

On February 17, 2009 the American Recovery and Reinvestment Act (ARRA) was signed into law by President Obama for an unprecedented 787 billion dollars of appropriations and over \$100 billion of the Act dedicated to Education. We have and will continue to ask questions on behalf of our CASE membership confer with legislators on the impact for states and districts and ask the questions we believe are representative of the concerns in the field regarding the important next steps.

The intent of this Policy/Legislation update is to provide the members with the following information:

1. Background information and valuable links for members to gather additional information on the ARRA
2. Clarification on the concept of supplanting as it is particularly relevant in what additional billions in IDEA funds affects states and local entities and
3. Summary of the questions compiled by our CASE Policy/ Legislative Committee and many of our members and submitted to the Department of Education who is currently working on developing a responsive FAQ that will clarify the intent and allowable use of the designated funds.
4. Economic Recovery Resources

**1) The American Recovery and Reinvestment Act** includes almost 100 billion dollars earmarked for Education, which includes:

- \$13 billion for Title I,
- \$12.2 billion for IDEA,
- \$53.6 billion for the State Fiscal Stabilization Fund
- \$5 billion for Early Childhood education.
- \$500 million for Part C, infants and families

The Department of Education (DOE) has stated that it is working to distribute funds quickly through a streamlined application process that also requires "strong commitments on the front end and even stronger proof on the back end that states are not only putting new dollars into the classroom but are making meaningful and measurable progress toward the reform goals" of the ARRA. They seem to be indicating that the fund distribution will include the use of existing state formulas and an application process that requires a number of assurances that states and local agencies meet their projected expectations.

Education Secretary Arne Duncan will release specific guidelines shortly that will include a timetable for each education funding stream included in the **American Recovery and Reinvestment Act**. The goal, stated by the DOE, is "to get half of the money to the states within 40 days and the second half within six months, conditioned upon receipt of a comprehensive reform plan." This is a link to a press release on the *American Recovery and Reinvestment Act* (ARRA). Also, the Department has created a specific ARRA web page (<http://www.ed.gov/policy/gen/leg/recovery/>), where additional information on the act will be posted as it becomes available. Currently, it offers the press release, a more detailed fact sheet, and links to budget information, including state-by-state allocations for formula-based programs, as well as a brief "video statement" by Secretary Arne Duncan.

In addition, the Recovery.gov web site (<http://www.recovery.gov/>) is now live. The mission of this site is three-fold: education (explain the ARRA), transparency (show how, when, and where ARRA money is spent), and accountability (furnish data that will allow citizens to evaluate the act's progress and provide feedback). There are already projections -- based on ARRA language -- of the effect on jobs state-by-state.

CASE is continuing to work with CEC and the Department of Education (DOE) to facilitate sharing information received to questions submitted to the Department. It is important that members take guidance and direction from their SEA until final guidance on allocations and other implementation aspects of the ARRA is rendered from USDOE, which is expected out during the week of February 23.

## **2) Clarification and historical information on supplanting as it relates to IDEA**

(Special thanks to Dr. Jonathan McIntire for his contributions to this historical focus on supplanting as it relates to IDEA.)

Public education is constitutionally established as a state and local government function and is not a priority of the federal government. State legislatures and local communities have long had the responsibility of providing a public education system and funding it adequately. This includes the education of all students regardless of their race, sex, economic status, culture, or disability. The federal government has over time encouraged and helped state and local governments to maintain a high standard of public education realizing the strength of our nation depends in part upon the knowledge and skill of our people. Title 1 has been used to help state and local governments ensure high quality education for our nation's children of poverty while Title III focuses upon ensuring our nation's students who are non-English speaking receive the intensive and specialized instruction necessary to effectively learn within our public education system. Title VI has worked to ensure students of different races were not discriminated against in their full access to and benefit from public education and Title IX has done the same for women, especially as it relates to equitable access to athletics, science and mathematics instruction and other developmental activities beyond reading, writing and arithmetic. Each of these provisions has been designed to ensure that all people within our nation are treated equally in their access to learning; that no one group is discriminated and limited in their capacity. Education is a civil right for all within our society.

The federal special education law, the Individuals with Disabilities Education Act (IDEA), was passed in 1975 and implemented in 1977 as a funding bill. IDEA federal funds have always been designed to "supplement" state and local funds used in providing special education services for students with disabilities, in addition to the educational funds provided for all students. Those funds were never intended to supplant what state and local governments must provide to ensure a free and appropriate public education (FAPE) for its students with disabilities. In fact, regulatory provisions were carefully placed within the IDEA at its inception specifically to prevent state and local governments from using federal funds to supplant their necessary local investment of their students with disabilities. It has not historically been permissible for states and local education agencies to use federal special education dollars they receive to supplant their own investment in the education of students with disabilities.

Over the years, state and local governments have struggled with having adequate funding for public education. The current status of the economy has significantly compounded this issue and although we see some potential relief reflected in the substantial funds earmarked in the ARRA, there continues to be concern for the long term. Since education is primarily funded through state and local taxes, our current loss in revenue due to the economic downturn suggests a possible tax increase in the near future.

All of this makes it inevitable that state and local education agencies will want the federal IDEA funds earmarked in the ARRA to be available to address to some extent their severe revenue deficits. States and local school districts are increasingly using their limited federal special education funds to pay for services they previously have funded on their own.

The Council of Administrators of Special Education (CASE) believes it is important to remind state and local governments of their need to equitably fund all components of their education systems. As educational services are negatively impacted by revenue shortfalls, CASE continues to promote an assurance at the local levels that students with disabilities are financially supported in equivalent proportions to their non-disabled peers. Given the current information on the additional IDEA funds coming to SEAs and LEAs through ARRA, the question on supplanting has been raised many times over the past several weeks. The questions are two fold, with the first focusing on whether it will be permissible to supplant and under what conditions and secondly, whether that is a fair and appropriate use of IDEA funds. The reality is that education and special education has continued to cost more to local and state agencies while the revenues have continued to decrease, putting an even greater burden on local school districts and forcing decisions on priorities and limitations despite the rising costs of educating all students.

At the same time, CASE has advocated and continues to support increases in federal special education funds provided to state and local governments through the ARRA. This may include using these “increased ARRA IDEA funds” to help safeguard students with disabilities from losing the incredible gains achieved in their access to and benefit from public education. Students with disabilities must continue to be a major focus of state and local governments in their provision of a free and appropriate public education (FAPE) and to access funds that support innovation, additional research-based strategies and supports that continue to benefit students with disabilities and afford them greater opportunities to achieve educational gains.

**3)** CEC/CASE have submitted to the Department of Education (DOE) a number of important questions relating to the Education fund distribution through ARRA. This is an exciting, historic period in our country and for education in the midst of a serious economic crisis. While we are faced with many significant financial challenges, the increase of billions of dollars earmarked for many different facets of education provides us with opportunities to address many of the areas we have been struggling with for several years. Through collaborative efforts with the DOE and other organizations, discussions and further guidance for state and local appropriations, we will continue to keep our focus on improving the outcomes for students with disabilities by collaboratively setting priorities and accessing available funds that will address the needs and increased expectations for all students.

#### **4. Economic Recovery Resources**

- <http://www.recovery.gov/>
- <http://www.ed.gov/policy/gen/leg/recovery/index.html>

#### **Document Downloads - PDF**

- **THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009  
SAVING AND CREATING JOBS AND REFORMING EDUCATION**
- **STATE FISCAL STABILIZATION FUND**
- **IDEA RECOVERY FUNDS FOR SERVICES TO CHILDREN AND YOUTHS WITH  
DISABILITIES**
- **TITLE I, PART A RECOVERY FUNDS FOR GRANTS TO LOCAL EDUCATION  
AGENCIES**

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**Get information on the American Recovery and Reinvestment Act of 2009:**

**Reminder: The Department has released initial guidance for:**

- Title I, Part A grants to school districts (<http://www.ed.gov/policy/gen/leg/recovery/factsheet/title-i.html>);
  - IDEA, Part B grants to states and preschool grants (<http://www.ed.gov/policy/gen/leg/recovery/factsheet/idea.html>); and
  - the State Fiscal Stabilization Fund (<http://www.ed.gov/policy/gen/leg/recovery/factsheet/stabilization-fund.html>).
  - Other ARRA program guidance and Frequently Asked Questions (FAQs) are under development.
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- NEW -- Get ED ARRA news by visiting [www.ed.gov/recovery/](http://www.ed.gov/recovery/) or by subscribing to the ED ARRA RSS feed at <http://www.ed.gov/rss/arracomms.xml>. If you are interested in other ED news and resources (in addition to the ARRA), subscribe to the ED RSS feed at <http://www.ed.gov/rss/edgov.xml> or track ED on Twitter at <http://twitter.com/usedgov/>.
  - The Department of Education's webpage now includes the timetable for funding available under ARRA: <http://www.ed.gov/policy/gen/leg/recovery/index.html>. It is the first thing listed on the recovery page as you scroll down, in Excel and PDF versions. Also, below is the link to the President's speech on education delivered on Tuesday, March 10. [http://www.whitehouse.gov/the\\_press\\_office/Remarks-of-the-President-to-the-Hispanic-Chamber-of-Commerce/](http://www.whitehouse.gov/the_press_office/Remarks-of-the-President-to-the-Hispanic-Chamber-of-Commerce/)
  - Education Recovery and Reinvestment Center (<http://www.learningpt.org/recovery/>) which is a one-stop for educators and policymakers to help them track developments and find current information on the ARRA. Includes the Fund Finder tool that quickly calculates the amount of funds a school district will receive under Title I and IDEA . Also, a TQ Research and Policy Update is posted on the site that addresses *The Recovery and Reinvestment Act: Opportunities and Strategies to Advance Teacher Effectiveness*.
  - Web resource page for states and LEAs on the best ideas on school modernization. - <http://www.ed.gov/policy/gen/leg/recovery/modernization>
  - White House information on the stimulus package – go to: [http://www.whitehouse.gov/the\\_press\\_office/White-House-Releases-State-by-State-Numbers-American-Recovery-and-Reinvestment-Act-to-Save-or-Create-35-Million-Jobs/](http://www.whitehouse.gov/the_press_office/White-House-Releases-State-by-State-Numbers-American-Recovery-and-Reinvestment-Act-to-Save-or-Create-35-Million-Jobs/)

*The CEC Policy & Advocacy Team*

- Read CEC's ARRA Q&A
- Visit CEC's ARRA Web site

This information is from the national CASE website: <http://www.casecec.org/> .