



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

ASSISTANT SECRETARY

NOV 6 2009

The Honorable Theodore Mitchell
President
California State Board of Education
1430 N. Street, Suite 5111
Sacramento, California 95814

The Honorable Jack O'Connell
Superintendent of Public Instruction
California Department of Education
P.O. Box 944272
Sacramento, California 94244-2720

Dear President Mitchell and Superintendent O'Connell:

I am writing in response to California's requests to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). After reviewing California's requests, I am pleased to grant the following waivers:

- 14-day notice requirement. I am granting California a one-year waiver of the Title I, Part A regulatory requirement for a local educational agency (LEA) to provide parents of eligible students with notice of their public school choice options at least 14 days before the start of the school year (34 C.F.R. § 200.37(b)(4)(iv)). This waiver applies only to the notice provided to parents of eligible children attending schools that are newly identified for improvement for the 2009–10 school year or that made adequate yearly progress (AYP) in the previous year, and so could have possibly exited improvement for the 2009–10 school year, but did not.
- Release of assessment results and public school choice notice before the start of the school year. In addition, I am pleased to grant California a one-year waiver of the statutory requirements to ensure that the results of the state academic assessments are available to each LEA before the beginning of the school year following the one during which the assessments were administered (section 1116(a)(2) of the ESEA) and to provide notice of public school choice before the start of the school year (section 1116(b)(1)(E)(i) of the ESEA). I am granting this waiver because California implemented a new alternate assessment based on modified academic achievement standards (the California Modified Assessment or CMA) in grades 6–8 in the 2008–09 school year and is setting academic achievement standards for that assessment in fall 2009. Accordingly, California may release the results of the new CMA after the start of the school year. Further, for those schools that administered the new CMA and that either may be newly identified for improvement for the 2009–10 school year or that made AYP in the previous year, and so could possibly exit improvement for the 2009–10 school year, an LEA may wait until the assessment results are available, after the start of the school year, before providing parents of eligible students with notice of their public school choice options.

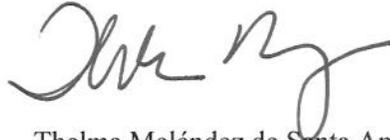
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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

The waiver of the 14-day notice requirement is granted on the condition that California will satisfy the conditions detailed in the enclosure to this letter, including the requirement to report certain information about the use of the waiver to the Department by September 30, 2010. Please be sure to review the enclosure carefully. Additionally, please be advised that the Department expects California to develop a plan and process to ensure that its LEAs are able to comply with the 14-day notice requirement in the future, such as by requiring schools to act on preliminary determinations or staggering the release of AYP determinations to accommodate earlier school start dates.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, including questions regarding steps California may take to ensure its LEAs' compliance with the 14-day notice requirement in the future, please contact Zollie Stevenson, Director of Student Achievement and School Accountability Programs (SASA) at (202) 260-0826.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thelma', written in a cursive style.

Thelma Meléndez de Santa Ana, Ph.D.

Enclosure

cc: Governor Arnold Schwarzenegger
Deb Sigman
Rachel Perry

**CONDITIONS ON WAIVER OF THE
14-DAY NOTICE REQUIREMENT (34 C.F.R. § 200.37(b)(4)(iv))**

This waiver is granted on the condition that California will:

- Ensure that each local educational agency (LEA) taking advantage of the waiver provides public school choice notice to parents of students attending schools that cannot exit improvement, corrective action, or restructuring for the 2009–10 school year at least 14 days prior to the start of the 2009–10 school year;
- Except with respect to schools that administered the CMA in grades 6–8 in spring 2009 and could have possibly exited or entered improvement status, ensure that each LEA implementing the waiver complies with the statutory requirement to provide notice of public school choice before the start of the school year (ESEA section 1116(b)(1)(E)(i));
- Encourage all LEAs within the state to provide notice of public school choice as early as possible and, ideally, at least 30 days before the start of the school year;
- Ensure that its LEAs that offer public school choice earlier to students in some schools than to students in other schools reserve a portion of the available transportation slots for students who receive the later notice (*see* Question D-7 in the Department’s Public School Choice Non-Regulatory Guidance, available at: <http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.pdf>); and
- Submit to the Department, by September 30, 2010, a report that provides:
 - The total number of LEAs within the state that had schools that could have possibly entered or exited improvement, corrective action, or restructuring for the 2009-10 school year; and
 - The total number of LEAs within the state that took advantage of the waiver and provided some parents notice of public school choice less than 14 days before the start of the 2009–10 school year.