



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

ASSISTANT SECRETARY

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

AUG 04 2010

Dear Superintendent Wright:

I am writing in response to Virginia's request to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA). After reviewing Virginia's request, I am pleased to grant the following waiver:

- Offering SES instead of public school choice in the first year of improvement and counting the costs of providing SES toward an LEA's 20 percent obligation. I am extending for one additional year Virginia's waiver of ESEA section 1116(b)(10) and 34 C.F.R. § 200.48 to permit an LEA in Virginia to offer SES instead of 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. This waiver was originally granted to Virginia through the U.S. Department of Education's "FLIP" pilot.

This waiver is granted on the condition that Virginia will satisfy the conditions detailed in the enclosure to this letter, including the requirements to report certain information about the use of the waivers to the Department by September 30, 2011. Please be sure to review the enclosure carefully.

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,

A handwritten signature in black ink, appearing to read "Thelma Meléndez de Santa Ana".

Thelma Meléndez de Santa Ana, Ph.D.

Enclosure

cc: Governor Bob McDonnell
Rebecca Marable

CONDITIONS ON TITLE I, PART A WAIVERS

This waiver is extended on the condition that Virginia and its LEAs will meet the following conditions, which were the conditions on the waiver when it was originally granted to Virginia:

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 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 2010-2011 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 2010-2011 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 SES and public school choice data for all its LEAs to the Department via the Education Data Exchange Network (EDEN) for the 2010-2011 school year by the end of October 2011;
 - 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, 2011, and again by June 30, 2011.