



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234
Office of Elementary, Middle, Secondary and Continuing Education

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January 29, 2010

Dr. Joseph C. Conaty
Assistant Secretary
Elementary and Secondary Education
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Dr. Conaty:

I am writing on behalf of the New York State Education Department (NYSED) to request a one-year waiver of the Title I, Part A regulatory provision that prohibits a State from approving as providers of supplemental educational services (SES) schools identified for improvement, corrective action, or restructuring and local educational agencies (LEAs) identified for improvement or corrective action (34 C.F.R. § 200.47(b)(1)(iv)(A), (B)).

Under the law, New York State may approve as an SES provider only an entity that has a demonstrated record of effectiveness in increasing student academic achievement. New York believes that identified schools and LEAs may be able to establish that they have an effective program that can help improve academic achievement of students and should not be prevented automatically from gaining approval simply because of their improvement status.

New York State has set the following annual measurable objectives (AMOs) in reading and mathematics, subjects that are among those covered by SES providers in New York for the 2009–2010 school year, which are accessible at the following website:

<http://www.emsc.nysed.gov/irts/accountability/amos/EAMOs-2009-10-Status-for-2008-09Results.htm>

New York State will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (ESEA) and in accordance with our USDOE approved Differentiated Accountability plan. The NYSED believes that, ultimately, allowing some identified schools or LEAs to serve as SES providers may help more students within New York State to reach the State's proficiency objectives.

If NYSED is granted the requested waiver, we will ensure that only those LEAs and schools that meet the State's requirements for SES providers are approved to be on the State's list of approved SES providers for the 2009–2010 school year.

Prior to submitting this waiver request, New York State provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. New York State provided such notice by consulting with our Committee of Practitioner's, providing notification to District Superintendents, School Superintendents, Charter School Administrators, and Title I Coordinators. An e-copy of the notification is available at:

<http://www.emsc.nysed.gov/nyc/TitleI/ARRA/FieldMemoARRAandTitleIPartAWaivers.html>.

The notification was also posted for comment on November 30, 2009. Comments were to be submitted to NYSED by December 11, 2009. There was one response received on December 10th.

The NYSED hereby assures that, if it is granted the requested waiver, it will submit to the U.S. Department of Education, by September 30, 2010, a report that provides the total number of LEAs identified for improvement or corrective action that were approved to be an SES provider for the 2009–2010 school year and the total number of schools identified for improvement, corrective action, or restructuring that were approved to be an SES provider for the 2009–2010 school year.

Please feel free to contact me by phone or email at (718) 722-2796 or ischwartz@mail.nysed.gov if you have any questions regarding this request. Thank you for your consideration.

Sincerely,



Ira Schwartz

B/sa

Attachment

c: David Steiner
John King
Roberto Reyes
Sandra Norfleet