and capital outlay) respectively.

The timeline for spending the IDEA ARRA funds include:

- July 2009 – Assurances and Certifications and budget due
- October 2009 – Final 50% of IDEA ARRA funds allocation to public school system
- September 30, 2011 – All IDEA ARRA funds must be obligated

Ms. Watson stated that IDEA ARRA funding was instrumental in improving other areas including:

- Assistive technology devices
- Professional development
- Positive behavior support
- Instructional materials
- Positions saved/created
- EOGs (math and reading)

Ms. Watson and Paul LeSeur, Director of School Business Services, DPI, answered questions from Committee members regarding IDEA ARRA funding.

Banning Corporal Punishment for Students with Disabilities

Chairman Foriest introduced Tom Vitaglione, Senior Fellow, Action for Children for North Carolina (ACNC), and Sherry Strickland, Preschool Disabilities Coordinator, Pitt County School System (parent of a student with special needs), and President of the North Carolina Association of Educators (NCAE), who addressed the Committee regarding consideration of exempting corporal punishment for students with disabilities (Attachment 3).

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Mr. Vitaglione noted that, by statute, local school districts are authorized to establish policies with regard to corporal punishment in NC. There is no statutory requirement for report on this practice, nor does the State Board of Education request such reports. ACNC surveyed local school districts to determine the status of corporal punishment in NC. The results were as follows:

NO. OF SCHOOL DISTRICTS IN NC	CORPORAL PUNISHMENT ALLOWED
69	NO
20	YES (DID NOT USE DURING SCHOOL YEAR)
26	YES

Ms. Strickland addressed the Committee regarding corporal punishment of exceptional students from the perspective of a teacher of exceptional children (EC). She noted that a part of the NCAE’s legislative agenda is to prohibit all forms of violence in schools including corporal punishment. Ms. Strickland cited that the National Education’s Association (NEA) resolution B68 on discipline reads, “The Association believes that corporal punishment should not be used as a means of disciplining students.”

Ms. Strickland stated that in 1976 corporal punishment was regularly used in Pitt County schools. She indicated that the students in her class at that time were identified as educable, mentally disabled, and mostly African-American males. She recognized that school was often a frustrating and confusing place for most of these students who often did not have the ability or skills to communicate their frustration other than to lash out. Ms. Strickland realized that teaching an exceptional child how to behave appropriately was really no different than teaching academic subjects. She noted that when teachers choose corporal punishment as a way of disciplining exceptional children, they are doing so out of their own frustrations. These teachers most likely do not have the skills, resources, strategies, tools, or support to effectively manage the challenging behavior of some of the exceptional students. She noted that it is critical to a child’s academic success that they have positive contacts with caring adults in the school setting and that the safer a student feels, the better he or she will perform in school.

Discipline and classroom management for EC students can be extremely difficult at times. Teachers are tasked with dealing with children who cannot talk about what is bothering them, autism children with repetitive disruptive behaviors, children with uncontrollable outbursts, etc. However, the answer is not to hit the children. The answer is to provide the teacher with the tools, resources and support they need to effectively manage challenging behaviors.

The Individuals with Disabilities Act specifically recommends positive behavior support as the most effective way of addressing the behavioral needs of EC students. NC DPI can provide teachers, schools, and districts the appropriate training and support to implement Positive Behavioral Support (PBS).

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Ms. Strickland asked the Committee to pass legislation to ban corporal punishment of the approximately 185,000 exceptional children in NC's public schools and support the training for teachers in strategies that do work.

Mr. Vitaglione and Ms. Strickland answered questions from Committee members regarding exempting corporal punishment for students with disabilities.

Update – Restructuring the ABCs Accountability System

Chairman Foriest introduced Dr. Lou Fabrizio, Director of Accountability Policy and Communications, NC Department of Public Instruction (DPI), who addressed the Committee regarding an update on the plan for restructuring the ABCs accountability system (Attachments 4 and 5).

Dr. Fabrizio stated that the report to the Committee was requested by the NCGA to be submitted by January 31, 2010. The report was approved by the State Board of Education and submitted to the NCGA on January 8, 2010. The Blue Ribbon Commission established a Commission (comprised of principals, superintendents, business representatives, parents, and members of the NCGA) on testing and accountability. This initiative was known as ACRE (Accountability and curriculum Reform Effort). The focus was to institute an accountability model with three goals:

- Improves student achievement
- Increases graduation rates
- Closes achievement gaps

Dr. Fabrizio indicated that the Board has been looking at various indicators including trajectories showing student performances at various levels of comprehension. He discussed the following indicators, uses and levels as it relates to accountability issues.

1. Indicators include – Student performance, post-secondary readiness, student growth, graduation rates, and academic course rigor.
2. Proposed Indicator Uses include – report, reward and sanction, and target assistance.
3. Indicator Levels include – student, classroom, school, LEA, and the state.

On March 31, 2010, the State Board of Education will be having a session devoted to accountability issues. Dr. Fabrizio is hopeful that there will be a consensus on what the next model needs to look like. Also, there will be discussion on potential legislative issues regarding the new accountability model, calendar revision, and plans for additional stakeholder feedback.

Dr. Fabrizio summarized that the next accountability model would include such things as LEA accountability, robust growth measures, post-secondary readiness, future-ready course rigor, graduation rate instead of dropout, and revised reporting.

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Dr. Fabrizio answered questions from the Committee regarding the accountability system.

North Carolina Virtual Public School (NCVPS)

The Chair introduced Kris Nordstrom, Fiscal Analyst, NC General Assembly Fiscal Research Division, and Bryan Setser, Executive Director, NC Virtual Public School (NCVPS), who addressed the Committee regarding NCVPS (Attachment 6).

Kris Nordstrom gave an overview of funding history, NCPVS expenditures, teacher pay and course limits, tuition issues, and 2010 budget issues.

Kris noted that funding for NCPVS over the last several years has been cobbled together from a variety of sources including state appropriations and federal ARRA funds. The vast majority of expenditures (71%) is for teacher salaries, administrative costs represent (21%), and the balance is for course development, purchases and textbooks.

NCPVS teachers are paid based on the number of students in their classes. Classes are limited to 30 students. There is an \$85,000 cap on teacher earnings with payment made via two checks per semester. Student pay rates are as follows:

- \$200 per student for summer courses
- \$300 per student for block courses
- \$400 per student for year-long courses

NCVPS courses are provided at no charge for NC public school students. There was a slight change this year with regarding to private school and home school students. The 2009 Budget directed the State Board to report is policy for nonpublic school students.

Issues for the 2010 upcoming session include implementing a formula for funding the NCPVS and expansion of the NCVPS to K-8 level courses.

Bryan Setser addressed the Committee noting that the NCPVS is now the second largest virtual school in the nation and is recognized by the Center for Digital Education and well as other national and international sources. Mr. Setser noted that his role is to ensure course quality is in alignment with cost. He referenced the report, Get the Virtual Advantage (Attachment 7), which notes national comparison and efficiencies. Mr. Setser indicated that NCPVS has an 85% success rate and 94% completion rate for courses. The report also includes information relating to districts that are using their services, academic success rates, and where services are headed in alignment with fiscal projections. Mr. Setser also spoke about the learning services model being a classic model where lots of people are using this type service and its growth into a nationally recognized premiere model. The model has plans for modular and mobile features for K-12 services as well as blended course development and broadband design.

Kris and Bryan answered questions from Committee members regarding NCPVS.

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Chairman Foriest recognized Carolyn McKinney, Executive Director, NC Professional Teaching Standards Commission (PTSC), who addressed the Committee regarding the 2010 NC Teacher Working Conditions Survey (Attachment 8).

Ms. McKinney stated that the PTSC advises, coordinates and directs the administration of the teacher working condition survey. Eric Hirsch, Director of Special Projects for the New Teacher Center, a national non-profit organization, conducts the research, writes the reports, and initiates and presents professional development based on the findings of the survey each year. PTSC's goal is for 90% participation rate for each of the 2,545 schools in NC. Participation rates have increased over the years. The survey has been updated each time it is administered. A principal survey was added in 2008 in order to better understand their working conditions in their districts. Three new sections were added this year to include:

1. community support and involvement
2. managing student conduct
3. instructional practices and support

The survey is administered on line, www.ncteachingconditions.org. Participants have anonymous codes used to complete the survey. The demographic information requested in the survey is used for research purposes only and is not reported to the school district nor to the state. Results of the survey will be available on line on May 1, 2010. By June 30, 2010, additional guides (parent, district, school improvement, use and evaluations) will be available. Ms. McKinney noted the importance of the survey as it relates to teaching and learning conditions that impact student achievement and teacher turnover.

There was a brief discussion on the school inclement weather calendar and options for make up days. Co-Chairman Yongue indicated that leadership will discuss the calendar options issue at another time.

Chairman Foriest indicated that the Committee will meet on April 13 and 14, 2010, and that by April 27, 2010, there would be an approval for a final report.

The meeting was adjourned at 11:20 a.m.

The following data is taken from information reported **directly by NC Community Colleges to the US Department of Education through the National Center for Education Statistics (NCES) IPEDS data collection**. This reporting is required for all postsecondary institutions in the United States that are eligible for Title IV funds (federal financial aid). These numbers are specifically for first-time, full-time certificate or degree students, with no prior college experience, who entered a NC community college in Fall 2005. This represents roughly 28 percent of all entering certificate or degree students, and it measures, based on the federal definition*, their rate of graduation (obtaining a certificate or degree) in 150 percent of the normal completion time. These graduation rate percentages **do not credit colleges** for students who may still be enrolled as a full-time student, those who may have reduced their course-load to part-time status, or those who may have transferred to another higher-education institution (i.e., another community college or a four-year college/university).

150% Graduation Rate* of First-time, Full-time Degree Seeking Students who Entered a NC Community College in Fall 2005

Institution	All First-time Students Fall 2005	First-time, Full-time Degree Seeking 2005	Percent of First-time Students in Graduation Cohort	Graduates in 150% Time*	Graduation Rate* 150% Time
Alamance Community College	1,910	385	20.2%	65	16.9%
Asheville-Buncombe Technical Community College	2,161	311	14.4%	49	15.8%
Beaufort County Community College	296	197	66.6%	28	14.2%
Bladen Community College	442	158	35.7%	26	16.5%
Blue Ridge Community College	869	141	16.2%	28	19.9%
Brunswick Community College	635	125	19.7%	32	25.6%
Caldwell Community College & Technical Institute	1,681	415	24.7%	104	25.1%
Cape Fear Community College	2,724	723	26.5%	93	12.9%
Carteret Community College	288	149	51.7%	27	18.1%
Catawba Valley Community College	1,648	632	38.3%	102	16.1%
Central Carolina Community College	1,365	322	23.6%	68	21.1%
Central Piedmont Community College	3,522	967	27.5%	60	6.2%
Cleveland Community College	1,749	173	9.9%	49	28.3%
Coastal Carolina Community College	832	519	62.4%	114	22.0%

College of the Albemarle	980	149	15.2%	40	26.8%
Craven Community College	1,014	278	27.4%	25	9.0%
Davidson County Community College	1,121	351	31.3%	147	41.9%
Durham Technical Community College	881	241	27.4%	23	9.5%
Edgecombe Community College	188	128	68.1%	12	9.4%
Fayetteville Technical Community College	3,460	591	17.1%	59	10.0%
Forsyth Technical Community College	1,446	414	28.6%	152	36.7%
Gaston College	1,531	628	41.0%	165	26.3%
Guilford Technical Community College	4,243	987	23.3%	165	16.7%
Halifax Community College	559	169	30.2%	34	20.1%
Haywood Community College	630	155	24.6%	37	23.9%
Isothermal Community College	548	212	38.7%	16	7.5%
James Sprunt Community College	689	112	16.3%	47	42.0%
Johnston Community College	1,843	447	24.3%	146	32.7%
Lenoir Community College	400	319	79.8%	57	17.9%
Martin Community College	739	88	11.9%	7	8.0%
Mayland Community College	588	224	38.1%	112	50.0%
McDowell Technical Community College	395	104	26.3%	22	21.2%
Mitchell Community College	836	312	37.3%	50	16.0%
Montgomery Community College	308	72	23.4%	23	31.9%
Nash Community College	312	256	82.1%	20	7.8%
Pamlico Community College	117	69	59.0%	57	82.6%
Piedmont Community College	1,416	212	15.0%	77	36.3%
Pitt Community College	1,273	774	60.8%	78	10.1%
Randolph Community College	782	318	40.7%	59	18.6%
Richmond Community College	386	145	37.6%	26	17.9%
Roanoke-Chowan Community College	259	113	43.6%	11	9.7%
Robeson Community College	677	297	43.9%	46	15.5%
Rockingham Community College	875	178	20.3%	30	16.9%
Rowan-Cabarrus Community College	1,486	465	31.3%	165	35.5%
Sampson Community College	463	140	30.2%	26	18.6%
Sandhills Community College	1,563	405	25.9%	76	18.8%
South Piedmont Community College	829	150	18.1%	29	19.3%
Southeastern Community College	342	178	52.0%	77	43.3%
Southwestern Community College	742	175	23.6%	21	12.0%
Stanly Community College	791	236	29.8%	52	22.0%

Surry Community College	1,407	316	22.5%	79	25.0%
Tri-County Community College	346	89	25.7%	16	18.0%
Vance-Granville Community College	738	293	39.7%	87	29.7%
Wake Technical Community College	4,017	946	23.5%	107	11.3%
Wayne Community College	935	419	44.8%	84	20.0%
Western Piedmont Community College	433	221	51.0%	65	29.4%
Wilkes Community College	967	318	32.9%	78	24.5%
Wilson Technical Community College	663	145	21.9%	52	35.9%
NC Community College System	62,430	17,671	28.3%	3,537	20.0%

*As set by the US Department of Education, the federal definition of graduation rates includes data collected on the number of students entering the institution as full-time, first-time, degree or certificate-seeking undergraduate students in a particular year (cohort), by race/ethnicity and gender; the number completing their program within 150 percent of normal time to completion; the number that transfer to other institutions if transfer is part of the institution's mission. DOE has recognized that this definition does not as accurately reflect successful completion in a two-year higher education setting as it does in a four-year higher education setting and it has established a Committee on Measures of Student Success to reconsider this definition. (*Federal Register/Vol. 74, No. 180/Friday, September 18, 2009/Notices*)

**North Carolina Independent Colleges and Universities
IPEDS Graduation Rates**

IPEDS graduation rates data are collected for full-time, first-time degree- and certificate-seeking undergraduate students. These students never have taken a college course at any other institution. This data excludes adult students who return to college to complete their degrees. Students who transfer are counted in the cohort as not graduating.

College/University	2001 Cohort			2002 Cohort		
	4-year graduation rate	5-year graduation rate	6-year graduation rate	4-year graduation rate	5-year graduation rate	6-year graduation rate
	%	%	%	%	%	%
Barton College	27	36	38	30	40	41
Belmont Abbey College	43	49	49	29	34	35
Bennett College for Women	19	31	35	17	33	38
Brevard College	20	31	32	20	30	31
Campbell University	31	50	52	27	44	51
Catawba College	30	41	42	26	38	40
Chowan University	19	29	31	23	31	32
Davidson College	90	93	93	92	94	94
Duke University	86	93	94	88	88	95
Elon University	66	72	73	72	78	78
Gardner-Webb University	45	51	57	41	52	52
Greensboro College	22	37	40	34	41	42
Guilford College	49	57	58	49	57	57
High Point University	46	54	56	30	33	56
Johnson C. Smith University	34	39	42	26	37	39
Lees-McRae College	10	31	31	18	27	28
Lenoir-Rhyne University	40	52	53	45	53	53
Livingstone College	15	29	32	10	24	27
Mars Hill College	27	36	38	26	36	39
Meredith College	53	61	63	55	65	66
Methodist University	16	35	40	15	31	34
Montreat College	32	33	33	23	30	31
Mount Olive College	18	26	28	19	26	28
N. C. Wesleyan College	12	22	28	42	56	61
Peace College	38	40	41	22	28	30
Pfeiffer University	43	51	53	43	56	57
Queens University of Charlotte	50	61	61	58	61	61
St. Andrews Presbyterian College	33	43	43	39	54	54
Saint Augustine's College	16	27	31	6	6	8
Salem College	49	52	52	50	52	53
Shaw University	19	32	36	13	22	27
Wake Forest University	79	89	89	83	88	88
Warren Wilson College	32	43	45	33	43	46
Wingate University	37	46	47	45	52	53
Average	37	46	48	37	45	48

SOURCE: Integrated Postsecondary Education Data System (IPEDS) Graduation Rates Survey

Distance Education: Critical to UNC's Future

March 9, 2010

Dr. Marilyn Sheerer
Dr. Elmer Poe
East Carolina University

Focus: Distance education is a critical, growing component of higher education; and UNC is offering one of the best online programs in the nation.

Distance Education – Includes online offerings; off-campus face-to-face; blended models; and live video models.

UNC Online –Developed by UNC General Administration in conjunction with the 16 campuses. It offers 190 programs in 22 fields of study and features special areas for community college and military students. It has been very successful in matching NC citizens to programs at the universities.

East Carolina University has firmly established itself as North Carolina's leader in offering online programs and services to students unable to attend campus classes. ECU provides over 70 degree and certificate programs to over 6,000 students away from the campus and in each of NC's 100 counties.

DE students are primarily working adults; thus, access is provided to the underserved. While DE students accounted for 22% of the fall 09 enrollments, 25% of the fall 09 graduation list was comprised of DE students.

Why offer distance education?

- Distance and online education allow the university and community college systems to offer more degrees than on-site only programs can provide.
- DE programs offer the flexibility necessary to reach the broadest array of students, particularly in rural areas. It's all about ACCESS.
- Students want it!

Why are UNC distance education programs successful?

- UNC professors offer the courses.
- Online students are awarded the same degree as traditional students.
- Independent study by the Sloan Foundation found that UNC Online (online.northcarolina.edu) is one of the best system-wide programs in the country.

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GUIDANCE

**Funds for Part B of the
Individuals with Disabilities Education Act**

Made Available Under

The American Recovery and Reinvestment Act of 2009



April, 2009

Revised April 13, 2009

U.S. Department of Education

Office of Special Education and Rehabilitative Services

Purpose of the Guidance

The purpose of this guidance is to provide information related to Part B of the Individuals with Disabilities Education Act funds made available under the American Recovery and Reinvestment Act of 2009. The guidance provides the U.S. Department of Education's interpretation of various statutory provisions and does not impose any requirements beyond those included in the American Recovery and Reinvestment Act of 2009 and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

The Department will provide additional or updated program guidance as necessary. If you are interested in commenting on this guidance, please send your comments to IDEAREcoveryComments@ed.gov.

**Funds for Part B of the
Individuals with Disabilities Education Act
Made Available Under
The American Recovery and Reinvestment Act of 2009 (ARRA) (P.L. 111-5)**

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Introduction

The American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) appropriates significant new funding for programs under Parts B and C of the Individuals with Disabilities Education Act (IDEA). Part B of the IDEA provides funds to state educational agencies (SEAs) and through them to local educational agencies (LEAs) to help them ensure that children with disabilities, including children aged three through five, have access to a free appropriate public education to meet each child's unique needs and prepare each child for further education, employment, and independent living. Part C of the IDEA provides funds through the Grants for Infants and Families program to each state lead agency designated by the Governor to implement statewide systems of coordinated, comprehensive, multidisciplinary interagency programs and make early intervention services available through early intervention service (EIS) programs to infants and toddlers with disabilities and their families.

The IDEA ARRA funds will provide an unprecedented opportunity for states, LEAs, and EIS programs to implement innovative strategies to improve outcomes for infants, toddlers, children, and youth with disabilities while stimulating the economy. Under the ARRA, the IDEA Part B ARRA funds are provided under three authorities: \$11.3 billion is available under Part B Grants to States; \$400 million is available under Part B Preschool Grants; and \$500 million is available under Part C Grants for Infants and Families. Preliminary information about each state's allocation is available at: <http://www.ed.gov/about/overview/budget/statetables/recovery.html>.

This document provides guidance related to the Part B IDEA ARRA funds; separate documents provide guidance related to Part C IDEA ARRA funds at <http://www.ed.gov/policy/gen/leg/recovery/guidance/idea-c.pdf> and State Fiscal Stabilization Funds under the ARRA at <http://www.ed.gov/programs/statestabilization/guidance.pdf>.

A. Timing and Eligibility

- A-1.** How and when will IDEA Part B ARRA funds be allocated by the Department of Education (Department) to state educational agencies (SEAs)?

The Department awarded 50 percent of the IDEA, Part B Grants to States and Preschool Grants ARRA funds to SEAs on April 1, 2009. The other 50 percent will be awarded by September 30, 2009, after each state submits, for review and approval by the Department, additional information that addresses how the States will meet the accountability and reporting requirements in section 1512 of the ARRA. These awards will be in addition to the regular fiscal year (FY) 2009 Part B awards that will be made on July 1, 2009 (Grants to States and Preschool Grants) and October 1, 2009 (Grants to States only). Together, these grant awards will constitute a state's total FY 2009 Part B Grants to States and Preschool Grants allocations.

- A-2.** What must an SEA do to receive IDEA Part B ARRA funds?

A state did not need to submit a new application to receive the first 50 percent of the IDEA Part B Grants to States and Preschool Grants ARRA funds because these funds were made available to each state based on the state's eligibility established for FY 2008 Part B funds and its provision of the certification required by section 1607 of the ARRA. The assurances in the state's FY 2008 application, as well as the requirements of the ARRA, apply to these ARRA funds. In order to receive the remaining funds, each state will need to submit, for review and approval by the Department, additional information that addresses how the state will meet the accountability and reporting requirements in section 1512 of the ARRA. The second half of the awards will be made by September 30, 2009 upon approval of the state's recordkeeping and reporting submission. The Department will issue specific guidance for preparing and submitting this recordkeeping and reporting information and other guidance governing ARRA funds in the coming weeks.

- A-3.** How and when are the IDEA Part B ARRA funds for the Grants to States and Preschool Grants programs to be allocated by the SEAs to the LEAs?

The Department awarded 50 percent of the IDEA Part B ARRA funds on April 1, 2009, and will award the regular Grants to States and Preschool Grants for FY 2009 funds on July 1, 2009, the rest of the regular FY 2009 Grants to States funds on October 1, 2009, and the rest of the ARRA funds by September 30, 2009. However, because the formula for making allocations to LEAs under the IDEA was designed to allocate one lump sum per fiscal year, the LEA allocations, for both Grants to States and Preschool Grants, must be calculated using the sum of IDEA Part B ARRA funds and the regular IDEA FY 2009 allocation for each of these programs. By calculating LEA allocations on the basis of both IDEA Part B ARRA funds and IDEA regular FY 2009 state allocations, it is possible to get the total allocation for each LEA for each program, which then must be divided into "ARRA" and "regular" amounts for the LEA allocations. States and

LEAs must know the amount of regular and ARRA funds in order to account separately for how those funds are spent. To receive these amounts, states must do the following:

Step 1: Make its set-aside decisions, under sections 611(e) and 619(d) of the IDEA, for administrative and other state-level activities. (The impact of IDEA Part B ARRA funds on the amount that may be set-aside is addressed in question B-1.) A state must determine whether the set-asides will be deducted from the IDEA regular or ARRA allocations. For ease of recordkeeping, we advise states to reserve the set-aside amounts from the IDEA regular allocation. (States that choose to set aside any amount for state-level activities from its ARRA allocation cannot use the steps described here to determine LEA allocations.)

Step 2: Deduct the amount of the reserved funds from that state's FY 2009 regular IDEA allocations.

Step 3: Determine the total allocation level for each of its LEAs by calculating allocations based on the sum of available FY 2009 IDEA Part B ARRA funds and regular allocations.

Step 4: Determine each LEA's regular allocation by calculating allocations based ONLY on the FY 2009 IDEA regular state allocation amount (after set-asides are subtracted). Each LEA's ARRA allocation is then the difference between the total allocation and the regular allocation.

A-4. May an LEA refuse to accept IDEA funds, including ARRA funds, and if so, does the state reallocate the funds to other LEAs?

An LEA may refuse to accept IDEA, Part B funds, but what the state may do with those funds will depend on the specific circumstances.

a. If an LEA refuses to accept IDEA funds, and the SEA determines that the children in that LEA are not receiving a free, appropriate public education (FAPE), then the SEA must use funds that would have gone to the LEA to provide special education and related services directly to children with disabilities in the jurisdiction of that LEA. 34 CFR §300.227.

b. If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that LEA with state and local funds, the SEA may either reallocate those funds to other LEAs that are not adequately providing special education and related services to all children with disabilities within their jurisdictions, or the SEA may retain those funds for use at the state level to the extent that the state has not reserved the maximum amount of funds it is permitted to retain for state-level activities. 34 CFR §§300.705(c) and 300.817, 73 Fed. Reg. 73006, 73028-9 (December 1, 2008).

c. The SEA also may use those funds to develop and implement a state policy to provide early intervention jointly with the lead agency under Part C of IDEA. Any SEAs implementing such a policy should note that the early intervention services must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills, in accordance with Part C to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C until the children enter, or are eligible under state law to enter, kindergarten, or elementary school as appropriate. 34 CFR §300.704(f).

A-5. What is the period of availability for the IDEA Part B ARRA funds?

States and LEAs must obligate all IDEA Part B ARRA funds by September 30, 2011. A chart indicating when an obligation occurs for various types of activities is provided in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.707. In accordance with the goals of the ARRA, a state should obligate IDEA Part B ARRA funds to LEAs as soon as possible, consistent with prudent management, so that LEAs can begin using the funds. Similarly, an LEA should use the IDEA Part B ARRA funds expeditiously, but sensibly. States may begin obligating IDEA Part B ARRA funds immediately. Costs are allowable beginning February 17, 2009, the effective date of the grants.

B. Set-Asides and Indirect Costs

B-1. What is the impact of the IDEA Part B ARRA funds on the amount(s) that an SEA may set aside under IDEA sections 611(e) and 619(d)?

The additional IDEA Part B ARRA funds do not increase the amount a state would otherwise be able to reserve under IDEA section 611(e) for state administration or other state-level activities under its regular FY 2009 award for Part B Grants to States. However, the additional IDEA Part B ARRA funds do result in an increase in the amount a state would otherwise be able to reserve for state administration and other state-level activities under IDEA section 619(d) for Part B Preschool Grants.

B-2. Will an updated Excel Interactive (Use of Funds) spreadsheet be available to SEAs for FY 2009?

Yes. The Department will provide an FY 2009 Excel Interactive (Use of Funds) spreadsheet that includes maximums and minimums for state-level administration and other state-level activities under the Part B Grants to States program.

B-3. May LEAs set aside up to 15 percent of their IDEA Part B ARRA funds for coordinated early intervening services (CEIS) under IDEA section 613(f)?

Yes. See D-2.

- B-4.** Will LEAs with significant disproportionality based on race and ethnicity be required to set aside 15 percent of the IDEA Part B ARRA funds plus the IDEA regular FY 2009 funds for comprehensive CEIS under IDEA section 618(d)?

Yes. States are required to collect and examine data to determine if LEAs have significant disproportionality based on race and ethnicity in the identification of children as children with disabilities, the identification of children with specific impairments, the placement in particular education settings, and the incidence, duration, and type of disciplinary actions. States must require an LEA with significant disproportionality to utilize 15 percent of the LEA's total amount of IDEA Part B funds for comprehensive CEIS. The 15 percent is calculated based on the aggregate of the Grants to States and Preschool Grants amounts for both the regular IDEA awards and the IDEA ARRA awards. (See OSEP Memo 07-09, April 24, 2007 and OSEP Memo 08-09, July 28, 2008 for further information on funds for CEIS when significant disproportionality exists at <http://www.ed.gov/policy/speced/guid/idea/letters/2007-2/index.html>) LEAs that are required to use the full 15 percent for CEIS will not be able to take advantage of any of the flexibility for local MOE reduction that would otherwise be available under IDEA section 613(a)(2)(C).

- B-5.** How do IDEA Part B ARRA funds apply to a state's high cost fund (or risk pool in section 611(e)(2)(A) of the Act, and described in 34 CFR §300.704(c))?

The availability of IDEA Part B ARRA funds does not affect a state's high cost fund. The maximum amounts for administration and for other state-level activities are increased by inflation in each fiscal year in accordance with section 611(e)(2)(A) of IDEA.

States choosing to use 10 percent of the funds reserved for state-level activities (not including administration) for an LEA risk pool, as described in IDEA section 611(e)(3), will have a maximum set aside level for non-administrative state-level activities of 10 percent or 10.5 percent of their FY 2006 allocation, increased by inflation, depending on the amount reserved for administration.

- B-6.** Do restricted indirect cost rates apply to the IDEA Part B ARRA funds?

Yes. States should calculate their restricted indirect costs on the IDEA Part B ARRA funds in the same way as they calculate indirect costs on their IDEA regular grant award.

- B-7.** How might the ARRA funding affect indirect cost recoveries by grantees?

In order to obtain indirect cost recoveries, grantees are allowed to apply their currently negotiated indirect cost rate to expenditures incurred under the ARRA. The negotiated indirect cost rate for the current fiscal year is based on actual cost information from a prior fiscal year. Therefore, applying the currently negotiated indirect cost rate to the increased funding under ARRA (which was not considered in the rate calculation)

could result in an over-recovery of indirect costs in the current period. Such an over-recovery will be adjusted in a future fiscal year, thereby reducing indirect cost recoveries during that future period. In order to avoid a future compounding effect of less program dollars and reduced indirect costs, we recommend grantees closely monitor the potential impact of the ARRA on their indirect cost recoveries and consider making appropriate adjustments during the current periods. Such adjustments will lessen the dollar impact in future years and allow for stability in future budgets. Adjustments to indirect cost recoveries should first be discussed with the cognizant Federal agency.

C. Waivers

- C-1.** Does the ARRA provide any additional authority for the Secretary to grant waivers for state and local maintenance of effort (MOE) and supplement not supplant requirements under IDEA?

No. The Secretary does not have any additional authority, beyond the authority that already exists in IDEA section 612(a)(17)(C) and (18), to grant waivers for state or local MOE and supplement not supplant requirements under IDEA.

- C-2.** Under what circumstances can the Secretary waive the state-level supplement not supplant requirements?

Under IDEA section 612(a)(17)(C), the Secretary has authority to grant a waiver of the state-level supplement not supplant requirement if the state provides clear and convincing evidence that all children with disabilities in the state have FAPE available. The standards for applying for this waiver are spelled out in 34 CFR §300.164.

- C-3.** Under what circumstances can the Secretary waive the state-level MOE requirements?

Under IDEA section 612(a)(18) the Secretary has authority to grant waivers for the MOE requirement that applies to states under the Grants to States program. However, the Secretary may only grant waivers to individual states, for one fiscal year at a time, after determining that granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the state, or the state otherwise meets the standard in IDEA section 612(a)(17)(C) for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the IDEA. The state's level of effort in future years reverts to the level that would have been required in the absence of a waiver.

- C-4.** What must states do to obtain a waiver under IDEA, section 612(a)(18)?

If a state determines that it will not be able to satisfy the Grants to States state-level MOE requirement, and wants to request a waiver or modification, it must submit a written request and supporting documentation justifying the request to the Secretary.

The request should specify the amount of required non-Federal expenditures that the state wishes to have waived or modified.

The state should submit the waiver or modification request as soon as it determines that it does not expect to be able to meet the MOE requirement. States that are considering submitting a waiver application under IDEA, section 612(a)(18) are encouraged to review previous guidance developed by the Secretary for the purpose of granting waivers (using a similar statutory standard) to State Vocational Rehabilitation Agencies at: <http://www.ed.gov/policy/speced/guid/rva/tac-02-02.doc>

C-5. What authority does the Secretary have to grant waivers of MOE to LEAs?

Although the Secretary does not have any additional authority to grant waivers to LEAs, LEAs may be eligible to reduce the total state and local expenditures otherwise required by the LEA MOE provisions of IDEA using the flexible authority contained in IDEA, section 613(a)(2)(C). For more information on the flexibility available to certain LEAs under this provision, see D-6 and D-7 in this document.

C-6. What is the difference between the LEA supplement not supplant provisions at section 613(a)(2)(A)(ii) (34 CFR §300.202(a)(3)) and the LEA MOE provisions at section 613(a)(2)(A)(iii) (34 CFR §300.203(a))?

Under IDEA, section 613(a)(2)(A)(iii) (34 CFR §300.203(a) and (b)), an LEA must not use funds provided under Part B of the IDEA to reduce the level of expenditures for the education of children with disabilities made by the LEA from local, or state and local, funds below the level of those expenditures for the preceding fiscal year. The standard for determining whether the MOE requirement has been met is that the LEA actually expends, in total or per capita, an equal or greater amount of local, or state and local, funds in each subsequent year. If an LEA fails to meet MOE and cannot justify the failure under 34 CFR §§300.204 or 300.205, the SEA must pay the Department, from funds for which accountability to the Federal Government is not required, the difference between the amount of local, or state and local, funds the LEA should have expended and the amount that it did.

Under IDEA, section 613(a)(2)(A)(ii) (34 CFR §300.202(a)(3)) (supplement/not supplant), Part B funds must be used to supplement state, local and other Federal funds (used for providing services to children with disabilities). If the LEA maintains (or exceeds) its level of local, or state and local, expenditures for special education and related services from year to year, either in total or per capita, then the Part B funds are, in fact, supplementing those local, or state and local, expenditures and the LEA has met its MOE and supplement/not supplant requirements.¹

¹ Prior to 1992, the Part B regulations also included a “particular cost test” for determining whether supplanting occurred. This requirement meant, for example, that if an LEA spent Part B funds to pay for a teacher’s salary that was previously paid for with state or local funds, a supplanting violation would occur, even though the total amount of state and local funds spent on special education is greater than the amount spent the previous year. At that time, an LEA could maintain effort but still violate the supplement/not supplant provision. The “particular cost test” was

C-7. To what extent may a state or LEA use Stabilization funds to meet the MOE requirements of the IDEA, Part B program?

Section 14012(d) of the ARRA provides that, “[u]pon prior approval from the Secretary,” a state or LEA may treat Stabilization funds that are used for elementary, secondary, or postsecondary education as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other program that the Department administers.

The Secretary will permit a state or an LEA to treat Stabilization funds as non-Federal funds for MOE purposes of other Federal programs only if the following criteria are met:

- The state first demonstrates to the Department, on the basis of auditable data, that it is complying with the Stabilization program MOE requirements, unless the Secretary has granted a waiver of those requirements pursuant to the criterion in section 14012(c) of the ARRA; and
- The state or LEA has available for inspection auditable data demonstrating that the portion of its Stabilization funds that it seeks to treat as non-Federal funds to meet the MOE requirements of other Federal programs was spent in such a manner that had the Stabilization funds been non-Federal funds, the Stabilization funds would have been permitted to be used in determining the state’s or LEA’s compliance with the MOE requirement of that other program.

In addition, the Secretary will be concerned if a state reduces the proportion of total State revenues that are spent on education, and will take that into consideration in deciding whether to allow a state or LEA to treat Stabilization funds as non-Federal funds for MOE purposes of other Federal programs. If a state did reduce the proportion of total state revenues spent on education, the Secretary will consider whether there were any exceptional or uncontrollable circumstances contributing to the year-to-year decreases, the extent of the decline in available financial resources, and any changes in demand for services.

The Department intends to issue further guidance on the process for obtaining the Secretary’s “prior approval” to use Stabilization funds to meet the MOE requirements of other programs.

removed from the regulations by an amendment published in the Federal Register on August 19, 1992 (37 FR 37652) and that became effective on October 3, 1992. Therefore, no requirement currently exists related to supplanting “particular costs” and if an LEA maintains local, or state and local, effort, it will not violate the supplement/not supplant requirements of the IDEA.

D. Authorized Uses of IDEA Part B ARRA Funds

- D-1.** What provisions of the EDGAR and the General Education Provisions Act (GEPA) apply to use of the IDEA ARRA funds?

All provisions of EDGAR and GEPA, as well as those in IDEA, that currently apply to IDEA funds apply to the IDEA Part B ARRA funds. An LEA must use IDEA Part B ARRA funds only for the excess costs of providing special education and related services to children with disabilities, except where IDEA specifically provides otherwise.

- D-2.** May IDEA funds, including IDEA Part B ARRA funds, be used for coordinated early intervening services (CEIS)?

Yes. LEAs may choose to use up to 15 percent of the total of the LEA's regular and ARRA Part B Grants to States and Preschool Grants awards to implement CEIS to students in kindergarten through grade 12 who have not been identified as needing special education and related services, but who need additional academic and behavioral support to succeed in a general education environment. The funds set aside for CEIS may be used by the LEA in FY 2009 or in both FYs 2009 and 2010, as long as the FY 2009 funds are obligated by September 30, 2011. If an LEA seeks both to set aside funds for CEIS and to take advantage of the flexibility to reduce its local expenditures for special education under section 613(a)(2)(C), the LEA must ensure that the amount it uses for CEIS does not exceed the maximum amount that could be set aside for CEIS (i.e., 15 percent of the total of its Part B allocations) minus the amount by which it seeks to reduce its MOE. Alternatively, the LEA may choose to take full advantage of the flexibility to reduce its MOE and use the freed-up local funds for early intervening services for children at risk of school failure without additional support. See D-6 through D-11 for more information on the use of the flexible authority to reduce local expenditures.

- D-3.** May IDEA funds, including IDEA Part B ARRA funds, be used for construction or alteration of facilities?

Section 605 of the IDEA authorizes the Secretary to allow the use of IDEA funds, including IDEA Part B ARRA funds, for construction or alteration of facilities if the Secretary determines that the program would be improved by allowing funds to be used for those purposes. In general, to be able to use IDEA funds for these costs, states will need to obtain prior approval from the Department; and LEAs will need to obtain prior approval from the state. (See 2 CFR Part 225, Appendix B, 15.b.) Any construction or alteration of facilities must comply with Appendix A to part 36 of title 28, Code of Federal Regulations, the "Americans with Disabilities Accessibility Guidelines for Buildings and Facilities" or Appendix A of subpart 101-19.6, of title 41, Code of Federal Regulations the "Uniform Federal Accessibility Standards." (34 CFR §300.718) States and LEAs also must comply with requirements in 34 CFR Part 76

regarding construction, including the requirements in 34 CFR §§75.600-75.617 that are incorporated by reference in 34 CFR §76.600.

Additionally, if a state or LEA uses IDEA Part B ARRA funds for construction, it must comply with specific requirements relating to the use of American iron, steel and manufactured goods used in the project (ARRA section 1605), as well as the wage rate provisions of ARRA section 1606. Also, ARRA section 1604 prohibits the use of any ARRA funds, including IDEA Part B ARRA funds, for any casino, or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D-4. May IDEA funds, including IDEA Part B ARRA funds, be used to purchase equipment?

Section 605 of the IDEA authorizes the Secretary to allow the use of IDEA funds for the acquisition of equipment if the Secretary determines that the program would be improved by allowing funds to be used for these purposes. In general, to be able to use IDEA funds for these costs, states will need to obtain the prior approval of the Department for the state's use of IDEA funds for these costs; and LEAs will need to obtain the prior approval of the state for the LEA's use of IDEA funds for these costs. (See, 2 CFR Part 225, Appendix B, 15.b.) For purposes of these prior approval requirements, "equipment" is defined to mean an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the governmental unit for financial statement purposes, or \$5,000. (See 2 CFR Part 225, Appendix B, 15.a)

D-5: What additional rules apply to using IDEA funds, including IDEA Part B ARRA funds, for construction or alteration of facilities or for the acquisition of equipment?

Under OMB Circular A-87 (2 CFR Part 225), the following general criteria must be met in order for a cost to be allowable under any Federal award. The cost must --

- a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
- b. Be allocable to Federal awards under the provisions of OMB Circular A-87 (2 CFR Part 225).
- c. Be authorized or not prohibited under state or local laws or regulations.
- d. Conform to any limitations or exclusions set forth in OMB Circular A-87, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
- e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
- f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- g. Except as otherwise provided for in OMB Circular A-87, be determined in accordance with generally accepted accounting principles.

- h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
- i. Be the net of all applicable credits.
- j. Be adequately documented.

D-6. May LEAs use the flexible authority available under IDEA, section 613(a)(2)(C) (34 CFR §300.205) to reduce their local, or state and local, expenditures for special education and related services? If so, how?

Under certain circumstances, in accordance with IDEA section 613(a)(2)(C), in any fiscal year that an LEA's subgrant allocation exceeds the amount that the LEA received in the previous fiscal year, that LEA may reduce the level of local, or state and local, expenditures otherwise required by the LEA MOE requirements (in IDEA, section 613(a)(2)) by up to 50 percent of the increase in the LEA's subgrant allocation. (See D-7 through D-12 for more information.) The LEA must spend the 'freed-up' local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965.

D-7. How can an LEA determine that it is eligible to reduce its state and local effort by up to 50 percent of the increase in its subgrant allocation? (Revised April 13, 2009)

The first step for an LEA that is considering taking advantage of this flexibility is to compare the total Federal subgrant allocation the LEA received under the Part B Grants to States program in FY 2008 with the total subgrant Grants to States allocation they expect to receive in FY 2009 (including both the regular Part B LEA Grants to States subgrant allocation *and* any Part B IDEA Grants to States ARRA funds that the LEA receives). If the total Federal subgrant allocation under the Part B Grants to States program received by an LEA in FY 2009 exceeds the amount received by that LEA in FY 2008 under that program, the LEA may be eligible to reduce the level of local, or state and local, special education expenditures otherwise required, by up to 50 percent of this increase.

There are other provisions of the IDEA that limit whether an LEA may reduce local effort under IDEA section 613(a)(2)(C) (34 CFR §300.205). Under IDEA section 616(a) (34 CFR §300.600(a)(2)), SEAs are required to make determinations annually about the performance of each LEA using the following categories: Meets Requirements, Needs Assistance, Needs Intervention, and Needs Substantial Intervention. Under 616(f) (34 CFR §300.608(a)), if in making its annual determinations, an SEA determines that an LEA is not meeting the requirements of Part B, including meeting targets in the state's performance plan, the SEA *must* prohibit that LEA from reducing its MOE under IDEA section 613(a)(2)(C) for any fiscal year. Therefore, an SEA must prohibit an LEA from taking advantage of the MOE reduction under IDEA section 613(a)(2)(C) if the LEA's determination is Needs Assistance, Needs Intervention, or Needs Substantial Intervention.

Also, IDEA section 613(a)(2)(C)(iii) requires an SEA to prohibit an LEA from reducing its MOE if the SEA has taken responsibility for providing a FAPE in the LEA because the LEA is unable to establish and maintain programs of FAPE, or the SEA has taken action against the LEA under IDEA section 616. Finally, an LEA that is required to use 15 percent of its IDEA Part B allocation on CEIS because the SEA identified the LEA as having significant disproportionality under 34 CFR §300.646, will not be able to reduce local MOE under IDEA section 613(a)(2)(C).

- D-8.** What are the allowable uses of the “freed up” state and local funds for LEAs that can reduce their state and local effort?

LEAs utilizing the flexibility in IDEA section 613(a)(2)(C) (34 CFR §300.205) must use any funds that otherwise would have been used for special education and related services to support activities that are authorized under the Elementary and Secondary Education Act of 1965. One allowable use of those state and local funds would be to provide early intervening services to children at risk of school failure without additional support.

- D-9.** If an LEA opts to utilize the flexibility available under IDEA section 613(a)(2)(C) (34 CFR §300.205) to reduce its MOE in the current fiscal year, what effect would this reduction have on the LEA’s expected level of MOE in future years?

If an LEA chooses to utilize the flexibility available under IDEA section 613(a)(2)(C) to reduce the level of local, or state and local, expenditures otherwise required in the current fiscal year, in subsequent fiscal years the LEA would be required to maintain effort at the reduced level -- except to the extent that an LEA increases the level of expenditures for the education of children with disabilities made by that LEA above the level of expenditures in FY 2009, using local, or state or local funds. In other words, an LEA choosing to take advantage of this flexibility may reduce the required MOE level in subsequent years, until that LEA increases the level of special education expenditures, using state or local funds, on its own.

- D-10.** What is an example of how the provision in IDEA section 613(a)(2)(C) (34 CFR §300.205), authorizing LEAs to reduce their MOE “up to 50 percent” operates, in light of the IDEA Part B ARRA funds?

The FY 2009 IDEA Part B ARRA funds will significantly increase LEAs’ IDEA FY 2009 allocations over their FY 2008 allocations. Some LEAs will be able to take advantage of this flexibility to reduce MOE. For an eligible LEA to determine the 50 percent reduction amount, the LEA should first aggregate both distributions of its ARRA Grants to States (IDEA section 611) funds and its total regular Grants to States FY 2009 allocation. From that total, subtract the total FY 2008 Grants to States allocation. Fifty percent of the remainder (the increase in the LEA’s Grants to States FY 2009 allocation over its FY 2008 allocation) represents the amount by which the LEA may, under certain circumstances, be able to reduce its local, or state and local, effort. For example, if the LEA received \$500,000 in FY 2008 and its IDEA Part B

ARRA Grants to States and regular FY 2009 Grants to States allocation is \$1,200,000, the increase is \$700,000 and the LEA may reduce its local, or state and local, effort by \$350,000 (50 percent of \$700,000).

The LEA, however, must spend the full amount by which it reduces local, or state and local, effort for special education and related services under this provision on activities that could be supported with funds under the ESEA - regardless of whether the LEA is using funds under the ESEA for those activities. This includes any activities allowed under Title I, Impact Aid, and other ESEA programs. An LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities.

As discussed in question D-8 above, an LEA choosing to take advantage of this flexibility is only required to maintain expenditures at the reduced MOE level in subsequent years, until that LEA increases the level of special education expenditures, using state or local funds, on its own. For example, if the LEA expended \$2,000,000 of local and state funds on special education and related services in FY 2008 and lowered that amount by \$350,000 (from the example above) in FY 2009, the LEA must expend at least \$1,650,000 in state and local funds on special education and related services in FY 2010 to meet the MOE requirement in 34 CFR §300.203. In FY 2009, the year the LEA took the MOE reduction, it also must ensure that \$350,000 is expended on activities allowable under the ESEA. In FY 2010 and subsequent years, the LEA does not have to continue to separately “track” the \$350,000 expended for ESEA activities.

- D-11.** How does taking advantage of the 50 percent MOE reduction under the IDEA, and using a comparable amount of state and local funds for ESEA activities affect an LEA’s ESEA MOE level?

Many (but not all) ESEA programs include a MOE requirement, which is described under 34 CFR §299.5. Under this MOE requirement, each LEA must demonstrate that, during the prior fiscal year, it expended at least 90 percent of the amount expended in the second preceding fiscal year. This MOE amount is calculated based on the LEA’s expenditures from state and local funds for free public education, including expenditures for administration, instruction, attendance and health services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. The LEA may NOT include the following in its calculation: any expenditures for community services, capital outlay, debt service or supplemental expenses made as a result of a Presidentially declared disaster or any expenditures made from funds provided by the Federal Government.

We would expect that local and state funds used to provide special education and related services would be included in the calculation of state and local funds expended for a free public education. Therefore, shifting local and funds from special education activities to ESEA activities should have no appreciable effect on the LEA’s overall expenditures for a free public education under 34 CFR §299.5.

D-12. Are there other provisions that would allow an LEA to reduce MOE?

Aside from the 50 percent reduction potentially allowed to LEAs under section 613(a)(2)(C) (34 CFR §300.205), LEAs may reduce their level of local, or state and local expenditures below amounts expended in the prior year under 34 CFR §300.204 if such a reduction is attributable to any of the following:

- 1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel;
- 2) A decrease in the enrollment of children with disabilities;
- 3) The termination of the obligation of the agency, consistent with Part B, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child: (a) has left the jurisdiction of the agency; (b) has reached the age at which the obligation of the agency to provide FAPE to the child has termination; or (c) no longer needs the program of special education;
- 4) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities; and/or
- 5) The assumption of cost by the high cost fund operated by the SEA under 34 CFR §300.704(c).

E. Transparency, Accountability, and Reporting

E-1. Are states required to track IDEA Part B ARRA funds separately from IDEA regular funds?

Yes. ARRA requires that recipients of funds made available under that Act separately account for, and report on, how those funds are spent. The Department has assigned a new CFDA number to the IDEA Part B ARRA funds in order to facilitate separate accounting for the funds. Recipients will need to maintain accurate documentation of all ARRA expenditures to ensure that the data reported is accurate, complete, and reliable. States will be expected to monitor sub-grantees to help ensure data quality and the proper expenditure of ARRA funds. Further information on ARRA reporting instructions will be provided shortly at www.FederalReporting.gov.

E-2. Are there rules that govern the amount of IDEA, Part B ARRA funds that an SEA or LEA may draw down at any one time?

Yes. An SEA must have an effective system for managing the flow of funds that ensures that it and its LEAs are able to draw down funds as needed to pay program costs but that also minimizes the time that elapses between the transfer of the funds and their disbursement by the SEA or LEA, in accordance with U.S. Department of the Treasury regulations at 31 CFR Part 205. (See 34 CFR §80.21(b).) An SEA and LEA must promptly, but at least quarterly, remit to ED interest earned on advances. (34

CFR §80.21(i)) The Department will take appropriate actions against grantees and subgrantees that fail to comply with this requirement.

E-3. What information is a state required to include in its quarterly reports under the ARRA?

A state is required to submit reports containing the information required under section 1512(c) of the ARRA. These reports must be submitted not later than 10 days after the end of each calendar quarter. OMB is expected to issue government-wide guidance on the ARRA reporting requirements and procedures.

E-4. What are our shared responsibilities for ensuring that all funds under the ARRA are used for authorized purposes and instances of fraud, waste, and abuse are prevented?

All ARRA funds must be spent with an unprecedented level of transparency and accountability. Accordingly, SEAs and LEAs must maintain accurate, complete, and reliable documentation of all IDEA, Part B ARRA expenditures. The ARRA contains very stringent reporting requirements and requires that detailed information on the uses of funds be available publicly on www.recovery.gov.

An SEA has important oversight responsibilities and must monitor grant and subgrant activities to ensure compliance with all applicable Federal requirements. If an SEA or LEA fails to comply with requirements governing the use of IDEA, Part B funds, the Department may, consistent with applicable administrative procedures, take one or more enforcement actions, including withholding or suspending, in whole or in part, IDEA, Part B funds or recovering misspent funds following an audit.

The ARRA establishes the Recovery Act Accountability and Transparency Board, which is responsible for coordinating and conducting oversight of spending under the ARRA to prevent fraud, waste, and abuse. The Department's Office of Inspector General (OIG) will conduct comprehensive audits of ARRA implementation activities. In addition, Department program offices will closely monitor these activities.

Any instances of potential fraud, waste, and abuse should be promptly reported to the OIG hotline at 1-800-MIS-USED or oig.hotline@ed.gov. Moreover, SEAs and LEAs are reminded that significant new whistleblower protections are provided under section 1553 of the ARRA.

In the coming weeks, the Department will provide additional information on how to help prevent instances of fraud, waste, and abuse.

F. Parentally-Placed Private School Students

F-1: How will the ARRA funds be included in the calculation for proportionate share of IDEA funds for services to parentally-placed private school children?

In calculating the proportionate share required under IDEA section 612(a)(10)(A)(i)(I), an LEA must first aggregate the FY 2009 funds received under the Grants to States regular and ARRA awards and apply the formula outlined in 34 CFR §300.133 to the aggregated amount. Similarly, for children aged 3-5, the proportionate share is based on the total FY 2009 funds received under the Preschool Grants regular and ARRA awards.

- F-2:** If an LEA has completed its consultation required under IDEA section 612(a)(10)(A)(iii), will the LEA have to conduct additional consultation because the IDEA ARRA funds will increase the amount available for equitable services to parentally-placed private school children?

Under section 612(a)(10)(A)(iii), timely and meaningful consultation must occur during the design and development of special education and related services. The consultation process must include discussions of “how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process may meaningfully participate in special education and related services.” An LEA may be able to use the mechanisms developed for the ongoing consultation process to work with representatives of the private schools located in the area served by the LEA and representatives of parents of parentally-placed private school children with disabilities in determining how the proportionate share of IDEA ARRA funds will be expended. In any case, an LEA must ensure that it has engaged in consultation with the private school representatives and representatives of parents of parentally-placed private school children with disabilities about how the additional funds available for services for parentally-placed private school children with disabilities will be used.

- F-3.** May an LEA spend part of the proportionate share of the IDEA Part B ARRA funds on children with disabilities parentally-placed in private schools in school year 2009-2010 and part in school year 2010-2011?

Yes, subject to certain conditions. Under 34 CFR §300.133(a), each LEA is required to spend a minimum amount of its subgrants under Part B Grants to States and Preschool Grants programs on children with disabilities parentally-placed in private elementary and secondary schools. The ARRA provides a substantial increase in FY 2009 IDEA, Part B funds. As provided in 34 CFR §300.133(a)(3), if an LEA has not expended all of the proportionate share of its Part B subgrant by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services to children with disabilities parentally-placed in private schools during a carry-over period of one additional year. An LEA must consult with private school representatives and parents of parentally-placed private school students in designing and developing the special education and related services that the LEA will provide for parentally-placed private school children. (34 CFR §300.134) As part of this consultation, the LEA, private school representatives and parents of parentally-placed private school students must consider how the proportionate share of IDEA funds (including the regular and ARRA IDEA Part B funds) should be spent. One

option for spending those funds would be to spend some in school year 2009-2010 and some in school year 2010-2011.

G. Civil Rights Obligations

G-1. Does the receipt of IDEA Part B ARRA funds require recipients to comply with civil rights laws?

Yes. The receipt of Federal funds obligates recipients to comply with civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability and age. For additional information see: <http://www.ed.gov/policy/gen/leg/recovery/notices/civil-rights.html> .

Assurances and Certifications

- **Assurance Regarding Public Reporting**

The applicant, also referred to as the local education agency, adheres to the requirement to publicly report the use of ARRA funds to ensure transparency, reporting, and accountability using formats provided by the NC Department of Public Instruction.
- **Assurance Regarding Fraud and Misconduct**

The applicant assures notification to the Department of Education's Office of Inspector General of any credible evidence that a principal officer, employee, agent, contractor, subrecipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving IDEA-ARRA funds. The methods of notification are: (a) email message to oig.hotline@ed.gov; (b) toll free call at 1-800-MIS-USED; complete and submit electronic complaint form at www.ed.gov/about/offices/list/oig/hotline.html; or (c) complete downloadable electronic complaint form and mail to Inspector General's Hotline, Office of Inspector General, US Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-1500. Report may be made anonymously or in confidence.
- **Assurance Regarding Individuals with Disabilities Education Act as amended in 2004 (IDEA)**

The local education agency assures implementation of the provisions of the IDEA and compliance with the requirements of Parts A and B of the IDEA, including the eligibility requirements of Sections 611 and 619 (Preschool) of the IDEA, and the applicable provisions of the General Education Provisions Act (GEPA) and Education Department General Administrative Regulations (EDGAR).
- **Assurance Regarding National Instructional Materials Access Center (NIMAC)**

The local education agency assures instructional materials will be provided to blind persons or other persons with print disabilities in a timely manner, if the local education agency is not coordinating with the National Instructional Materials Access Center (NIMAC).
- **Assurance Regarding NC Policies Governing Services for Children with Disabilities**

The local education agency assures the adoption and adherence of the NC Policies Governing Services for Children with Disabilities.
- **Assurance Regarding Budget Utilization and Development (BUD) System**

The local education agency that uses the BUD System assures the Exceptional Children Program Director, IDEA, Part B Sections 611 and 619 (Preschool), and Finance Officer will communicate regarding any and all data to be entered into the BUD including initial budget and budget amendments for children and youth with disabilities.

- **Assurance Regarding Fiscal Audit**

The agency agrees, if receipt of over \$300,000 in total federal financial assistance (including all federal and state funds allocated to the local education agency for all education programs) in a fiscal year from the NC Department of Public Instruction, to: (a) have a fiscal audit made in accordance with either the Office of Management and Budget Circular A-133 (for State and Local governments) or Circular A-110 (for universities, hospitals and nonprofit organizations); (b) take corrective action on matters of noncompliance with laws and regulations identified by the fiscal auditor within six months after receipt of the fiscal audit report; and (c) permit independent auditors of the NC Department of Public Instruction access to records and financial statements as necessary.

- **Certification Regarding Lobbying for Grants and Cooperative Agreements over \$100,000**

No federal, appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal grant or cooperative agreement. The undersigned shall require that the language of this certification be included in the award document for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements and subcontracts) and that all subrecipients shall certify and disclose accordingly.

- **Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

The applicant certifies by submission of this application that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in the transaction by any federal department of agency; and have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them, and are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, Local), for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction; and have not within a three-year period preceding this application had one or more public transactions (Federal, State, Local) terminated for cause or default. Where the applicant is unable to certify to any of the above statements in this certification, shall attach an explanation with this application.

- **Certification Regarding Drug-Free Workplace**

The applicant certifies that it will or will continue to provide a drug-free workplace by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition in accordance with applicable requirements of 34 CFR Part 84.

Assurance and Certification Statement:

As the duly authorized representatives of the applicant, by signing this assurance and certification statement, the applicant certifies that it will agree to perform all actions and support all intentions in the above stated Assurances and Certifications, and will comply with all state and federal regulations and requirements pertaining to these programs.

Name of Applicant/LEA

American Recovery Reinvestment Act
IDEA, Part B, Section 611 CFDA# 84.391A
IDEA, Part B, Section 619 CFDA# 84.392A

Superintendent Signature/ Date

Exceptional Children Program Director Signature/ Date

Finance Director Signature/ Date

Submit Assurances and Certification Statement by July 15, 2009 to:

Laura H. Snyder
Exceptional Children Division
6356 Mail Service Center
Raleigh, NC 27699-6356

Action for Children

Celebrating 25 Years

North Carolina

CORPORAL PUNISHMENT: ALIVE, *BUT NOT WELL*, IN NORTH CAROLINA'S PUBLIC SCHOOLS

The data are in— during 2008-2009, children in North Carolina's public schools were hit more than 1,400 times, most commonly with thick wood paddles. (1) Even worse, when their parents became aware that their child had been struck, they could not press charges against the assailants, because a state law gives school personnel immunity from prosecution. In fact, this is the only case when an adult can strike a child he/she doesn't know without fear of prosecution.

This description of the practice of corporal punishment in North Carolina's public schools may sound like hyperbole. Of course, it is not hyperbole to a 70-pound second-grader when she is hit by a 210-pound school administrator. To a child who cannot yet spell "corporal punishment," being hit several times makes school an uncomfortable and unsafe place to be.

North Carolina remains one of the decreasing number of places in the world where this sort of scenario can take place. This issue brief is intended to shed light on the extent to which corporal punishment is still being used in our public schools, with recommendations for the State Board of Education to become involved in the regulation of this practice.

The Background

It is recognized that schools need a system of discipline to modify behavior and maximize learning. Decades of research, however, have uncovered no evidence that hitting students is an effective form of discipline: long-term behavior is not modified and - most importantly - there is no correlation with improved educational performance. (2, 3) Rather, a growing body of research indicates that hitting students negatively affects their social, psychological, and educational development, promotes pro-violence attitudes in youth, and may contribute to the cycle of child abuse.

This growing evidence has not gone unnoticed— the United States and (one province of) Australia are the only developed countries that still allow corporal punishment. And much of the developing world – from Malawi to Mongolia, from Angola to Iraq, from Turkey to Turkmenistan – has banned corporal punishment.

EDUCATION
ISSUE BRIEF

2010

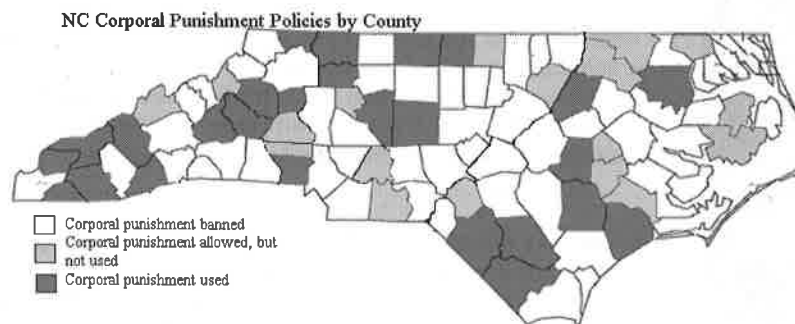
Nor has this evidence escaped the attention of education leaders across our country. Thirty states now ban corporal punishment. Regrettably, North Carolina is not among them. State statutes allow local school boards to adopt policies with regard to corporal punishment.

The State Board of Education has endorsed just one system of discipline – Positive Behavioral Support – which involves both students and parents in setting goals for positive behavior. This system has been implemented voluntarily in over 800 schools across North Carolina, (4) and evaluations indicate that this system results in improvement in academic performance while reducing behavioral problems in the schools.

Despite the evidence against corporal punishment and the success of Positive Behavioral Support, however, the State Board has declined to take a position on hitting students in the public schools. It collects neither policies nor data on the administration of corporal punishment.

The Current Status

The task of keeping tabs on how often school personnel are hitting students has thus fallen to the advocacy community. The October 2009-January 2010 Action for Children survey of local school districts in this regard has been completed. The results, listed and mapped below, are both a comfort and a concern.



Map data from Action for Children North Carolina survey of school districts, October 2009-January 2010.

Corporal Punishment is Not Allowed in:

Alamance, Ashe, Asheboro, Asheville, Beaufort, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Chapel Hill-Carborro, Chatham, Cherokee, Chowan, Cleveland, Clinton, Craven, Cumberland, Currituck, Dare, Durham, Edgecombe, Elkin, Forsyth, Granville, Guilford, Harnett, Henderson, Hertford, Hickory, Iredell, Jackson, Johnston, Kannapolis, Lee, Lexington, Martin, Mecklenburg, Mitchell, Montgomery, Moore, Mooresville, Mt. Airy, New Hanover, Newton Conover, Orange, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Polk, Richmond, Rowan, Rutherford, Sampson, Scotland, Stokes, Union, Vance, Wake, Warren, Washington, Watauga, Weldon, Whiteville, Wilkes, Wilson and Yancey.

Corporal Punishment is Allowed but not Administered in:

Anson, Avery, Catawba, Davie, Franklin, Gates, Greene, Halifax, Hoke, Hyde, Jones, Lenoir, Lincoln, Madison, Northampton, Person, Roanoke Rapids, Stanly, Thomasville and Tyrrell.

Corporal Punishment Done in:

Alexander (3) , Allegheny (n/a) , Bertie (18), Bladen (56), Burke (325), Caldwell (41), Caswell (1), Clay (3), Columbus (87), Davidson (20), Duplin (7), Gaston (62), Graham (61), Haywood (8), Macon (70), McDowell (93), Nash (296), Onslow (2), Randolph (1), Robeson (167), Rockingham (2), Surry (7), Swain (19), Transylvania (n/a), Wayne (11), and Yadkin (52). Numbers in parentheses indicate instances of corporal punishment.

Despite the lack of leadership from the State Board of Education, 69 of the 115 local school districts have banned corporal punishment, including 14 in the past three years. Another 20 districts allow corporal punishment, but report hitting no students in the entire 2008-2009 school year. (In some of these districts, it would appear that the unwritten policy is to stop hitting students.)

Twenty-six local districts report that students are still being hit. It is noteworthy that more than half of these districts hit students relatively rarely. In fact, 90 percent of the hitting takes place in just 10 districts, which are arrayed in two lists below—one by the number of times hitting took place, and the other based on a student’s risk of being hit, when enrollment size is taken into account. (Despite the N.C. Public Records statute, two districts declined to respond to the survey.)

It is also noteworthy that, based on a review of data issued by the N.C. Department of Public Instruction, there is no discernable correlation between corporal punishment and short-term suspensions, long-term suspensions, or drop-outs. The practice of corporal punishment does not appear to improve student behavior or keep students in school. In fact, Nash-Rocky Mount and Robeson, two primary proponents of corporal punishment, are among the districts with the highest dropout rates.

The Ten School Districts Administering the Most Corporal Punishment:
(Data from Action for Children North Carolina survey of school districts, October 2009-January 2010)

By Occurrence

Burke
Nash-Rocky Mount
Robeson
McDowell
Columbus
Macon
Gaston
Graham
Bladen
Yadkin

By Risk of Getting Hit

Graham
Burke
Nash-Rocky Mount
Macon
McDowell
Columbus
Bladen
Swain
Yadkin
Robeson

A Special Case: Students with Disabilities

Many people think that students with disabilities are exempted from corporal punishment by federal and state laws and regulations. Regrettably, this is not the case. Neither the federal government nor North Carolina offer such protection to special education students. In fact, a survey performed by the Office of Civil Rights in the federal Department of Education indicates that students with disabilities in North Carolina received corporal punishment 290 times in 2006. (5)

A 2009 national survey report on corporal punishment issued by the American Civil Liberties Union and Human Rights Watch indicates that students with disabilities are not only hit, but are hit at a rate twice that of the general student population. (6) Thus, the students who may least understand why they are being hit are subject to higher rates of corporal punishment. While the 2006 data appear to provide confirmation, in North Carolina this startling accusation can neither be confirmed nor denied because, as noted earlier, the State Board of Education and the Department of Public Instruction have not monitored corporal punishment.

Recommendations

On many issues in North Carolina, "local determination" is given paramount importance. Indeed, state statutes give local school districts the authority to determine whether hitting students helps improve educational outcomes. There is no reason, however, for the State Board of Education, on whom we rely for educational expertise and leadership, to remain silent on the issue of corporal punishment.

There is no research that documents that hitting students is a measurably-effective strategy to improve educational outcomes. The State Board should clearly state why corporal punishment is allowed. Here are some actions for the State Board to consider:

- ✓ **Recommend that local school boards implement Positive Behavioral Support in all schools as soon as possible.**
- ✓ **Recommend that local school boards (that currently allow corporal punishment) ban the practice.**
- ✓ **Request local school boards (that currently allow corporal punishment) to immediately prohibit the administration of corporal punishment on students with disabilities.**
- ✓ **Require that incidents of corporal punishment be reported to the State Board at least annually, with delineations by student age, gender, race/ethnicity, and special education status.**

Endnotes:

- 1 Action for Children North Carolina survey of school districts regarding corporal punishment, October 2009-January 2010. Fifty-six districts were known to have banned corporal punishment. The other fifty-nine were surveyed. Two school districts did not respond to the survey.
- 2 Gershoff, E. (2002) Corporal Punishment and Associated Child Behaviors and Experiences. *Psychological Bulletin*, 128, 539-579
- 3 Hyman, I.A. & Perrone, D.C. (1998) The Other Side of School Violence: Educator Policies and Practices that May Contribute to Student Misbehavior. *Journal of School Psychology*, 36, 7-27.
- 4 See website of the N.C. Department of Public Instruction.
- 5 Office of Civil Rights, U.S. Department of Education. (2006) Survey of School Discipline.
- 6 American Civil Liberties Union & Human Rights Watch. (2009) Impairing Education: Corporal Punishment of Students with Disabilities in U.S. Public Schools.

Acknowledgements

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Report to the Governor and the Joint Legislative Education Oversight Committee

Plan for Restructuring the ABCs
Accountability System

SL 2009-451 "Budget Bill" Sec.7.11(b)

Date Due: January 31, 2010

Report #36

DPI Chronological Schedule, 2009-2010

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M0909

Introduction

The General Assembly in SL 2009-451 “Budget Bill,” Section 7.11(b) indicated that “the State Board of Education [SBE] shall develop a plan to restructure the ABCs Accountability System and report the restructuring plan to the Governor and the Joint Legislative Education Oversight Committee [JLEOC] by January 31, 2010. The State Board of Education shall not implement a plan unless authorized by an act of the 2010 Regular Session of the General Assembly.”

Prior to the enactment of SL 2009-451, the North Carolina Department of Public Instruction (NCDPI) initiated the Accountability and Curriculum Reform Effort (ACRE) in response to the State Board of Education’s *Framework for Change: The Next Generation of Assessments and Accountability* (June 2008). An initial draft report, *North Carolina’s Proposed New Accountability Model*, from the New Accountability Committee established by NCDPI to work on the project, was submitted to the SBE in a Friday Update dated October 23, 2009. It is posted on the NCDPI website at the following URL:

<http://www.ncpublicschools.org/docs/acre/archive/2009/resources/20091023-02.pdf> . Since then, the SBE has been discussing the various aspects of a proposed new accountability model on a monthly basis at its board meetings.

This report to the Governor and the JLEOC reflects the current status of the ACRE project specifically related to the accountability component.

Proposed New Accountability Model

The goals of the new accountability model are threefold: to improve student achievement, increase graduation rates and close achievement gaps. Various indicators in the model are being discussed by the SBE including student performance, student growth, post-secondary readiness, graduation rates and academic course rigor. One of the decisions that will be made by the SBE is how to “weight” the various indicators in the accountability model. For example, should some indicators, like cohort graduation rates in a high school, have a greater influence on the overall rating of the school? Numerous input sessions have been conducted statewide with different stakeholder groups as this work of the SBE continues. The audiences for the sessions have included local school superintendents, principals, teachers, curriculum directors, NC Association of Educators (NCAE) members and regional education service alliances/consortia (RESAs), to name a few. Additionally, materials about the ACRE effort are available on the NCDPI website at <http://www.ncpublicschools.org/acre/> .

Example of Worksheet Being Used at SBE Meetings/Proposed Discussion Calendar

The following pages contain an overview of the various indicators being discussed and list some questions (in shaded boxes) for which the SBE has been seeking input from across the state. A proposed discussion calendar with the SBE is also included.



ACRE

Accountability and Curriculum Revision Effort
in Response to *A Framework For Change*

PUBLIC SCHOOLS OF NORTH CAROLINA State Board of Education | Department of Public Instruction

Big Questions Worksheet: A Proposed New Accountability Model (Updated November 19, 2009)

Note:

*As we engage in ongoing discussions this fall and winter about the design of the new accountability model, we will use the two-pager that was first presented to the Board in October of 2009 to record the consensus that we are building. This tool is a thinking tool and in **no way represents finalized decisions** from the Globally Competitive Students (GCS) Committee of the State Board of Education or the Department of Public Instruction. We encourage feedback as we record our thinking on what indicators should go into the model. We will use this document (and additional thinking tools as necessary) to track a building consensus based on our discussions and regular stakeholder involvement. Emerging points of consensus are tracked in yellow highlights and included in the tables below.*

Emerging points of consensus from October SBE Discussion

Post-Secondary Readiness
We are moving forward exploring and planning for **Option B (pg. 3)** (using a widely used assessment(s) like the ACT, SAT, WorkKeys or Accuplacer) in the accountability model to measure post-secondary readiness. The GCS has generally expressed a desire to use a national test or tests as a measure of post-secondary readiness, a viewpoint echoed by external stakeholder groups.

Emerging points of consensus from November SBE Discussion

Committee unable to receive DPI presentation due to more time spent discussing EVAAS. Points of consensus scheduled to be presented at the December meeting.

Emerging points of consensus from December SBE Discussion

To come

Big Questions Worksheet: A Proposed New Accountability Model

Components

What components might be in the new accountability model, and how are these components defined?

Performance

Criterion-referenced student performance, as measured by the next generation of EOG and EOC assessments aligned to the Essential Standards.

End-of-Grade

Reading - grades 3-8
Mathematics - grades 3-8
Science - grades 5 and 8

End-of-Course

Math A	Civics and Economics
Math BC	U. S. History
Biology	Physical Science
English II	

?

Are these the right tests?

When and how many constructed-response items should be used?

What are the policy implications of reporting delays that will result from the time involved in scoring constructed-response items (25% policy, reporting timeline for ABCs/AYPs, retesting)?

Longitudinal Growth

Developmental scale scores on math and reading based on growth modeled as a function of time.

Value-Added Models (EVAAS®)

Value-added measures for teachers, schools and/or districts.

-----{Additionally in High School}-----

Graduation Rate

5-year cohort

?

Should measures of matriculation/retention grade-to-grade be included?

Future-Ready Core Participation

A measure of the ambition of the courses that a student takes in high school.

?

How should participation in the future-ready core be counted in the model? Is it redundant with the graduation rate? Should Algebra II completion be used? Concentration in CTE, Arts, etc.? Graduation Project? Credentials?

Post-Secondary Readiness Measure

A measure of the preparedness of a student for the workforce or post-secondary education.

?

Should NC use

- a) Actual outcomes {success in college or workforce}
- b) A widely used assessment(s) {ACT, SAT, WorkKeys, Accuplacer, etc.}
- c) EOC assessments aligned to Essential Standards?

Option B:
Potential
Point of
Consensus

Consequences

How do we classify schools? What are the rewards, sanctions and incentives?

Classification of Schools

Grouping schools based on results, both on an absolute scale and on year-to-year improvement.

?

Are our current categories (a mixture of achievement and improvement measures) the best way to categorize schools and LEAs? How else might we approach categorization?

Incentives

The rewards and sanctions in place to ensure adult ownership and responsibility for student outcomes. Recommended incentives to be included are:

- Adequate Yearly Progress sanctions
- Public reporting of results and proactive measures to deliver understandable results into the hands of the schools and the public
- Classifications of schools (e.g. Schools of Excellence, Low-performing)

?

Should we build a model that will allow teachers to be rewarded based on student outcomes? (LEA and school-based rewards and sanctions are assumed?)

Other Questions:

Will we continue to have and use the gateways?

Do we need to develop a model that can make a single "up or down" decision for an LEA, school, or teacher?

How should we balance the components in the model – particularly in high school – in terms of balancing achievement, growth, value-add, graduation rate, FRC, and post-secondary readiness?

Are there other components in the model that should be added (attendance, parental participation)?

What set of additional incentives could be put in place to support school improvement and student achievement?

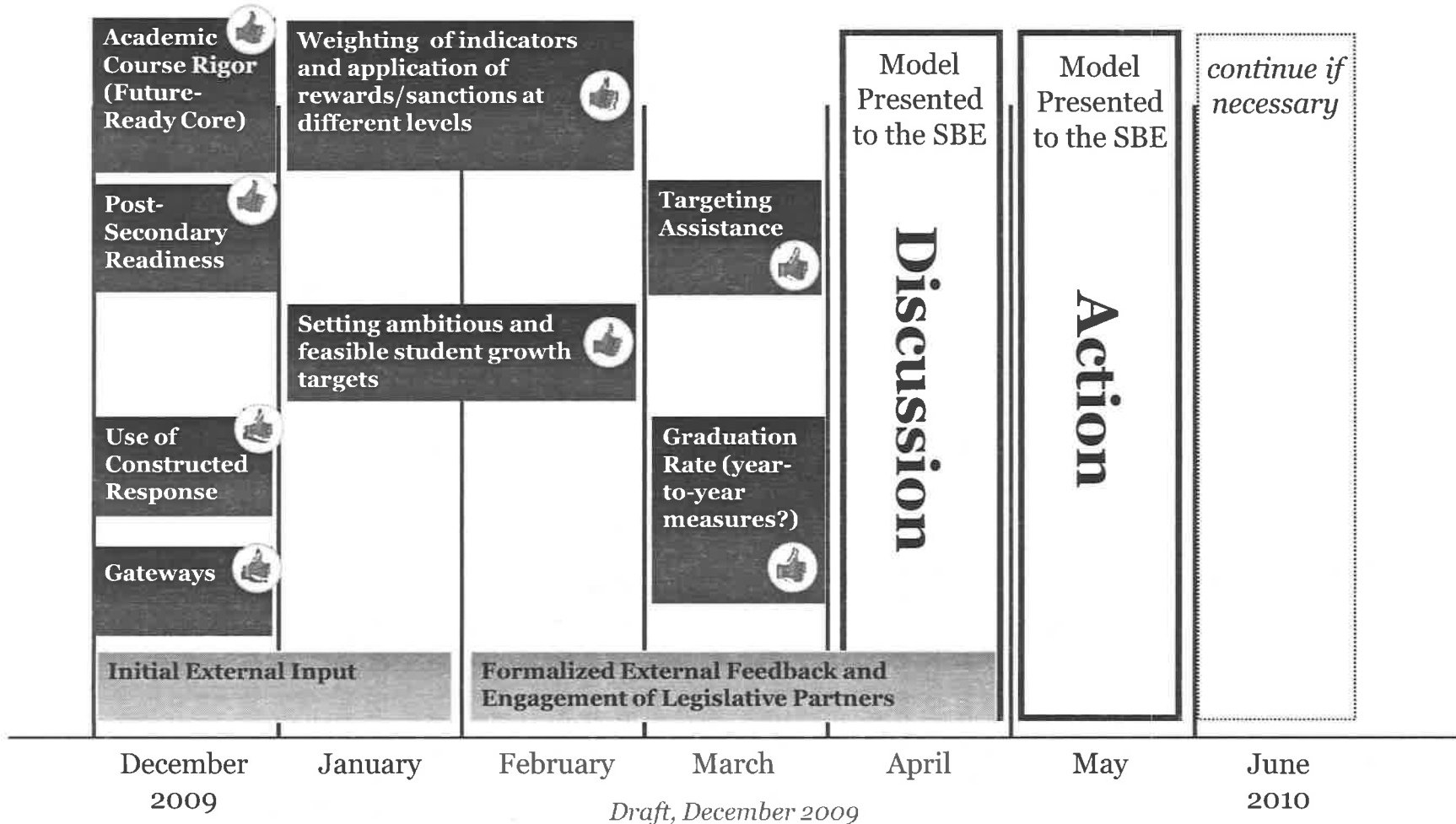
Extra points for increasing number of Level IV students?

Goal: Institute an accountability model that improves student achievement, increases graduation rates and closes achievement gaps.

Proposed Discussion Calendar w/ GCS on New Accountability



...means we are looking to achieve a general consensus at this meeting (non-binding, non-voting).



Draft, December 2009

Next Steps

As seen in the discussion calendar above, the months of February through April will be devoted to seeking formalized external feedback from stakeholders as well as interaction with the General Assembly and the Governor's office.

Several high-level decisions that remain include, among others:

1. Revise the ABCs school recognition classification system?
2. Recommend changes to current statutes related to financial awards under the ABCs accountability program? (§115C-105.36. Performance recognition.)
3. Recommend changes to current statutes related to the definition of low-performing schools? (§115C-105.37. Identification of low-performing schools.)
4. Recommend changes to current statutes related to continually low-performing schools? (§115C-105.37A. Continually low-performing schools; definition; assistance and intervention; reassignment of students.)
5. Recommend changes to current statutes related to assistance teams? (§115C-105.38. Assistance teams; review by State Board.)
6. Recommend legislation related to identification of low-performing local education agencies (LEAs)?

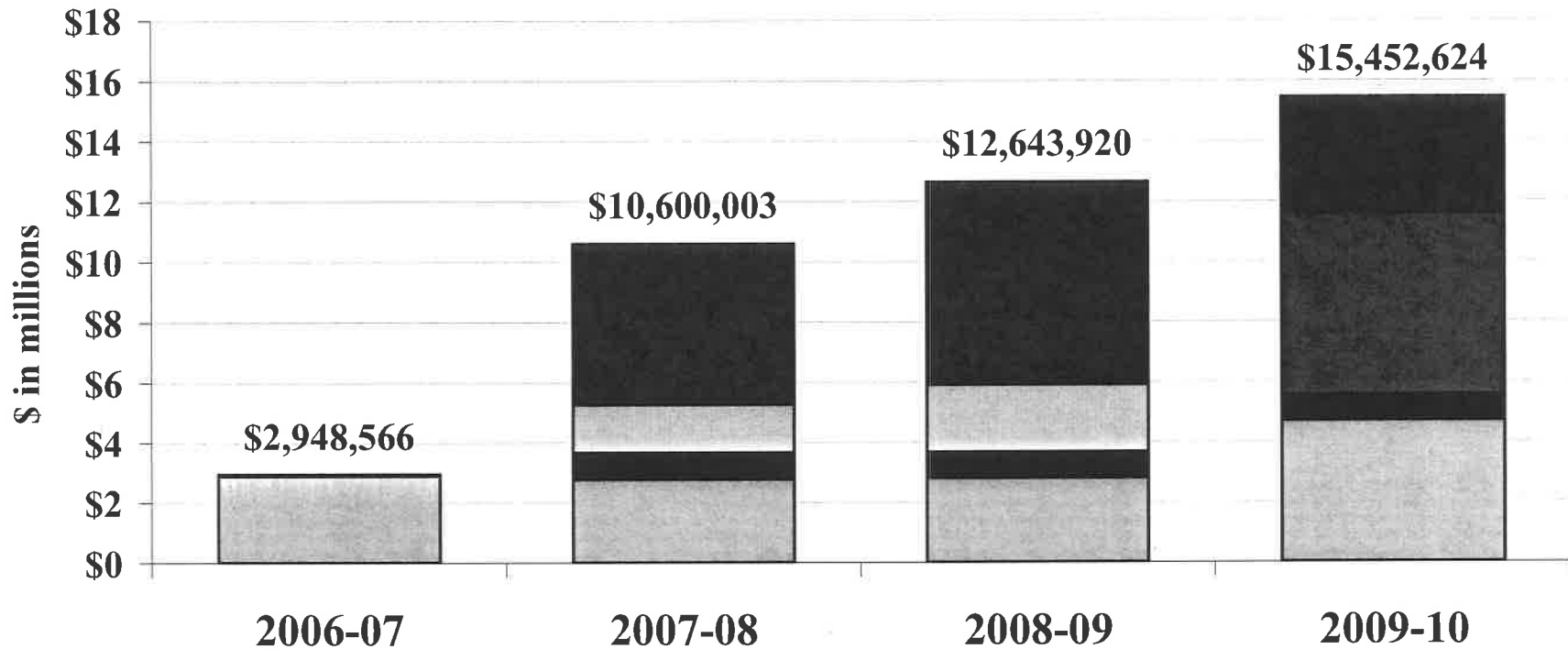
Concluding Comments

Before any final decisions are made regarding the new accountability model, fiscal notes will need to be completed. In addition, the United States Department of Education (USED) has instituted the Race to the Top (RTTT) program, for which North Carolina will be submitting a proposal in January 2010, and the State Fiscal and Stabilization Fund (SFSF), for which North Carolina currently is receiving funds. Each of these programs requires that certain data elements are reported by the respective states. It is possible that some of these new data elements should be merged into the new accountability model.

The National Governors Association (NGA) and the Council of Chief State School Officers (CCSSO) are working jointly with 48 states across the nation on the development of Common Core Standards in mathematics and reading/language arts. Adoption of the Common Core Standards by the respective states should occur in the spring. These new standards may eventually lead to common assessments across states. Finally, the United States Congress is in the process of reauthorizing the Elementary and Secondary Education Act (ESEA), and it is possible that additional changes to the North Carolina Accountability Model may be required based on changes that occur due to the reauthorization. The Governor and members of the General Assembly will be informed by the SBE and NCDPI staff of any implications to the North Carolina Accountability Model resulting from NGA/CCSSO, USED or Congressional action.

Funding History

NCVPS - Historic Sources of Funding

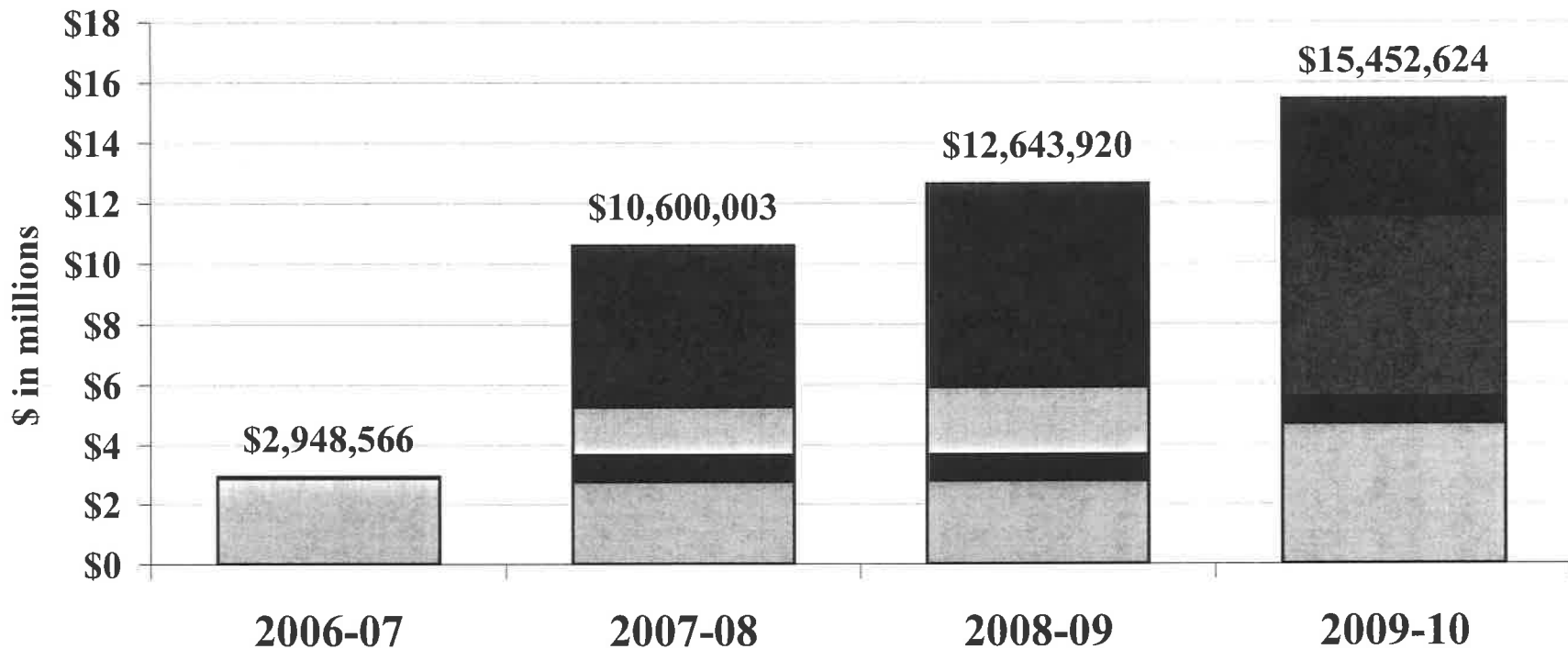


- Direct State Appropriation
- Distance Learning
- Carryover from Prior Year
- Transfer from School Technology
- Amount Covered by Reversions
- Federal ARRA Funds

	2007-08	2008-09	2009-10
Classes Provided	673	682	3,282
Number of Teachers	346	434	933
Number of Students	16,579	16,493	36,468

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March 9, 2010

2010 NC Teacher Working Conditions Survey March 15-April 16

David Corsetti,
Commission Chair
Wake County Public School
System

Keri Randolph
Commission Vice Chair
Chatham County Schools

Dianne Jackson,
Secretary-Treasurer
Chapel Hill-Carrboro City
Schools

Allison Ormond
Executive Committee At Large
Member
Rockingham County Schools

Mary Mack-Bryant
Sampson County Schools

Sheree Covey
Dare County Schools

Linda Davis
Union County Public Schools

Felicia Eybl
Charlotte-Mecklenburg Schools

Jack Hoke
Alexander County Schools

Tammy Jordan
Bladen County Schools

Dr. Zoe Locklear
University of North Carolina at
Pembroke

Cindi Rigsbee
AT&T NC Teacher of the Year
2008-2009
Orange County Schools

Sheri Strickland
North Carolina Association of
Educators

Dr. Brenda Tinkham
Chowan University

Meg Turner
Buncombe County Schools

Kathy Wallen
New Hanover County Schools

Carolyn McKinney
Executive Director

Connie Barbour
Program Assistant

Due to the General Assembly's funding of the 2010 North Carolina Teacher Working Conditions Survey, every licensed educator in North Carolina will have the opportunity to provide vital feedback that shapes policies and practices to improve teaching and learning conditions in schools, districts, and the entire state. From previous research, we know that positive teacher working conditions contribute to higher student achievement and lower teacher turnover rates.

In support of educators taking the survey, Governor Perdue states, "As a former teacher, I understand what an important part working conditions play in the success of the school, the teacher, and ultimately, the student. The Teacher Working Conditions Survey allows you, as an educator, to make your voice heard. Your responses are anonymous, and they will be used to directly improve the education system in North Carolina. Thank you for taking the time to complete this survey. My continued thanks for all you do to educate our children."

In 2008, more than 104,000 educators, over 87%, responded to the survey with results posted for every traditional school in the state and 62% of the charter and special schools. To encourage participation, the NC Business Committee for Education has donated money for prizes that will benefit schools achieving 100 percent response rate.

Each licensed educator will receive an anonymous access code on a letter from Governor Perdue. It will be distributed by the NCAE Representative, Teacher of the Year, or other teacher leader in each school. The survey is online at www.ncteachingconditions.org. From March 15-April 16, you can keep track of how well schools are participating by going to this site. The rate of participation is updated frequently throughout the day.

On May 1, 2010, results will be available online for each school that has at least a 40% response rate. By June 30, research will be complete, and publications will be available. We will know the impact of each of the factors: Time, Facilities and Resources, Community Support and Involvement, Managing Student Conduct, Instructional Practices and Support, Teacher Leadership, School Leadership, and Professional Development. In addition, there will be published a parent guide, a district guide, a guide for appropriate use in evaluations, and an updated edition of NCTWCS: Guide for School Improvement.

If you have further questions, you may contact Carolyn McKinney, Executive Director of the NC Professional Teaching Standards Commission, at 919-807-3424 or at cmckinney@dpi.state.nc.us.

"For every student in North Carolina, a knowledgeable, skilled, compassionate teacher...a star in every classroom"

