Thank you for the opportunity to offer input into the importance of federal to the provision of special education and related services to students with disabilities. It is our understanding that the USED is looking for input into which federal regulations should be retained or revised as potential over-reaches of federal administrative overreach. Providing special education and related services to students with disabilities should never be viewed as a burden for public schools. All students, including students with disabilities, should be held to high expectations and have equitable access to educational opportunities that enrich their lives and prepare them for future success. We should never forget the Congressional findings and purpose when passing P.L. 94-142: (1) there are more than eight million children with disabilities in the United States today; (2) the special educational needs of such children are not being fully met; (3) more than half of the children with disabilities in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity; (4) one million of the children with disabilities in the United States are excluded entirely from the public school system and will not go through the educational process with their peers; (5) there are many children with disabilities throughout the United States participating in regular school programs whose disabilities prevent them from having a successful educational experience because their disabilities are undetected; (6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense; (7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of children with disabilities; (8) State and local educational agencies have a responsibility to provide education for all children with disabilities, but present financial resources are inadequate to meet the special educational needs of children with disabilities; and (9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children with disabilities in order to assure equal protection of the law.

It was the purpose of P.L. 94-142 to assure that all children with disabilities have available to them a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.

Today, under the Individuals with Disabilities Education Act (IDEA), all children with disabilities have the right to be enrolled in and attend school, and to receive a free appropriate public education. But this right must be carefully guarded and the rights and protections afforded to students with disabilities and their parents under the IDEA must not be eroded. The regulations at 34 CFR Part 300 implement the statutory requirements of the IDEA and should be retained.

In particular we wish to emphasize that the state complaint procedures (34 CFR 300.151 through 300.153) should be retained. While some comments in 2006 suggested that the state complaint procedures should be limited, this procedure gives parents an easy and quick means to resolve disputes with schools and to address procedural violations. Without the broad coverage that the state complaint process affords, many parents will effectively be left without a remedy as they will be unable to navigate the due process procedures which are much more complicated and typically involve attorneys on both sides. The complexity and cost of due process hearings makes that process out of reach of many.