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Commissioner

March 24, 2009

TO: Chief School Administrators  
School Business Administrators

FROM: Lucille E. Davy   
Commissioner

SUBJECT: Federal Stimulus Funds for IDEA and Title I

I am writing to provide an update on the additional federal funds districts will be eligible to receive under the America Recovery and Reinvestment Act of 2009 (ARRA). The ARRA provides an unprecedented increase in federal funding to support pre-k through 12 education programs and services. Governor Corzine has already targeted over \$1 billion of the ARRA stabilization funds to enable New Jersey to not only maintain our existing state education aid levels, but also increase state education aid over \$300 million for 2009-10. Such increases continue to demonstrate Governor Corzine's commitment to the School Funding Reform Act of 2008 (SFRA) and education for all of New Jersey's students, no matter where they live.

The ARRA also provides substantial one-time increases for many districts in federal categorical funds, including Title I and Individuals with Disabilities Education Act (IDEA) funds ("ARRA Title 1" and "ARRA IDEA"). I am keenly aware that you are anxious for your awards and direction on how you can use these funds in your 2009-10 budgets. The department is also anxious and has been working diligently to seek guidance and answers to these questions. We want to ensure the information we provide is accurate and up-to-date. As I wrote in my March 11, 2009 memo, recipients of ARRA funds will be held to a very high standard of accountability and transparency with required tracking and reporting of those funds for all citizens to access. Unfortunately, as of today we have only limited information and we are still seeking answers to critical questions regarding allowable uses for these funds, particularly your ability to anticipate these federal awards and offset local costs in the April budget going to the voters or board of school estimate.

It is clear from the ARRA and U.S. Department of Education (USDE) information issued thus far, that districts must use the additional Title I and IDEA funds consistent with existing Title I and IDEA statutory and regulatory requirements. Therefore, as required under existing Title I requirements, districts must use the ARRA Title I funds to "supplement, not supplant" existing state and local funding for low-achieving children in high poverty schools. Districts should refer to existing Title I regulations and guidance regarding allowable uses and the supplement, not supplant, provisions including situations that rebut the presumption of supplanting (e.g. districts may rebut the presumption of supplanting existing local programs/services with Title I funds if the district can demonstrate that without the federal funds, those programs and services would not have been continued). As I outlined in my March 11, 2009 memo, non-Abbott districts that elect to commit a portion of their ARRA Title 1 funds to expand preschool and meet certain criteria will be eligible for additional state funds (Preschool Incentive Aid). Priority for Preschool Incentive Aid will be given to non-Abbott "universal" districts.

Consistent with existing IDEA requirements, districts must use the ARRA IDEA funds to meet the educational needs and other related services for children with disabilities. Under IDEA, districts that meet certain criteria have the flexibility to use up to 50 percent of their IDEA increase to reduce the required local support for special education (i.e. reduce maintenance of effort) and to use those "freed-up" local funds to support allowable programs and services under the Elementary and Secondary Education Act (ESEA). The department has asked USDE whether the freed-up local funds can support *existing* ESEA allowable programs and services or whether those funds must support *new or expanded* ESEA allowable programs and services.

The department is not the only state asking these questions and we know the USDE is working hard to answer our questions and finalize the guidance documents. We have in our discussions with USDE advocated that districts should be able to support *existing* programs and services given our unprecedented state and local support for education. We will continue to advance that position and we hope final guidelines will be issued in time for districts to adjust budgets as needed during the week of public hearings. Please note that in these discussions, the USDE has indicated they will also issue guidance on the eligibility criteria districts must meet to use this flexibility. It is critical that you have this information before you take any action to use freed-up local funds to support existing ESEA activities to ensure compliance with federal laws. Moreover, given the one-time investment of ARRA funds, we encourage districts to strategically use the ARRA funds in activities that have the potential of long term benefits. See <http://www.ed.gov/index.jhtml> for recently issued USDE fact sheets on Title I and IDEA. These fact sheets include examples of allowable uses.

It was our hope to have answers to these questions and the final ARRA Title 1 and IDEA award notices to all districts by this time. We appreciate your continued patience as we seek clarification on these key issues and wait for the additional guidance documents still being prepared by the USDE. Upon USDE release of final guidance on allowable uses, tracking and other new and expanded requirements, we will release the application for use of these funds. We anticipate an application process that will allow districts that wish to use these funds for preschool, summer programs or other immediate needs the ability to submit their applications and receive timely approval to enable such programs to begin.

The department is calculating preliminary awards based upon the USDE's preliminary allocations and will post them on the DOE website as soon as possible. This will allow for your initial planning for the use of the funds. However, absent the guidance documents from USDE and clarification on these critical issues, we can only recommend at this time that districts budget conservatively any increase in federal funds under the ARRA. As in prior years, federal grant amounts included in your April budget can and should be adjusted upon issuance of final awards and approval of applicable federal grant applications.

We will continue to keep you informed as information is released.

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c: Willa Spicer  
Senior Staff  
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State Board of Education  
LEE Group