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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

MAY 19 2006

The Honorable T. Kenneth James
Director of Education
Arkansas Department of Education
4 Capitol Mall
Little Rock, AR 72201

Dear Dr. James:

I am writing in response to Arkansas'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 commons sense determinations. Arkansas was responsible for educating almost 2,200 displaced students this year, with the vast majority concentrated in a few districts.

Therefore, I am approving Arkansas'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 the 2005–06 school year. Approval is conditioned on Arkansas's fulfilling the following conditions:

1. Arkansas must include the displaced students subgroup in the 2005–2006 AYP calculations for participation at the school, LEA, and State levels;
2. Arkansas must report achievement for the displaced students subgroup at the State and district levels just like other subgroups in its 2006 State and District Report Cards; and
3. Arkansas must automatically enroll these students in the State's academic intervention and/or remedial education programs if a student scores below proficient on the 2005–06 assessments.

In addition, as required by section 9401(b)(3)(B) of the ESEA, within 30 days of the date of this letter, the State must provide notice and information to the public the subgroup and the services offered to these students 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 both intervention and/or remedial education programs.

Thank you for your continued 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

cc: Governor Mike Huckabee
Janinne Riggs