May 21, 2014

The Honorable Arne Duncan  
Secretary of Education  
United States Department of Education  
400 Maryland Ave., SW  
Washington, D.C. 20202

Dear Secretary Duncan,

On behalf of the Albuquerque Public Schools, we respectfully submit this letter to show support of your decision, and Judge Richard O’Hair’s concurrence, to deny our state flexibility to decrease our maintenance of state financial support for students with special needs.

As you are well aware, New Mexico suffered an economic recession in 2009-2010. As a result, our state had little choice but to cut back the state’s budget and decrease funding for public education. We took these budget cuts with stride and worked our best to have a balanced budget which would still meet the needs of our students. This was a difficult goal but Albuquerque Public Schools, in addition to every other district in the state of New Mexico, knew that even though we would receive less funding from our state, we must still meet our legal and moral obligations to serve our students with disabilities. As a result, we continued to maintain our own level of funding for special education and did not cut services to our most vulnerable students. The money had to come from somewhere. We made the right decision and held special education harmless at the expense of regular education programs, staff and class sizes.

We have learned from your conversations with our state that New Mexico also failed to appropriately fund special education in 2010-2011 and 2011-2012. Again, even though Albuquerque Public Schools received less funding from our state, we continued to serve our special education programs and students with special needs in these years because it was the right thing to do.

We understand that the state had little choice in its first year of the economic downturn, and we agree with your decision to grant our state a one year waiver from the requirements in federal law to maintain state financial support for students with special needs. We are concerned, however, about the recent developments regarding our state’s financial support in the 2010-2011 and 2011-2012 school years. We agree with you that our state should not have the flexibility to permanently decrease our state financial support for students with special needs. We agree with you that our state should be required to adequately fund our special education programs. This letter explains why.

New Mexico failed to provide approximately $34 million in special education funding that it had the legal obligation to provide to students in the 2010-2011 school year. New Mexico failed to provide approximately $26 million in special education funding that it had the legal obligation to provide to
students in the 2011-2012 school year. As a result, the United States Department of Education now has the authority to decrease federal funding by the above mentioned amounts.

New Mexico’s school children have suffered enough. Our school districts have struggled to provide the very best educational opportunities possible with the limited funding we have received from our state in the last five years. We need your help.

Let me provide you with real world examples of what less funding meant for Albuquerque. If New Mexico had adequately funded special education programs in 2010-2011, Albuquerque Public Schools would have received an additional $8.84 million in funding from the state. In that same year, we were forced to cut our budget by $38 million. If New Mexico had adequately funded special education programs in 2011-2012, Albuquerque Public Schools would have received an additional $6.76 million in funding from the state. In 2011-2012, we were forced to cut our budget by $37 million.

Yes, it’s true that in these two years we would have still been required to make tough decisions about our school budget, and our students still would have had less educational opportunities due to budget restraints than before our fiscal downturn. However, it’s important to understand what $15.6 million in additional funding over two years means for Albuquerque Public Schools. Here are some of the things we could do with those funds if we received them:

<table>
<thead>
<tr>
<th>Funding Item</th>
<th>Total Amount</th>
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<tbody>
<tr>
<td>Provide an Additional 3% Salary Increase for All Employees</td>
<td>$15.0 million</td>
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<tr>
<td>Hire an Additional 20 Social Workers, 10 Counselors and 6 Nurses to Work with All Students</td>
<td>$ 2.4 million</td>
</tr>
<tr>
<td>Return Class Sizes to their Pre-Recession Levels</td>
<td>$15.2 million</td>
</tr>
</tbody>
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The funding school districts lost is real and we ask your help to work with our state to make sure we can find a solution to our state funding problem. We know that you have the opportunity to decrease our federal funding levels by the amount our state failed to fund special education. We hope that you would consider alternatives to that policy. Specifically, we ask that you explore the option of putting New Mexico on a payment plan – and the payments would go directly from our state to New Mexico’s schools to support our students. If New Mexico commits to paying back school districts the $60 million we should have received 2010-2011 and 2011-2012, and if New Mexico’s schools can support all of our students with those funds, we hope that you would continue to provide federal funding at the existing level.

I fear that if a settlement cannot be reached the ones who will truly suffer are our children. If Albuquerque Public Schools receives less federal funding in addition to that already lost in state funding, we will continue to be forced to make tough budget decisions. We believe it is our moral obligation to fund students with special needs to guarantee they receive the services they need to succeed. We know that we will continue to do this at the expense of our other educational programs.

In addition to a payment plan, we recommend that New Mexico be placed on a corrective action plan to guarantee compliance with the federal law requiring that our state not decrease financial support for special education. We recommend that our state undergo annual audits, experience increased oversight and monitoring of the budgeting process at the state level related to special education until such time that
we are in full compliance with federal law. We hope that through this corrective action plan, we can work collaboratively with your department to solve our state’s funding issues and receive guidance for full compliance of the law.

We need leadership in New Mexico. I hope that you can be that leader and guide our state to a proactive solution which considers the needs of our students, responsible financial planning by our state and our legal and moral obligations under the law.

Thank you for your time and consideration of this matter. We would be happy to provide you with additional information if necessary.

Sincerely,

Winston Brooks
Superintendent

Dr. Analee Maestas
Board of Education, President

cc: Senator Tom Udall
Senator Martin Heinrich
Congresswoman Michelle Lujan-Grisham
Congressman Ben Lujan
Congressman Steve Pearce
Hanna Skandera, New Mexico Secretary-Designate of Public Education
New Mexico Legislative Education Study Committee
New Mexico Legislative Finance Committee
New Mexico Coalition of Educational Leaders
New Mexico School Board Association
APS Board of Education
APS Leadership Team