August 21, 2009

The Honorable Arne Duncan
U.S. Department of Education
400 Maryland Avenue, SW.
Washington D. C. 20202

Attention: ASAA Comments on the State Fiscal Stabilization Fund proposed Requirements, Definitions and Approval Criteria

Dear Secretary Duncan:

On behalf of the American Association of School Administrators, representing over 13,000 school superintendents and local education leaders, we would like to offer our comments on the data points that will be collected under the State Fiscal Stabilization Fund. AASA strongly supported the ARRA, and was proud to supply information to the transition team as the administration formed. Thus, AASA strongly supports the four assurances that are the focus of the Race to the Top: improving the quality of teaching, improving the effective use of data, improving struggling schools and increasing the quality of standards and assessments. These are all worthy goals and something that school districts across the country have been dedicated to achieving.

While we realize the Department will be collecting the data from the states, the states will have to reach out to local school districts to gather the needed information. While some of the data slated to be collected will be worthwhile, we worry about the administrative burden that will be passed onto local school districts. This is especially true for small rural school districts.

Additionally, we support the creation of robust state longitudinal data systems but hope states will work with local school districts to ensure that local data systems are compatible with the state system. Because we want the focus to include children’s health and well-being as well as achievement, we hope the Department of Education will reach out to HHS and other departments planning to develop robust data systems in an effort to provide complete pictures of children as they develop and progress through school. We hope to avoid a situation where local districts are expected to cover all the costs to bring their data systems into compliance.

We offer the following comments on specific provisions.

p. 9-12 Achieving Equity in Teacher Distribution
AASA Response: While AASA supports efforts to ensure that our best teachers are working with the hardest to teach children, we remain concerned about the collection of this data. This data is not able to be aggregated among districts within states, let alone between states across the country. To comply with this provision, states and districts will spend a lot of administrative time collecting data. We hope USED will clarify the desired outcomes and work with school system leaders to ensure that the meaning of data is clear to educators, the public and policy makers. Clear outcomes and cooperation in how data will be gathered will help identify where cost of the mandate will be absorbed and how federal resources can be provided to school districts as they collection, store, analyze and turn the data into knowledge for improvement.

We also want to sharpen the evaluation of teachers and principals by making it clear that test scores are to be used in combination with other important factors in teaching to make the evaluations fair, accurate and useful in continual improvement of professional practices. Given the weakness of the state tests, innovation is more likely if grantees demonstrate the power and accuracy of non-test sources of information about teacher effectiveness. There is nothing in the statute that would lead one to believe that student test results must be used to evaluate teachers and principals to qualify for a grant under this program. An AASA member survey found that many superintendents would like to use assessment data in teacher evaluation, but in combination with other information. The absence of valid and reliable definitions of grade-level content mastery and grade-level progress creates differing types of analysis of normative test results rather than the hard result of rigorous research based on children’s cognitive development or even universally accepted principles.

Half of America’s school districts enroll 2,500 students or less. Small numbers raise concerns over violating employment law by making individual evaluation results identifiable in violation of employment law and the unfair impact of the assessment results on small numbers of students, on teachers and on principals in rural communities. The Department is not requiring the public reporting of principal data due to concerns over identification of certain principals and we hope USED will recognize this is also often the case among teachers in rural schools.

Finally, requiring statewide reporting of this information will miss local innovation in teacher and principal evaluations. Not all districts have specific levels within their evaluation systems. Some districts focus on continuous improvement by focusing on narrative data instead of a rating scale. It is hard for the Department to know the individual situations and practice at the local level, and we would hate to see such data collection stifle the innovation that exists.

p. 13 – 15 Improving the Collection and Use of Data
AASA Response: AASA strongly applauds the development of a robust longitudinal data system at the state level that interfaces with local data systems. We support the Department’s efforts to increase the quality of the state assessment data delivered to the classroom level. The state assessments will become meaningful at the classroom level if/when teachers can receive data that demonstrates what individual students know in an instructionally useful timeframe. Without this level of data driving down to the school and classroom levels, the state assessments are no more than just a missed day of instruction.

We would like to note many school districts cannot participate in the robust data system envisioned by the America Competes Act because they do not have broadband access at the district or school levels. While the focus is on the state data systems, the success of these systems will be based on the ability of local school districts to transfer their data to the states. AASA encourages the Department to work with the Departments of Commerce and Agriculture to involve the rural and urban systems that lack broadband into the broadband projects financed under ARRA. Otherwise the data system requirements are yet another case of well-off school districts and states having an unfair advantage in the RTT competition. The use of data to make decisions is not as possible when data is transferred over a copper phone line.

We urge the states to work with local school districts to ensure they are bringing local district data systems on line with the new state longitudinal data systems. We want to make sure the systems can interface with each other in order to ensure a seamless transfer of data. If the full cost of compatibility is passed to local districts the data systems will take years longer to develop, missing an important opportunity to jump start improvement.

p. 16 – 22 Standards and Assessments

AASA Response: AASA supports the efforts of the Department to increase the quality of standards and assessments at the state level. AASA is supportive of the efforts of CCSSO and NGA to develop a common core set of standards. In addition, we support the statements of the Department that focus on the quality of the data that is provided to teachers and principals on real student achievement.

We would like the Department to describe more clearly what it means by “high-quality” state assessments. How will this interface with the efforts of the Department to fund the development of a common state assessment? Are there already states out there that meet this definition?

The Department is also asking states for information regarding state academic performance compared to other states. We ask the Department to provide more information about how
comparisons will be calculated, including data sources and topics of comparison such as subject, educational outcomes and processes.

Despite its status as a final regulation, AASA would like to reiterate its concerns over the use of a 4 year adjusted cohort definition for graduation rates. ESEA clearly directed the use of high school graduation in the accountability for results in Title I of ESEA. Section 1111 (b)(C)(2)(vi) states that

> “in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years)…”

However, nothing in Section 1111 leads to the conclusion that U.S. Secretary of Education ought to dictate how each state should calculate its graduation rate or that graduation in four years be the only acceptable outcome.

The graduation rate definition places an enormous burden on local school districts, requiring them to confirm that a student who left their district has enrolled in another education institution. In addition, not all states are currently capable of tracking students after graduation within their state, let alone between states.

The method of estimating graduation rates, based largely on the plan adopted by many governors, continues to have several problems, including:

1. All students with a disability who have an IEP are eligible for services until they graduate or turn 22. This is in direct conflict with the ‘on-time’ 4-year high school standard. A simple exception for some students with disabilities will not resolve this conflict.

2. The proposed calculation assumes a standard 4-year high school period, which is simply an artifact of the past that has not been reconsidered since it was made common. Some students take longer to finish and neither those students nor their high schools should be stigmatized if the time needed to graduate exceeds four years.

3. The proposed national calculation estimates graduation by comparing each class’ starting and ending enrollment, without accounting for the 9th grade bulge reported in nearly all high schools.

4. Some families move without any notification to any official group. In those instances the schools cannot follow the students and will be stigmatized when required to report those students as drop outs when that may or may not be the case.
5. Rapid sustained large enrollment increases or decreases will either mask or exaggerate graduation rates.

6. The NPRM fails to take into account the different circumstances that can prevent a four-year graduation timeline. Specifically, the calculation does not account for students with necessary medical leave, alternative education programs, drop out recovery programs or students receiving their GED. All of these will leave a worse picture of school district graduation rates if these situations are not taken into account.

Finally, we are concerned that the Department is limiting its view of student success after high school graduation by just looking at enrollment in higher education. While there is earlier mention of technical education, it is not reflected in the data being collected. There is no recognition of students who go directly into the workforce or apprenticeship programs after high school graduations, though most would consider those students also successful high school graduates.

p. 22 – 25 Supporting Struggling Schools

**AASA Response:** AASA strongly supports the efforts to look at continuous improvement in schools that are not meeting student achievement goals. We hope these schools will be supported in helping to meet the needs of the total child. For so many students in poverty, these needs stretch beyond academic assistance. Their needs often include health care, mental health services, before and after school care, vision and dental care as well as education for their parents to engage them in the process. If schools and communities work to address the non-school factors, students will see even greater gains in their academic achievement. AASA applauds the Department’s intention to award schools that are making progress, not just those that have reached an arbitrary end goal.

AASA supports efforts to create options within the public school system. However, we support charters that are publically chartered by the school district and are required to meet all the same requirements of other public schools. We caution against rushing to create a robust charter system that ignores these important parameters, without which charters could undermine the efforts of the public school system.

p. 31 Indicator (a)(2). Reporting whether state student achievement data is used in the evaluation of math and language arts teachers.

**AASA Response:** Using student assessment data from the state level will force districts to rely on the state tests with the widely acknowledged problems of being one-time snap shots. While we realize the end goal is to provide teachers and administrators with information on the impact of each teacher on individual students, the current set of state assessments are not up
to that important task which is why we are so hopeful about the administration’s determination to improve student assessments.

**p. 31 Indicator (a)3.** “Provide, for each LEA in the State whose teachers receive performance ratings or levels through an evaluation system, the number and percentage (including numerator or denominator) of teachers rated at each performance rating or level;”

**AASA Response:** As was mentioned earlier, AASA urges the department to quickly help states develop assessments that are up to the task of providing valid, reliable information about the effect of instruction on individual students. More importantly we urge the Department to work closely with local administrators to provide the public and policy makers with data that can be understood and acted on after it is aggregated state-wide and nation-wide. In addition, there would have to be considerable safe guards added to ensure that none of the evaluation results were individually identifiable.

There is also no recognition in this indicator of how districts that do not have levels within their evaluation system would comply with this requirement. Many districts feel that abandoning a rated system is a best practice in teacher evaluations focusing on continuous improvement rather than arbitrary rankings.

**p. 31 Indicator (a)4.** Making the teacher evaluation data easily accessible to the public.

**AASA Response:** With the median school district size in the country between 1,000 and 1,499, (according to NCES) many districts will find it difficult to meet this requirement without violating employment law and making individual teacher evaluation results know. More often than not, districts will be unable to comply with this provision leading the public to question why not. The department should act quickly to clarify limitations of how personnel evaluations can be made public. We should not be creating a public expectation for data that, by law, we cannot provide.

**p. 32 Indicator (a)(5).** Whether evaluation systems for principals use student achievement data.

**AASA Response:** Similar to our concerns about teachers, AASA cautions that student achievement data be used in combination with other factors in success such as school climate and important working conditions. While it could be a contributing element, it is critical to use a variety of measures when conducting principal evaluations. The current state assessments represent a single snap-shot in time of a student’s performance and may not be the best measure of their actual achievement. In addition, principals of small schools could have the assessment results largely skewed due to the performance of just a few students. Small numbers make it difficult to get accurate results.
p. 32 **Indicator (a)(6).** “Provide, for each LEA in the State whose principals receive performance ratings or levels through an evaluation system, the number and percentage (including numerator or denominator) of principals rated at each performance rating or level;”

**AASA Response:** Again, with the inability to aggregate this data between districts, we are not sure of the data will be understood unless placed in context. In addition, the Department recognizes that due to the small numbers of principals this data should not be publically available because it would be incredibly difficult to prevent the evaluation results from being individually identifiable. We would like to raise the legal issue and question whether state employment laws will be violated by transferring this data to the state level. When passed to the state level, it will still be individually identifiable to the state and to anyone who looks at the statewide data because it is unable to be aggregated.

p. 32 **Indicator (b)(2).** Does the state provide teachers with data on the performance of their students on their state assessments, including teacher impact, in a timely manner?

**AASA Response:** AASA strongly applauds the Department’s emphasis on assessments providing meaningful data to teachers in order to improve student instruction. We support the efforts to deliver this data to teachers in a timely fashion. While few if any states are currently prepared to meet this indicator, we hope that with the Department’s strong focus on this requirement we will begin to see improvements on the state assessments that will provide instructional meaning to teachers and principals. All of these steps will eventually benefit student achievement.

p. 35 **Indicator (c)(9).** “Confirm whether the State provides native language versions of state assessments for limited English proficient students that are approved by the Department.”

**AASA Response:** AASA cautions this view of assessment for LEP students should be broadened to include other ways to gauging a student’s mastery of content and English. Native language assessments are not considered valid assessments if the student is instructed in English. We would rather see the Department focus on a more robust strategy to ensure the assessment needs of LEP students are met.

p. 35 **Indicator (c)(11).** Disaggregate by LEA the adjusted four year cohort graduation rate by subgroup.

**AASA Response:** AASA echoes its earlier concerns that the adjusted four year cohort graduation rate does not take into account the number of legitimate reasons a student might have to take more than four years to graduate. In addition, we urge that protections are added to this disaggregation requirement to prevent students from becoming individually
identifiable especially given the number of small school districts in the country. There needs to be a defined “reporting” subgroup number.

p. 36 Indicator (c)(13). Disaggregate by subgroup for the state, LEA and high school the number of high school graduates who complete one year of college credit within two years of high school graduation.

AASA Response: ASAA urges the department to work closely with local educators and parents to ensure that the data collected add to the public’s understanding of student progress while also contributing to school improvement efforts. Unless the information is made useful to educators and understandable to the public it costs more than the benefit merits. High schools are currently not tracking where their students go after graduation. This not only presents challenges for those students who stay within the state but it becomes next to impossible for those students who move out of state. Without the ability to track students in between states, this becomes impossible. Districts should only be responsible for reporting their graduation numbers.

Additionally, the requirement to disaggregate this data by district and then by high school will be next to impossible. With the median secondary school size across the country between 300 and 599, most high school graduating classes will be 100 students or less. This is statistically too small to disaggregate by most subgroups without betraying individual student identification and violating FERPA.

Finally, we are concerned that the collection of only this data presents a narrow view of success after high school. Instead we would like to see a more robust picture painted that includes students who go directly into the workforce, enter apprenticeship programs and follow some form of career and technical training path.

p. 42 Requirements for indicators in reform area (b) (improving the collection and use of data)(iii) “The amount of funds the State is using or will use to develop and implement such a system, and whether funds are or will be Federal, State or local funds.”

AASA Response: We urge USED to ensure the cost of data collections is shared by federal and state governments and local school districts. While the guidance contains a lot of discussion of the state costs of meeting the requirements, we would like to see the Department address how districts could help pay for these costs. With the State Fiscal Stabilization Fund not representing new money for most districts and most local budgets being cut, districts are limited in their available resources to collect new levels of data.

p. 49 Proposed Approval Criteria
**AASA Response:** AASA urges the Department to use this opportunity to review how the Governors and the state legislatures have spent their State Fiscal Stabilization Fund dollars and whether those expenditures meet the legislative intent of the law. This is the opportunity to clamp down on states that have chosen to supplant their effort in education with this funding. The original intent of the State Fiscal Stabilization Fund was to help state and districts fill their budgetary holes. We cannot repurpose this money for reform efforts until these initial needs are met. For most districts, their local budget shortfalls still exist.

**p. 63 Request for information on the prevalence of ranked evaluation systems for teachers and principals.**

**AASA Response:** Teacher and principal evaluations have long been a local district issue, though the principals and teachers doing the evaluations are working in individual school. This adds variance to the system. Currently there have been attempts to capture this data, with the exception of North Carolina and possibly Hawaii. In addition, we believe the hourly wage estimate of $25 per hour to be below most district pay scales. Because of that we believe the Department has underestimated the costs to local districts for this provision.

**p. 86 Total Estimated Costs** (for LEAs - $10,656,250)

**AASA Response:** AASA is concerned by the unfunded mandate to collect data that is being passed down the local level. While we believe that the $10.6 million estimate is below what the actual costs will be nationwide for school districts, even at that level, districts are being asked to absorb those costs. With so few districts receiving additional funds from the State Fiscal Stabilization Funds, districts will have to tap into their already strapped budgets to meet these costs. In addition, these costs do not include districts expanding or updating their data collection systems to meet these new requirements. All of the focus of funding for those systems is at the state level. AASA would much rather see limited local dollars be focused on direct instruction of students rather than collection of data.

**p. 99 -100 II. Assurance Indicators and Descriptors Burden Hours/Costs for LEAs**

**AASA Response:** AASA would like to bring to your attention to an oversight in this chart. This chart does not reflect the $3,115,000 cost estimate for districts to track their high school graduates plans after high school. We also believe this cost estimate is below where it should be, as many school districts will not be able to take on the added expense to hire low wage data entry personnel due to lack of funding or an available employee base and will be forced to use higher wage employees to complete this work.

**p.110 Regulator Flexibility Act Certification**
AASA Response: AASA is concerned that the requirements under this proposal are especially unfair to small rural school districts with budgets so small it is not possible to move funds between accounts and absorb new costs. These districts often lack a robust central office to help meet these administrative requirements making it more difficult for them to comply. The superintendent many times is also a principal as well as other multiple roles. This leaves them limited time to complete such extensive paperwork and surveying, hence the lack of these districts applying for competitive grants. We urge the Department to reconsider their impact statement on small school districts.