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May 1, 2012

**Notice of Proposed Information Requests – Annual State Application under Part B of the
Individuals with Disabilities Education Act as amended in 2004**

OMB Control # 1820-0030

Pending Collections: # 04816

IC Docket Manager
U.S. Department of Education
400 Maryland Ave. SW
LBJ Building
Washington D.C. 20202-4537

The Council of the Great City Schools, the coalition of the nation's largest central city school districts submits the following comments on the data collection requested under OMB control number 1820-0030 for IDEA Part B State Applications by the Office of Special Education and Rehabilitation Services of the U.S. Department of Education. The Council strongly supports the revisions to Section V of the IDEA Part B State Plan data collection which requires specific enumeration of the state fiscal effort expended by States in the two preceding fiscal years for special education and related services under the State Maintenance of Effort provision pursuant to IDEA sec. 612(a)(18)(A).

The Council further requests an express clarification in Section V of the Part B State Plan form explaining that the reported expenditures include all state agencies' expenditures in the aggregate, not just the state educational agency. The statute clearly declares that the State – not just the state educational agency – must not reduce the amount of State financial support for children with disabilities. The term "State" was used purposefully to prevent a State from solely maintaining special education fiscal effort, while concurrently cutting funding for other IEP-related services for students with disabilities in a variety of state agencies, such as health services, mental health services, rehabilitation services, transportation, etc.

The U.S. Department of Education also should review and make any necessary conforming changes to all guidance documents and policy letters in order to reflect that State maintenance of effort for special education and related services for children with disabilities will be applicable in the aggregate to all state agencies. Further, the U.S. Department of Education should review at minimum the two preceding years of aggregate state maintenance of effort data before approving any new state requests for a one-year waiver of this IDEA provision, and review any existing one-year state waivers to ensure that no violation of this provision occurred in the two years preceding a state waiver approval.

Finally, the Council is troubled that the lack of data for determining actual compliance with the State maintenance of effort requirement authorized in the IDEA Amendments of 1997 implies that this critical financial provision has likely not been enforced by the U.S. Department of Education for more than a decade. Children with disabilities and local education agencies, therefore, may have been deprived of mandated state financial resources for more than a dozen years from insufficient monitoring and enforcement of IDEA sec. 612(a)(18)(A), including the recent years of massive state budget cuts. The Council encourages the Office of Special Education and Rehabilitative Services to rigorously ensure compliance with this statutory state maintenance of effort provision, while exercising restraint in any proposed compliance with the illusory concept of “subsequent year” restoration of local effort that is clearly not authorized in the statute relating to LEAs.

Please contact me at the Council at 202-393-2427 or jsimering@cgcs.org if there are any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Simering". The signature is fluid and cursive, with the first name "Jeffrey" being more prominent and the last name "Simering" following in a similar style.

Jeffrey A. Simering
Director of Legislative Services
Council of the Great City Schools