

November 9, 2009

Office of Innovation and Improvement
U.S. Department of Education
400 Maryland Ave. SW, Room 4W321
Washington, DC 20202

Re: Investing in Education and School Integration

To whom it may concern:

The undersigned civil rights organizations and scholars are pleased to submit comments on the “Notice of proposed priorities, requirements, definitions, and selection criteria” for the Department of Education’s Investing in Innovation Fund, 74 Fed. Reg. 52214 (October 9, 2009).

As reflected in earlier comments on the Race to the Top Fund (submitted August 24, 2009), we are troubled by the Department’s failure to include any support for school integration in the enormous new education funding streams arising from the American Recovery and Reinvestment Act of 2009 (ARRA). The Department is well aware of the increasing racial and economic segregation in American public schools, and the harmful effects of racial and economic isolation on student outcomes. It follows, then, that the Department should encourage innovative programs that reduce racial and economic isolation.

The importance of promoting integration and avoiding racial isolation was recently reaffirmed as a compelling government interest by five Justices of the U.S. Supreme Court in *Parents Involved in Community Schools v. Seattle School District #1*.¹ Racial integration and deconcentration of poverty are also built in to the Department’s mandate to ensure equal access to educational opportunities pursuant to 20 USC § 1228 (a), and its broader responsibilities under Title VI of the Civil Rights Act of 1964. Significantly, *nothing in the ARRA statute prohibits or precludes programs that seek to improve educational outcomes by taking steps to reduce or ameliorate racial and economic segregation*, which are among the root causes of disparate educational outcomes.

There is “strong evidence” that the stated goals of the Investing in Innovation Fund – to improve student achievement and student growth for high-need students, to close the achievement gap, to reduce dropout rates, and to increase high school graduation rates – are furthered by programs that reduce racial and economic isolation for high-need students.² Indeed, the research evidence on the benefits of racial and economic integration and the harms of segregation, is far stronger than evidence about the benefits of popular alternatives, such as charter schools. Incongruously, racial and socioeconomic integration is not even mentioned in the proposed priorities.

¹ 551 U.S. 701 (2007).

² For an overview of this compelling research literature, see Roslyn Mickelson, *Twenty-first Century Social Science on School Racial Diversity and Educational Outcomes*, 69 Ohio St. L.J. 1173 (2008).

For these reasons, we urge the Department to redraft its “proposed priorities, requirements, definitions, and selection criteria” to reaffirm the goal of supporting racial and economic integration in public schools. We suggest that the statement of purpose and each section of the new rules reflect this commitment. Otherwise, potential applicants may assume that proposals that reduce racial and economic isolation are not welcome under the guidelines. Similarly, without these adjustments to the proposed priorities, a US DOE reviewer, in addition to applicants, might overlook the potential harmful effects of a proposal that would promote segregation and isolation of disadvantaged students of color.

In addition, we recommend the following specific modifications to the proposed rule:

¶ Proposed Absolute Priority 4 (“Innovations that Turn Around Persistently Low Performing Schools”) should include an additional option “(c): whole school or targeted approaches to reform that reduce racial and economic isolation for students in the school, including but not limited to magnet school programs, interdistrict transfers, intradistrict transfers, consolidation of school programs across school zones or school districts, and other student reassignment policies that promote racial and economic diversity.”

¶ A proposed Competitive Preference Priority 9 should be added to promote: “Innovative reforms to reduce racial and economic isolation for high-need students. This competitive priority recognizes the strong research evidence that reducing racial and economic isolation improves student achievement, graduation rates, and student ability to function in a complex multiracial democracy. This priority may include joint proposals by several school districts in a metropolitan area for shared educational programs, a regional non-profit or educational consortium, or proposals from a single school district or the state department of education.”

¶ Each of the “Proposed Priority” areas should include an analysis of how the proposal will increase or decrease racial and economic isolation and segregation of students in the jurisdiction applying for funds.

¶ In assessing the “Experience of the Applicant” for each type of grant, we suggest including an assessment of the applicant’s record in reducing racial and economic isolation. For example, have schools in the applicant’s district become more or less racially and economically isolated in the past 5-10 years? What steps has the applicant taken to address increasing school segregation in its metropolitan area?

¶ We also recommend, as a general requirement, consistent with Title VI, that the proposals submitted should not increase school based poverty concentration and racial isolation in the schools affected by the proposal; and even more importantly, the applicant should not be permitted to use these federal funds to create new racially concentrated or high poverty schools.

Thank you for the opportunity to present these comments. Please let us know if you need additional information; we would be happy to consult with the Department further on the issues addressed in this letter.

Sincerely,

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