



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 23 2009

ASSISTANT SECRETARY

The Honorable Steven L. Paine
State Superintendent of Schools
West Virginia Department of Education
Building 6, 1900 Kanawha Blvd. E.
Charleston, West Virginia 25305-0330

Dear Superintendent Paine:

I am writing in response to West 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 West Virginia's request, I am pleased to grant the following waiver:

- 14-day notice requirement. I am granting West Virginia 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 2009–10 school year or that made adequate yearly progress (AYP) in the previous year, and so could have possibly exited improvement for the 2009–10 school year, but did not.

This waiver is granted on the condition that West Virginia will satisfy the conditions detailed in the enclosure to this letter, including the requirement to report certain information about the use of each of the waivers to the Department by September 30, 2010. Please be sure to review the enclosure carefully.

In addition to the above waiver, West Virginia requested one additional waiver, which I am pleased to grant:

- I am granting West Virginia a one-year waiver of the statutory requirements to ensure that the results of the state academic assessments administered in that school year are available to LEAs before the beginning of the next school year (section 1116(a)(2) of the ESEA) and to provide notice of public school choice before the start of the year (section 1116(b)(1)(E)(i) of the ESEA). For those schools that may be either newly identified for improvement for the 2009–10 school year or that made AYP in the previous year, and so could possibly exit improvement for the 2009–10 school year, the LEA may wait until the assessment results are available, after the start of the school year, before providing parents of eligible students with notice of their public school choice options.

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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.

Enclosure

cc: Governor Joe Manchin, III
Jan Stanley

CONDITIONS ON TITLE I, PART A WAIVERS

14-Day Notice Requirement (34 C.F.R. § 200.37(b)(4)(iv))

This waiver is granted on the condition that West Virginia 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 2009–10 school year at least 14 days prior to the start of the 2009–10 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;
- Ensure that its assessment schedule and test vendor contract for the 2009–10 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 2010–11 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, by September 30, 2010, 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 2009-10 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 2009–10 school year.