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CDE Recovery Act Alert #1

Dwight D. Jones, Commissioner

On Friday March 6, the U.S. Department of Education (USDE) issued initial guidance on funding under the Recovery Act. In an effort to assist you, CDE has summarized the most up-to-date information and will continue to provide updates as additional guidance becomes available. We know you are eager for more detail; so are we.

USDE provided initial guidance outlining broad purposes of the law, key principles for its implementation, and general timelines for applications and grants, as well as fact sheets on each of the following:

1. State Fiscal Stabilization Fund (SFSF);
2. Title I Part A funds; and
3. Individuals with Disabilities Education Act (IDEA) Part B funds.

The fact sheets are available on the CDE Web site at this link:
<http://www.cde.state.co.us/scripts/federalstimulus/index.asp>.)

1. State Fiscal Stabilization Fund

This funding is intended to restore state support of primary, secondary and higher education through 2011 to either 2008 or 2009 levels (whichever year was higher). The funding is also intended to follow existing formula increases for elementary and secondary fiscal support for 2010 and 2011.

By late March, USDE will provide governors with a streamlined application. Within two weeks of the governor's submission of an "approvable" state application, 67 percent of the state's SFSF allocation will be released. The remainder of SFSF allocations will be provided to states on a rolling basis between July 1 and Sept. 30, 2009, based on the state's submission of a state plan detailing the its strategies for addressing the education reform objectives described in the required assurances for the state's initial application.

These education reform objectives include:

1. Developing standards and high-quality assessments.

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2. Establishing pre-K to postsecondary data systems.
3. Improving teacher effectiveness and the equitable distribution of highly qualified teachers.
4. Providing intensive support and effective intervention for the lowest-performing schools.

The state plan also must describe how the state and its LEAs will use the SFSF allocation and other funding in a fiscally prudent way that substantially improves teaching and learning.

Districts may use their SFSF allocation "to pay salaries to avoid having to lay off teachers and other school employees." However, the guidance reinforces the statutory requirement that districts use SFSF for allowable activities under IDEA, Adult Education and Family Literacy Act, the Carl D. Perkins Career and Technical Education Act of 2006 and the Elementary and Secondary Education Act (ESEA) (including the modernization, renovation or repair of public school facilities).

Gov. Ritter's office is awaiting federal guidance on SFSF allocations and is anticipating answers to a variety of questions that are unique to Colorado. It is important to note that USDE has not yet clarified what it means for a state to restore funding in 2009, 2010 and 2011 "to the level of support provided through the state's primary elementary and secondary funding formulae" to the greater of state fiscal year 2008 or 2009.

2. Title I, Part A Recovery Funds

These funds are to be used for services to students that go above and beyond existing Title I, Part A activities. Fifty percent of these funds will be released to states by the end of March under each state's existing ESEA consolidated application. **CDE will provide future guidance on a grant award process that will allow the department to ensure that funds are used prudently and in accordance with the law.**

In order to receive the remaining 50 percent of Title I, Part A recovery funds, a state must submit an amendment to its consolidated application. In turn, districts will submit amended applications for the remainder of funds. In the coming weeks, USDE will provide additional guidance regarding the use of funds, submission of waiver requests and reporting requirements.

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Fiscal Requirements:

Supplement, Not Supplant: USDE is not permitted to waive the requirement that Title I funds only supplement or increase the level of funds that would otherwise be provided from non-federal sources.

- **Comparability:** USDE is not permitted to waive the requirement that, in order to receive Title I funds, schools are providing services with non-federal funds that are at least comparable to services provided in non-Title I schools.
- **Maintenance of Effort:** When determining whether the maintenance of effort requirements for Title I, Part A have been met, districts may count SFSF funds as non-federal funds.
- **Waivers:** A district may seek a waiver to carryover from FY 2009 more than 15 percent of the district's combined Title I funds. The secretary also will consider a request for a waiver of the NCLB set-asides requirement, including for supplemental services.

Suggested Uses of These Funds:

USDE has provided suggested uses of Title I, Part A recovery funds that are consistent with allowable activities under ESEA and with the Recovery Act principle of **using funds to improve student achievement in ways that result in sustainable continuing commitments after the funding expires**. Congress encourages the use of funds for early childhood education. Additionally, USDE has suggested that districts consider efforts to improve outcomes for students in secondary schools, including strategies to re-engage students at risk for dropping out. **CDE will work with districts in developing plans for the use of funds**. Clarification on how this process will work is forthcoming.

Possible Uses of These Funds:

- Establishing a system for identifying and training highly effective teachers to serve as instructional leaders in Title I school-wide programs and modifying the school schedule to allow for collaboration among the instructional staff.
- Establishing intensive, year-long teacher training for all teachers and the principal in a Title I elementary school in corrective action or restructuring status. The training would use a new reading curriculum that aggressively works on improving oral language skills and vocabulary or, in some way builds teachers' capacity to address academic achievement problems. (CDE is extending a literacy program based on the Reading First model for schools that choose to apply their funds to this program.)

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- Strengthening and expanding early childhood education by providing resources to align a district-wide Title I pre-K program with state early learning standards and state content standards for grades K-3. In addition, if there is a plan for sustainability beyond 2010-11, expand high-quality Title I pre-K programs to larger numbers of young children.
- Providing new opportunities for Title I school-wide programs for secondary school students to use high-quality, online courses as supplemental learning materials for meeting mathematics and science requirements. (CDE could assist districts in identifying available online courses.)
- Using longitudinal data systems to drive continuous improvement efforts focused on improving achievement in Title I schools. (CDE could support districts in identifying data systems and leveraging price agreements in conjunction with other districts.)
- Providing professional development to teachers in Title I assistance programs on the use of data to inform and improve instruction for Title I-eligible students. (CDE could assist schools in identifying professional development opportunities.)
- Using reading or mathematics coaches to provide professional development to teachers in Title I targeted assistance programs.
- Establishing or expanding fiscally sustainable extended learning opportunities for Title I-eligible students in targeted assistance programs, including activities provided before school, after school, during the summer or over an extended school year.

3. Individuals With Disabilities Education Act (IDEA), Part B

USDE plans to award 50 percent of IDEA, Part B grants to states by the end of March 2009, under each state's existing application. The other 50 percent will be awarded by Oct. 1, 2009, based on an amendment to the state's FY 2009 application to address the recordkeeping and reporting requirements under the Recovery Act. **Again, CDE will provide future guidance on a grant award process that will allow us to ensure that funds are used prudently and in accordance with the law.**

Fiscal Requirements:

- **Maintenance of Effort:** The IDEA fact sheet indicates that districts may be able to reduce the level of state and local expenditures otherwise mandated by the IDEA maintenance of effort requirements for districts. Generally,

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under existing law, in any year that an LEA's IDEA allocation exceeds the amount the LEA received in the previous year, the LEA may reduce the level of state and local expenditures by up to 50 percent of the amount of the increase. CDE recommends that districts proceed with caution until additional guidance becomes available.

- **Excess Costs:** The requirements of providing excess costs of special education and related services apply to IDEA recovery funds.

Suggested Uses of These Funds:

USDE has provided suggested uses of IDEA, Part B funds that are consistent with allowable activities under IDEA, and take into account that funds should be used for short-term investments that have the potential for long-term benefits, rather than expenditures that may not be sustained once recovery funds expire.

Possible Uses of These Funds:

- Obtain state-of-the-art assistive technology devices and provide training in their uses to enhance access to the general curriculum for students with disabilities.
- Provide intensive district-wide professional development for special education and regular education teachers that focuses on scaling-up, through replication, proven and innovative evidence-based school-wide strategies in reading, math, writing and science and positive behavioral supports to improve outcomes for students with disabilities. (CDE could provide assistance in identifying school-wide strategies.)
- Develop or expand the capacity to collect and use data to improve teaching and learning.
- Expand the availability and range of inclusive placement options for preschoolers with disabilities by developing the capacity of public and private preschool programs to serve these children.
- Hire transition coordinators to work with employers in the community to develop job placements for youth with disabilities.

Other Education Program Funding

USDE also provided a rough timeline for the distribution of other education programs. (See "*Initial Guidance from U.S. Department of Education*" link at <http://www.cde.state.co.us/scripts/federalstimulus/index.asp>)

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Financial Accounting

In keeping with the president and secretary's commitment to transparency and accountability, LEAs that receive Recovery Act funds should expect to separately account for and report on, at the school level, how Recovery Act funds are spent and the results of those expenditures. **While funding will need to be accounted for separately, funds ideally will be used in a coordinated way that leverages one source with another to maximize impact.** Again, CDE cautions against the use of funds that result in unsustainable continuing commitments after Recovery Act funding expires.

A Financial Policies and Procedures committee meeting has been scheduled for March 20, 2009. The committee will discuss the requirements for segregated accounting of ARRA funds and reporting of school-by-school per pupil expenditures. Actions taken by the committee will be communicated swiftly to all districts.

For more information, visit

<http://www.cde.state.co.us/scripts/federalstimulus/index.asp>

Please send any questions you have to Richard Wenning, associate commissioner (wenning_r@cde.state.co.us) or Jeanette Cornier, assistant commissioner (cornier_j@cde.state.co.us).