



American Recovery & Reinvestment Act (ARRA) Issues Impacting ARRA Implementation

The American Recovery & Reinvestment Act (ARRA) was enacted in February 2009, providing significant and urgently-needed resources for public education. As school districts and state education agencies work to access more than \$100 billion in grants and other resources, there are some key concerns about ARRA implementation that need to be addressed to ensure that funding is managed efficiently and that the main purpose of ARRA is achieved—to save jobs and advance student achievement. Unless concerns such as those outlined below are addressed, more teaching jobs could remain in jeopardy; portions of ARRA funding may be unspent; and, the timeliness and intent of the economic stimulus will be as effective for education.

Since the economic stimulus was enacted, school districts have relied upon guidance from both state education agencies and the U.S. Department of Education to understand the implementation process and ensure that any ARRA funding they receive is used effectively for teacher/staff retention and student achievement. However, many districts have encountered roadblocks that prevent them from accessing and implementing the economic stimulus funding for job retention and both new and existing education programs.

There are immediate concerns that need to be resolved before the 2009-2010 school year begins, which include the following:

ARRA Funding for Special Education

One chief concern includes the U.S. Department of Education's guidance regarding special education funding (IDEA Part B grants) and subsequent modification (issued April 13) regarding maintenance of fiscal effort (MOE) flexibility for districts to reduce state and local effort by up to 50 percent of the increase in subgrant allocations. This option is currently available to districts that meet respective state performance goals under the Individuals With Disabilities Education Act (IDEA). Under IDEA, a district can redirect such resources to help fund NCLB priorities.

However, imposing the restrictions cited in the April 13th modification on maintenance of fiscal effort would prevent a significant number of districts from utilizing this option for NCLB priorities such as teacher quality, English language acquisition, innovation and data quality. The restrictions are not consistent with the intended purpose of the ARRA and the Department's statement from April 1st that, "SEAs should encourage LEAs that can and do take advantage of this flexibility to focus the freed-up local funds on one-time expenditures that will help the state make progress on the goals in the SFSF program, such as improving the equitable distribution of effective teachers and the quality and use of assessments to enhance instruction for students most in need."

School districts that are unable to reduce fiscal effort because of the Department's restriction may not be able to preserve jobs and invest in teacher quality, for example, and will miss this opportunity to rebalance the relative federal/state/local financial support of special education. Further, several districts in a number of states are in the category of "Needs Assistance" under IDEA for the first time. This first-time determination provides no opportunity for the district to correct a problem before the imposition of the sanction on maintenance of fiscal effort. For example, this restriction affects a significant portion of IDEA stimulus funds allocated. The funds could remain unspent because the school districts identified as "Needs Assistance" would be prevented from using MOE flexibility.

Possible solutions to address this problem would be the Department's actions to:

- 1) Issue a statement that would temporarily remove the current State requirement to prohibit the LEA from reducing its MOE under IDEA section 613(a)(2)(C), thus allowing districts to take full

advantage of the MOE reduction under IDEA section 613(a)(2)(C) if the LEA's determination is Needs Assistance or Needs Intervention; or,

- 2) Issue a statement that would clarify that for funds reserved under ARRA, the state action under 613(a)(2)(c)(iii) would only apply to substantial actions when needed that have not been met. Under this scenario, school districts would be able to use the funding under ARRA to address Needs for Substantial Interventions.

State Fiscal Stabilization Fund (SFSF) application process and implementation

According to the ARRA statute, the Education Block Grants provided through SFSF are to help states avoid budget cuts to education and avert tax increases. The majority of states are grappling with unprecedented budget shortfalls. However, the SFSF Education Block Grants were appropriated to help states *maintain* current FY2008 or FY2009 funding levels for K-12 education and/or *fund any projected increases* for K-12 education in FY2009, FY2010 and FY2011. If a state's fiscal condition was of grave severity, the SFSF Education Block Grant is to be used to help such state prevent any cuts to education below its FY2006 funding level.

Conversely, a growing number of states are implementing the SFSF Education Block Grant in a much different manner, thereby using the ARRA funding as an offset so that state funding initially budgeted for education before the enactment of ARRA can be redirected to purposes that are not germane. Essentially, gamesmanship is being employed to the detriment of our students and schools, even though states are certifying that SFSF resources will be used for job retention, teacher quality, improved assessments, intervention for schools needing improvement, and college/career readiness.

Possible solutions to address this problem would be the Department's actions to:

Determine uniform criteria that encompass the range of state K-12 education funding formulae, but do not allow circumventing SFSF purposes for the education block grants nor the redirection of funds that were otherwise budgeted/legislated for K-12 education. This modification could be used for the second round of State Fiscal Stabilization Funding, to help ensure that states provide adequate funding levels for education, rather than employ options to use the money as an offset to decrease state funding for K-12 programs.

Fiscally-dependent school districts

School districts in approximately 15 states that have budget oversight by their respective county/municipal governments are impacted by proposals to displace local education funding because of the estimated subgrants from states through the State Fiscal Stabilization Fund (SFSF) and other ARRA funding sources. Because these districts do not have local revenue/budget authority, their ability to utilize ARRA funding to address teacher retention and ARRA goals for reform is limited; and, their budgets are further impacted by declining local revenues and newly imposed cuts that were not projected. When ARRA was enacted, it did not include a specific provision against such local practices, even though they are contrary to the spirit and intent of the law.

Possible solutions to address this problem would be the Department's actions to:

Issue regulatory guidance to address this circumvention.