UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

July 20, 2012

Memorandum to: Chief State School Officers

From: Anthony W. Miller /s/
Deputy Secretary
U.S. Department of Education

Subject: Clarification of Sequester Impact on Four Accounts with Advance Funding

The Budget Control Act (BCA) of 2011 established a Joint Select Committee in Congress charged with the task of developing a proposal to achieve at least $1.2 trillion in deficit reduction. Unfortunately, last November, the Joint Committee announced that it could not reach agreement on a deficit reduction plan. This failure triggered enforcement via automatic funding cuts, called sequestration, for fiscal year 2013, unless Congress prevents this from taking place by sending the President a balanced deficit reduction plan that does away with sequestration before it goes into effect on January 2, 2013.

Many of you have asked technical questions about how the Department of Education would implement the BCA sequestration in our four appropriations accounts that receive fiscal year 2013 budgetary resources from both 2012 advance appropriations and 2013 regular appropriations. The 2012 advance appropriations become available in October 2012 for school year 2012-13. The 2013 regular appropriations become available in July 2013 for school year 2013-14. Most of the funds in the four accounts with advance appropriations—Education for the Disadvantaged (Title I, ESEA), School Improvement Programs (Title II, ESEA), Special Education (IDEA Part B), and Career, Technical, and Adult Education—get distributed by formula to States and then to local school districts or other entities.

If Congress does not act to avoid sequestration, and assuming the 2013 appropriations for these four accounts are structured similarly to past appropriations (which they are under the pending House and Senate appropriations bills), the Department will take the sequester from funds that would become available in July 2013 for school year 2013-14, *not* from the 2012 advance appropriations available in October 2012. The amount of the reduction will be calculated by applying the sequester percentage (to be determined by the Office of Management and Budget) to the fiscal year 2013 budgetary resources from both the 2012 advance appropriations and the 2013 regular appropriations that are available for the four accounts. The calculated sequester amount will then get subtracted from the July 2013 funding. The net effect will be to cut the funding level for the programs in the four accounts with advance funding by the same percentage as all other programs, projects, and activities.

It has come to our attention that some States may have urged school districts to hold back on spending for the 2012-13 school year because of the possibility of sequestration. Assuming Congress enacts a 2013 appropriations bill that is structured similarly to the pending House or Senate bills—a reasonable assumption based on past practice—there is no reason to believe that a sequestration would affect funding for the 2012-13 school year.

While a large sequestration of education appropriations would decrease funding for schools and students across the country, the potential for sequestration should not upset planning and hiring decisions for the

immediately upcoming 2012-13 school year. Federal funds have already been appropriated and will be provided for this school year, through grants made in July 2012 and advance funds that will be obligated in October 2012.

Most other Department elementary and secondary programs award funds late in the fiscal year for the following school year, either through a formula or following a competition for discretionary grants, so the impact of the BCA on these programs will not be felt until the 2013-14 school year as well. However, the major exception where the BCA sequester could reduce funds for the 2012-13 school year is the $1.2 billion Impact Aid program. Impact Aid provides funds to some 1,192 school districts serving about 949,000 students. About 52,000 of those students are in districts that rely heavily on Impact Aid for a large share of their funds. These districts could experience more significant short-term funding problems due to sequestration than other districts.

Although most of the harm from the sequestration would not be felt in education programs until the 2013-14 school year, the damage from across-the-board cuts in that year would be severe. The Administration has submitted a balanced plan to Congress to avoid a sequestration, and continues to urge Congress to act on that policy. The sequestration was not meant to be implemented; it was meant to drive Congress to enact a balanced deficit reduction plan through the threat of destructive cuts. Time remains for Members of Congress to produce such a balanced plan, and we urge Congress to do so. Secretary Duncan will be testifying on July 25th before the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies on the potential harmful impact of sequestration on schools, teachers, and students and will be urging Congress to take action to avoid the deep and indiscriminate cuts in education and other Federal programs that sequestration would entail. However, while we wait for Congressional action, based upon past practice in appropriations, there is little reason to delay hiring for school year 2012-13 due to the threat of sequestration.