



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

Office of School Improvement and Community Services (NYC)
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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 all local educational agencies (LEAs) in New York State that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) to request a waiver for fiscal year (FY) 2009 of the requirement in section 1116(e)(6)(A) of the ESEA and in 34 C.F.R. § 200.48(c)(1) to determine the per-pupil amount for supplemental educational services (SES) based on an LEA's total FY 2009 Title I, Part A allocation (*i.e.*, including both its regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). Specifically, I am seeking this waiver to allow LEAs within New York State to exclude some or all of the Title I, Part A funds they receive under ARRA in calculating the per-pupil amount for SES. New York State believes that the requested waiver, by reducing the per-pupil amount, will allow LEAs to provide SES to a greater number of students.

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 years 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 ESEA. New York State believes that, ultimately, allowing an LEA to exclude some or all of its ARRA funds in determining the per-pupil amount for SES and thereby allowing more students to receive SES may help more schools and LEAs within the State make AYP by enabling more students to receive services that will help them meet the AMOs set forth above.

If New York State is granted the requested waiver, New York State will implement the waiver only with respect to an LEA that provides assurances that:

- (1) It will comply with all of the statutory and regulatory requirements, consistent with New York State's USED approved Differentiated Accountability Plan, regarding the provision of SES with respect to its regular FY 2009 Title I, Part A allocation; and
- (2) It will comply with all other Title I, Part A statutory and regulatory requirements (to the extent they are not waived), consistent with New York State's USED approved Differentiated Accountability

Plan, including the requirements in sections 1114 and 1115 of the ESEA to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research.”

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.

New York State 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 name and NCES District Identification Number for each LEA implementing the waiver.

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

G/sa

Attachment

c: David Steiner
John King
Roberto Reyes
Sandra Norfleet