



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

ASSISTANT SECRETARY

The Honorable Larry Shumway
State Superintendent of Public Instruction
250 East Cesar E. Chavez Blvd (500 South)
PO Box 144200
Salt Lake City, Utah 84114-4200

SEP 16 2009

Dear Superintendent Shumway:

I am writing in response to Utah's request to extend the flexibility, granted through a Department pilot, to allow local educational agencies (LEAs) in Utah 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 Utah'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).

However, due to concerns that were raised regarding Utah's implementation of this flexibility during the 2008-2009 school year when the Department conducted a monitoring visit of Utah's implementation of Title I, Part A of the ESEA, I am requiring an additional condition, in addition to those required last year, that Utah will be required to meet. Utah must submit quarterly 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. These reports are due to the Department beginning October 1, 2009. The enclosure to this letter details the complete list of conditions that Utah must continue to satisfy.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Thelma Meléndez de Santa Ana".

Thelma Meléndez de Santa Ana, Ph.D.

Enclosure

cc: Governor Gary Herbert
Karl Wilson

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202
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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

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 Utah 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. These reports must be submitted quarterly: October 1, 2009; January 1, 2010; April 1, 2010; and June 30, 2010.