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September 22, 2011

Senator Tom Harkin, Chairman  
Committee on Health, Education, Labor & Pensions  
United States Senate  
Washington, DC 20910

Dear Chairman Harkin:

On behalf of Learning Disabilities Association of America (LDA), I write to request your assistance to protect local funding for special education. LDA, a national volunteer organization representing individuals with learning disabilities, their families, and the professionals who serve them, has worked for more than 40 years to ensure children with learning disabilities are properly identified and receive the services they need to be successful in school and beyond.

The Office of Special Education Programs (OSEP), U.S. Department of Education, has changed its interpretation of the local maintenance of effort requirement (MOE) under the Individuals with Disabilities Education Act (IDEA), jeopardizing critical special education services for students with disabilities, including students with specific learning disabilities. On June 16, 2011, OSEP issued informal guidance, stating that, if a school district does not expend all its federal IDEA Part B funds during one fiscal year, its "maintenance of effort" will be reduced in the next fiscal year to the level of the previous year's actual expenditure. OSEP summarizes its position, stating: "*[E]ach year's LEA maintenance of effort obligation is based on the actual amount expended in the immediate prior fiscal year.*"

The MOE provision ensures consistency in the amount schools spend on special education from year to year. OSEP previously has interpreted this requirement to mean a school district could not decrease the amount it spends on special education below the allotment from the previous fiscal year, regardless of whether the school district spent the full amount it received. The law allows certain exceptions to this rule. For example, a local school district could reduce its "effort" if senior personnel retire and are replaced by qualified, more junior individuals at lower pay or if the district has a student who requires exceptional costly services, such as residential or out of district placement. The law also allows an exception when there is an increase in federal funding to the district.

To ensure students with disabilities continue to receive the services for which they have been determined eligible, LDA members request you call on Secretary of Education Duncan to rescind this guidance and uphold the interpretation of this provision as originally intended by Congress in passing the IDEA.

If you need additional information, please feel free to contact LDA Policy Director Myrna Mandlawitz at 202-686-1637, [mandlawitz@verizon.net](mailto:mandlawitz@verizon.net).

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Patricia M. Lillie".

Patricia M. Lillie, President