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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

MAY 1 8 2006

The Honorable Joseph Morton
Superintendent
Alabama State Department of Education
Gordon Persons Building
P.O. Box 302101
Montgomery, AL 36130-21001

Dear Superintendent Morton:

I am writing in response to Alabama's request for a flexibility agreement to create a new subgroup specifically for students displaced by Hurricanes Katrina and Rita under option 2 in Secretary Spellings' letter to Chief State School Officers on September 29, 2005. Under this option, displaced students would be counted in a separate subgroup for reporting and accountability purposes under Title I of the *Elementary and Secondary Education Act* (ESEA), as amended by the *No Child Left Behind Act of 2001* (NCLB). For the 2005–06 school year, these students would not appear in any other subgroup (even the "All Students" subgroup) in which they would normally appear.

It is vital to remain committed to the core principles of NCLB, including holding all States, districts, and schools accountable for educating all children. At the same time, I recognize the unique events facing those affected by Hurricanes Katrina and Rita, which require common sense decisions. Alabama was responsible for educating almost 2,800 displaced students this year.

Therefore, I am approving Alabama's request for a flexibility agreement under section 9401 of the ESEA for the creation of a separate subgroup for students displaced by Hurricanes Katrina and Rita for adequate yearly progress (AYP) decisions based on assessment data for the 2005–06 school year. Approval is conditioned on Alabama's fulfilling the following conditions:

1. Alabama must include the displaced students' subgroup in the 2005–2006 AYP calculations for participation at the school, district, and State levels;
2. Alabama must report achievement for the displaced students' subgroup at the State and district levels just like other subgroups on its 2006 State and District Report Card and;
3. Alabama must automatically provide remedial education assistance if a student scores below proficient on the 2005–06 assessments.

In addition, as required by section 9401(b)(3)(A)(iii) of the ESEA, within 30 days of the date of this letter, the State must provide notice and information to the public regarding this flexibility agreement in the manner in which it customarily provides similar notice to the public. The State must also submit a report to the Department detailing the number of displaced students enrolled in an Alabama remedial education program.

Thank you for continuing the partnership with the Department, and I look forward to working with you to ensure that all of our children receive a high-quality education.

Sincerely,

Henry L. Johnson

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cc: Governor Bob Riley
Gloria Turner