



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

ASSISTANT SECRETARY

The Honorable June St. Clair Atkinson
Superintendent of Public Instruction
North Carolina Department of Public Instruction
301 North Wilmington Street
Raleigh, North Carolina 27601-2825

SEP 16 2009

Dear Superintendent Atkinson:

I am writing in response to North Carolina's request to extend the flexibility, granted through a Department pilot, to allow local educational agencies (LEAs) in North Carolina to offer supplemental educational services (SES) to eligible students in Title I schools in year one of improvement instead of public school choice and to count the costs of providing SES to these students toward the LEA's 20 percent obligation. This extension will allow LEAs to continue to implement this flexibility through the 2009–2010 school year. After reviewing North Carolina's request, I am pleased to grant the requested extension pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA).

This extension is granted on the condition that North Carolina will continue to satisfy the conditions of the SES pilot, which are detailed in the enclosure to this letter.

If you have any questions, please contact Zollie Stevenson, Director of Student Achievement and School Accountability Programs (SASA) at (202) 260-0826.

Sincerely,

Thelma Meléndez de Santa Ana, Ph.D.

Enclosure

cc: Governor Beverly Perdue
Lisa Huber

CONDITIONS ON WAIVER FOR THE 2009-2010 SCHOOL YEAR

Offering supplemental educational services (SES) instead of public school choice in the first year of improvement and counting the costs of both toward the 20 percent obligation (ESEA section 1116(b)(10); 34 C.F.R. § 200.48)

This waiver is granted on the condition that North Carolina and its local educational agencies (LEAs) meet the following conditions:

Goals

- Increased student participation in SES and public school choice. Participating LEAs must take all reasonable steps, including the actions set forth in 34 C.F.R. § 200.48(d)(2)(i), to increase the number of students receiving SES and public school choice under the Elementary and Secondary Education Act of 1965 (ESEA) from prior years.

Principles

- Availability of SES providers. The state must:
 - Maintain a comprehensive list of approved SES providers that may include nonprofit, for-profit, faith- and community-based, and online providers;
 - Ensure that there are at least two providers available in each participating LEA from which parents may choose.
- Effective parent notification and outreach. The state must ensure that participating LEAs:
 - Provide timely, clear, accurate notice to parents about the identification of their child's school as in need of improvement and their parental involvement opportunities, including the availability of the SES and public school choice options, in simple language that parents can understand;
 - Notify parents of eligible students about SES prior to the start of the 2009-2010 school year, or within the first few weeks of the school year, and provide SES shortly thereafter;
 - Offer continuous enrollment in SES or multiple SES enrollment periods throughout the 2009-2010 school year until each pilot LEA spends the 20 percent required by Title I or until all students who request SES and public school choice are served.
- Level playing field for all providers. The state must ensure that participating LEAs:
 - Provide fair and equitable treatment of non-LEA providers by giving providers access to school facilities at a reasonable price and dividing space among providers in a fair manner;
 - Allow providers to market their services to parents and work with community and business partners to reach out to parents and provide them with information on their options.
- Effective implementation of public school choice. The state must ensure that its LEAs implement public school choice in accordance with all statutory and regulatory requirements.
- Reporting. The state must:
 - Submit complete and accurate public school choice and SES data for all its LEAs to the Department via the Education Data Exchange Network (EDEN) for the 2008-2009 school year by the end of October 2009, and for the 2009-2010 school year by the end of October 2010;
 - Submit reports to the Department on how the conditions of the flexibility agreement were met, including an explanation of trends in participation in SES and public school choice within the participating LEAs, by January 1, 2010, and again by June 30, 2010.

NORTH CAROLINA'S TITLE I, PART A WAIVER REQUEST

Offering supplemental educational services (SES) instead of public school choice in the first year of improvement and counting the costs of both toward an LEA's 20 percent obligation

Summary: North Carolina requested a one-year waiver of ESEA section 1116(b)(10) and 34 C.F. R. § 200.48 to permit an LEA in the state to offer SES instead of public school choice to eligible students in Title I schools in the first year of school improvement and to count the costs of providing SES to these students toward the LEA's 20 percent obligation under 34 C.F. R. § 200.48.

Analysis: In 2008–2009, North Carolina was approved by the Department to permit its LEAs to offer SES instead of public school choice in the first year of a school being identified as in need of improvement. Page 18 of the Department's Title I, Part A waiver guidance states:

An SEA that was granted flexibility through an SES pilot to offer SES to eligible students in Title I schools in year one of improvement for the 2008-2009 school year may request to have this flexibility renewed for the 2009-2010 school year under the terms of the SEA's existing flexibility agreement.

The state contends that this waiver has, and will to, increased the quality of instruction for students and improve the academic achievement of students by increasing the number of students who have access to SES. In many rural areas, public school choice is not an option for schools. North Carolina believes that the increased enrollment in SES thus enabled by the waiver will contribute to improving student achievement.

1. Because this is a request to extend an existing waiver, North Carolina did not need to provide an opportunity for interested LEAs or the public to comment.
2. North Carolina indicated it will continue to meet all of the conditions in 2009–2010 that were required in 2008–2009.
3. North Carolina indicated that it will continue to submit to the Department the data required as part of the conditions previously required.

Recommendation: Approve.