



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 03 2010

THE ASSISTANT SECRETARY

The Honorable Jack O'Connell
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, California 95814-5901

The Honorable Theodore R. Mitchell
President, California State Board of Education
1430 N Street
Sacramento, California 95814-5901

Dear Superintendent O'Connell and President Mitchell:

I am writing in response to California's request for a waiver of the carryover requirement in the final requirements for the School Improvement Grants (SIG) program under section 1003(g) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. (74 Fed. Reg. 65618 (Dec. 10, 2009) and 75 Fed. Reg. 3375 (Jan. 21, 2010).) Section II.B.9(a) of those requirements provides that "[i]f not every Tier I school in a State is served with [fiscal year] FY 2009 [SIG] funds, an SEA must carry over 25 percent of its FY 2009 funds, combine those funds with FY 2010 [SIG] funds, and award those funds to eligible [local educational agencies (LEAs)] consistent with these [final] requirements." California has requested a waiver of this requirement because carrying over 25 percent of its FY 2009 SIG funds would prevent it from allocating funds to LEAs for Tier I and Tier II schools that its LEAs have committed to serve, and that they have capacity to serve, beginning in the 2010–2011 school year.

California provided supporting information with its waiver request regarding the amount of funds it needs to support the implementation of a school intervention model in each Tier I and Tier II school for which LEAs applied and have been approved to serve beginning in fall 2010. In particular, California indicated the number of Tier I and Tier II schools the State intends to approve its LEAs to serve. California also provided LEA budget information to support its waiver request. This budget information demonstrated that California needs all but \$2,867,480 of the FY 2009 SIG funds it has available for its LEA to serve all of the Tier I and Tier II schools its LEAs have committed to serve, and that they have capacity to serve, beginning in fall 2010.

I have reviewed the information provided by California in support of its waiver request, and have decided to grant conditional approval of the State's request for a waiver of section II.B.9(a) of the final requirements. My decision to grant this conditional approval is based on California's determination that the additional funds made available through the waiver will allow the State to make awards to additional LEAs that have demonstrated both the commitment and capacity to implement rigorous school intervention models in their Tier I and Tier II schools, and thus will significantly increase the number of Tier I and Tier II schools served by California beginning in fall 2010.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

However, because California has not yet received and approved final school-by-school budget information for each Tier I and Tier II school its LEAs will serve, I am granting this waiver on the following conditions:

1. California must provide to the U.S. Department of Education (ED), on or before September 13, 2010, a revised school-level budget from each LEA whose total SIG allocation was reduced as a result of the budget adjustments made by the California Department of Education (CDE); and
2. California must provide to ED, on or before September 13, 2010, evidence that each LEA receiving a reduced SIG allocation due to the budget adjustments made by the CDE has provided the SEA an assurance that the revised budget is sufficient to support the full and effective implementation of the selected intervention model in each school the LEA is serving with SIG funds.

Should California fail to meet either of these two conditions, the Department will consider this waiver no longer in effect and will declare it null and void.

In addition, this waiver is also granted subject to the following additional conditions:

3. California will not allocate any of its FY 2009 SIG funds, including the funds made available for allocation through this waiver, for Tier III schools;
4. California will carry over \$2,867,480 of its FY 2009 SIG allocation, combine those funds with FY 2010 SIG funds, and award those funds to eligible LEAs consistent with the SIG final requirements;
5. Should California determine, based on its final allocations, that it does not need the full amount of the additional funding made available through this waiver to make three-year awards to LEAs that have committed to serve Tier I and Tier II schools beginning in fall 2010, the State will carry over any unneeded funds and award those funds along with its FY 2010 SIG funds; and
6. Should California determine, based on its final allocation, that it needs more than \$412,976,896 to allocate to the LEAs that it has approved to fund, the State will submit a revised waiver request and supporting budget information.

I appreciate the work you are doing to improve California's persistently lowest-achieving schools and provide a high-quality education for all of your students. If you have any questions, please contact Carlas McCauley at (202) 260-0824.

Sincerely,



Thelma Meléndez de Santa Ana, Ph.D.

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