



# UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JUL 12 2010

ASSISTANT SECRETARY

The Honorable Roger Breed  
Commissioner  
Nebraska Department of Education  
301 Centennial Mall, South, 6th Floor  
P.O. Box 94987  
Lincoln, NE 68509-4987

Dear Commissioner Breed:

I am writing in response to Nebraska'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 Nebraska's requests, I am pleased to grant the following waivers:

- 14-day notice requirement. I am granting Nebraska 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 2010–2011 school year or that made adequate yearly progress (AYP) in the previous year, and so could have possibly exited improvement for the 2010–2011 school year, but did not.
- Offering SES in addition to public school choice to students attending a school in the first year of improvement and counting the costs of both toward an LEA's 20 percent obligation. I am granting a one-year waiver of ESEA section 1116(b)(10) and 34 C.F. R. § 200.48 to permit an LEA in Nebraska to offer SES in addition to public school choice to eligible students in a Title I school in the first year of school improvement and to count the costs of providing SES to these students toward meeting the LEA's 20 percent obligation under 34 C.F. R. § 200.48.
- Approving schools or local educational agencies (LEAs) identified for improvement, corrective action, or restructuring as supplemental educational services (SES) providers. I am granting a one-year waiver of 34 C.F.R. § 200.47(b)(1)(iv)(A) and (B) to permit Nebraska to approve a school or LEA identified for improvement, corrective action, or restructuring to serve as an SES provider in the 2010–2011 school year.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202  
[www.ed.gov](http://www.ed.gov)

These waivers are granted on the following conditions:

- Nebraska will 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
- Nebraska will submit to the Department 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 2010-2011 school year;
  - 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 2010–2011 school year;
  - The name and NCES Identification Number for each LEA taking advantage of the waiver to offer SES in addition to public school choice to students in a Title I school in the first year of improvement and count the costs of both toward the LEA's 20 percent obligation;
  - The total number of LEAs identified for improvement or corrective action that were approved to be an SES provider for the 2010–2011 school year; and
  - The total number of schools identified for improvement, corrective action, or restructuring that were approved to be an SES provider for the 2010–2011 school year.

I am aware that, in addition to the waivers set forth above, you have submitted a request to waive an additional Title I, Part A requirement. I am working with my staff to provide you a decision regarding that request as soon as feasible. In the meantime, I wanted to ensure that you received my decisions regarding the waivers set forth above as I know these matters are time sensitive.

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, 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.

cc: Governor Dave Heineman  
Marilyn Peterson