



# UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

ASSISTANT SECRETARY

SEP 16 2009

The Honorable Patricia I. Wright  
Superintendent of Public Instruction  
Virginia Department of Education  
P.O. Box 2120  
Richmond, Virginia 23218-2120

Dear Superintendent Wright:

I am writing in response to Virginia's request to extend the flexibility, granted through a Department pilot, to allow local educational agencies (LEAs) in Virginia to offer supplemental educational services (SES) to eligible students in Title I schools in year one of improvement instead of, or in addition to, 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 Virginia'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 Virginia 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 Tim Kaine  
Roberta Schlicher, Title I Director

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

*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, or in addition to, 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 Virginia 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.