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Honorable Arne Duncan,
U.S. Secretary of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: State Fiscal Stabilization Fund Notice of Proposed Requirements, Definitions, and
Approval Criteria: Docket ID ED-2009-OESE-0007

Dear Secretary Duncan:

Thank you for the opportunity to comment on the notice of proposed requirements, definitions, and approval criteria published in the July 29, 2009, *Federal Register*. The Council of Chief State School Officers (CCSSO), as you know, supports the focus of the State Fiscal Stabilization Fund (SFSF) on the four core reform areas related to standards and assessments; effective teachers and their equitable distribution; data systems; and supports and interventions for struggling schools. These priorities are key areas of state leadership and align fully with CCSSO's four strategic initiatives.

We also support USED's commitment expressed in the notice to provide additional guidance on the Family Educational Rights and Privacy Act (FERPA). USED interpretations of FERPA have been a significant impediment to the development of robust state longitudinal data systems (SLDSs) and could compromise the purposes of the data assurances in the SFSF. In particular, there is a need to clarify the broad authority to share data between P-12 and postsecondary data systems and to provide data back to local officials on the postsecondary performance of their former students to assess how well they prepared their students for college. There is also a need to revisit FERPA interpretations in order to facilitate data sharing between the SLDS and state workforce agencies, consistent with statutory provisions in the American Recovery and Reinvestment Act of 2009 (ARRA) on the SLDS grant program. The purpose of these recommendations is not to compromise privacy protections for students, but rather to harmonize them with the need to use student data for evaluation and research and to meet the needs of students.

CCSSO further supports the general approach taken in the proposed notice of implementing the SFSF reform areas through data rubrics that report on and make transparent to the public where states stand in implementing their SFSF assurances. As you know, CCSSO is committed to and has taken a lead role in working to build data capacity in education and in promoting data transparency -- through our State Education Data Center and SchoolDataDirect.org, our Education Information Management Advisory Consortium (EIMAC), which involves virtually

every state in efforts to promote data use in education, and our support for the Data Quality Campaign -- and we agree with the goals reflected in this notice. However, we have several related concerns with the notice:

- The time lines for both implementing all 12 elements of SLDSs under the America Competes Act and producing the data required by this proposal will be difficult to meet for many states. A number of states have the data capacity to provide these data, but many do not. Many states in fact have taken steps to build new data applications in their system and will now be required to reconfigure those applications to make fundamental changes in the data collected and reported. These changes take time. Indeed, in the recent past, USED has recognized that states generally need 3-years lead time to make significant changes in the data they collect and report. (*See* USED Guidelines on Reporting Data on Race and Ethnicity, 72 Fed. Reg 59266 and following (October 19, 2007), extending the deadline for implementing new data requirements from school year 2009-10 to school year 2010-11.) The notice provides for states in their plans to describe the obstacles they face in meeting the requirements to report the data, thereby implying that extensions may be given to individual states based on those obstacles, but states should not have to justify such extensions on a state by state basis.
- Most of the burdens and substantial costs of collecting and reporting data under the requirements proposed in the notice will fall on state educational agencies (SEAs), but SEAs received virtually no funds under the SFSF. With the exception of a limited set-aside for government services, all SFSF funds were required to be granted to local educational agencies, and states were required to submit plans for the government services funds in their phase 1 SFSF applications, before these data requirements were proposed. We and our entire membership appreciate the significant help that SFSF has provided to LEAs in each of our states, but, at the state level, these data requirements are essentially unfunded federal mandates for which the recent proposed notice for additional administrative funds for ARRA data reporting provides very limited relief.

In summary, we recommend that USED--

- Recognize that the September 2011 deadline may not be realistic for all states and allow states to submit plans that will outline their own aggressive timeline for building systems compliant with the America COMPETES Act and be given credit for showing reasonable progress.
- Pursue approaches to provide additional resources for state educational agencies to meet these requirements, including possible use of the SLDS grants program to provide funding across the states for SFSF data requirements and the multiple other data requirements that are being proposed in other federal programs.

We support collecting and reporting data relating to the SFSF assurances, but the funding and data capacity constraints that many states face warrant a less prescriptive and burdensome set of data indicators and descriptors and additional time and resources for states to comply.

Thank you for considering these comments.

Sincerely,

Gene Wilhoit

Cc: OESE address in notice