



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

**AUG 24 2010**

ASSISTANT SECRETARY

The Honorable David M. Steiner  
Commissioner  
New York State Education Department  
111 Education Building  
Albany, New York 12234

Dear Commissioner Steiner:

I am writing in response to New York's request to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. New York has requested these waivers because it adjusted its academic achievement standards in grades 3-8 and changed its testing window for assessments administered in these grades to May, thereby affecting its release of accountability determinations and the ability of local educational agencies (LEAs) to provide timely notice to parents of eligible students regarding their public school choice options.

After reviewing New York's request, I am pleased to grant waivers of the following statutory and regulatory provisions:

- Waiver of requirements to provide timely notice of public school choice options. I am granting New York a one-year waiver of section 1116(b)(1)(E)(i) of the ESEA and 34 C.F.R. §200.37(b)(4)(iv) that together require an LEA to provide parents of eligible students with notice as to their public school choice options at least 14 days before the start of the school year. This waiver applies only to the notice provided to parents of children attending Title I schools that could be newly identified for improvement for the 2010-2011 school year and parents of children attending Title I schools that could exit improvement for the 2010-2011 school year, but do not do so.

These waivers are granted on the condition that New York will satisfy the conditions detailed in the enclosure to this letter, including the requirement to report certain information about the use of the waivers. Please be sure to review the enclosure carefully.

Sincerely,

Thelma Meléndez de Santa Ana, Ph.D.

Enclosure

cc: Governor David Paterson  
Ira Schwartz  
Roberto Reyes

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## CONDITIONS ON TITLE I, PART A WAIVERS

### Waiver of requirements to provide timely notice of public school choice options (ESEA section 1116(b)(1)(E)(i), 34 C.F.R. § 200.37(b)(4)(iv))

This waiver is granted on the condition that New York 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 2010–2011 school year at least 14 days prior to the start of the 2010–2011 school year;
- 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 to parents of eligible students in schools not affected by the waiver;
- Ensure that its assessment schedule and test vendor contract for the 2010–2011 school year (and all subsequent school years) will permit LEAs within the state to provide notice of public school choice sufficiently in advance of, but no later than 14 days before, the start of the 2011–2012 school year (and all subsequent school years);
- 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 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; 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 2010–2011 school year.