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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

April 8, 2016

Dr. John B. King Jr.
U.S. Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary King:

We write today to request that the comment period be extended for the U.S. Department of Education's proposed rule (NPRM) to define and clarify significant disproportionality and the use of early intervening services under the Individuals with Disabilities Education Act (IDEA) as published in the Federal Register on March 2, 2016. We encourage the Department of Education to allow the public additional time to review the proposal by extending the comment period to 90 days.

While the law requires a minimum of 75 days (IDEA Section 607(c), 20 U.S.C. 1406), the scope of these changes should get more scrutiny. This NPRM proposes the most significant amendments to regulations under Part B of IDEA since August 2006, nearly 10 years ago, and the public and stakeholders should be given additional time to fully understand and comment on these changes. This NPRM proposes broad-sweeping changes, including by establishing a standard methodology that all States must use to determine whether significant disproportionality based on race and ethnicity is occurring in the State and in its local educational agencies (LEAs), expanding the Department's monitoring and enforcement authority, and expanding the uses of funds reserved for comprehensive early intervening services to children with disabilities and those not currently identified as needing special education.

The NPRM would impose significant costs and other burdens on all states and more than half of the nation's LEAs. According to some estimates, if every state and the District of Columbia were to follow the Department's example risk ratios, about 8,100 school districts would be found to have significant disproportionality. The Department's own analysis estimates that the total cost of these regulations over ten years would be between \$47.5 and \$87.1 million, plus an additional \$298.4 to \$552.9 million that would be transferred to early-intervening programs that would be used for students with and without disabilities.

We share your belief that every child, regardless of income, race, background, or disability can succeed if provided the opportunity to learn and the importance of this issue. However, given the seriousness of the issues, additional time would enable stakeholders to provide more robust feedback and allow for more careful consideration regarding the plethora of issues raised by the

NPRM. Therefore, we request the Department of Education extend the comment period to 90 days in order for the public to thoroughly review the proposal.

We appreciate your time and attention to our request, and we look forward to staying apprised of any further developments.

Sincerely,

A handwritten signature in blue ink, reading "Lamar Alexander", written over a horizontal line.

Lamar Alexander
Chairman

A handwritten signature in blue ink, reading "Michael B. Enzi", written over a horizontal line.

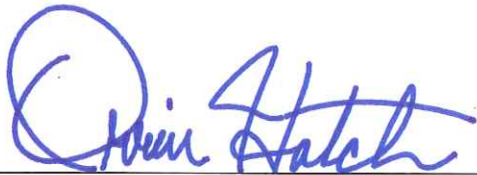
Michael B. Enzi
United States Senator

A handwritten signature in blue ink, reading "Susan M. Collins", written over a horizontal line.

Susan Collins
United States Senator

A handwritten signature in blue ink, reading "Lisa Murkowski", written over a horizontal line.

Lisa Murkowski
United States Senator

A handwritten signature in blue ink, reading "Orrin Hatch", written over a horizontal line.

Orrin Hatch
United States Senator