



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

August 1, 2007

Honorable Billy K. Cannaday, Jr.
Superintendent of Public Instruction
State Department of Education
101 North 14th Street
Richmond, Virginia 23218-2120

Dear Dr. Cannaday:

I am writing in response to your agency's request, on behalf of seven Virginia school districts, for a flexibility agreement allowing those districts to provide supplemental educational services (SES) under Title I of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), to students attending Title I schools in the first year of school improvement. As you know, Virginia received approval for a flexibility agreement to participate in this pilot during the 2006-07 school year, and I am granting, under section 9401 of the ESEA, your request for continued participation in the 2007-08 school year.

You have requested that seven school districts within Virginia be allowed to offer SES to eligible students in Title I schools in the first year of school improvement under NCLB: Fairfax County Public Schools, Fauquier County Public Schools, Greene County Public Schools, Hampton City Public Schools, Henrico County Public Schools, Henry County Public Schools, and Newport News City Public Schools. These seven districts would then offer SES and public school choice to eligible students enrolled in any school that moves to the second year of school improvement.

The Department has determined that Virginia meets the three principles for participation in the pilot: (1) timely notification of adequate yearly progress; (2) a state SES evaluation in progress; and (3) a state assessment system for which the Department has granted Approval Expected. Additionally, the districts have implemented timely public school choice and SES parental notifications, and three of the districts are rural in nature.

This flexibility agreement permits the seven districts to provide SES to eligible students in Title I schools in the first year of school improvement, thereby reversing the order outlined in sections 1116(b)(1)(E) and 1116(b)(5)(B) of the ESEA. Approval is conditioned on Virginia's fulfilling the conditions detailed in the enclosure to this letter and summarized here.

Virginia must ensure in the participating districts: participation by more students in SES and public school choice, parent access to SES providers, timely parental notification, and multiple or continuous enrollment periods in the participating districts. Additionally, Virginia must supply data to the Department via the Educational Data Exchange Network (EDEN) and must submit an interim report to the Department on the implementation of this pilot project by January 1, 2008, and a final report by June 30, 2008.

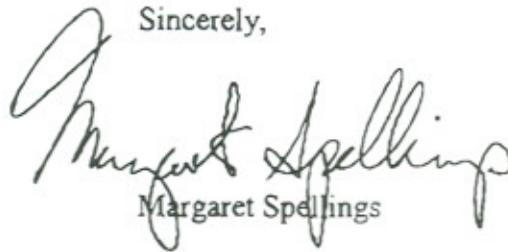
Page 2

In addition, as required by section 9401(b)(3)(B) of the ESEA, within 30 days of the date of this letter, each participating district must provide notice and information to the public about its participation in the pilot in the manner in which it customarily provides similar notice to the public. Each district must also submit a report under section 9401(e)(1) of the ESEA to the Virginia Department of Education at the end of the 2007-08 school year that: describes the district's provision of SES in Title I schools in the first year of school improvement; describes how those schools continued to provide Title I services to eligible students during that year; and evaluates the progress of the district and schools in increasing the quality of instruction and improving the academic achievement of students. Your agency should then submit this information to the Department as part of the June 30, 2008, final report.

This flexibility agreement applies to the provision of SES in Title I schools in the seven pilot districts during the 2007-08 school year.

SES is an important component of NCLB, and we look forward to working with you to ensure that students in your districts are obtaining quality services and succeeding in the classroom.

Sincerely,



Margaret Spellings

Enclosure

cc: Roberta Schlicher, Title I Director

Conditions of Flexibility Agreement

A state and its LEAs, once approved to participate in the pilot, must meet the following conditions:

- The state must provide the Department with a report on and explanation of trends in participation levels in SES and public school choice within the participating LEAs.
- The state must provide parents in pilot LEAs access to a variety of SES providers, as demonstrated by the following:
 1. Maintaining a comprehensive list of SES providers (e.g., nonprofit, for-profit, faith- and community-based, online).
 2. Ensuring that at least two providers from which parents may choose are available in each pilot LEA.
 3. Providing information to parents in pilot LEAs on school performance and student eligibility for, and enrollment in, public school choice and SES that is clear, accurate, and easily accessible, in languages parents can understand. The state may want to develop model parental notification letters and standard forms for enrolling students in choice and SES.
 4. Ensuring that pilot 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.
 5. Ensuring that pilot LEAs 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.
- The state must require pilot LEAs to notify eligible parents about SES prior to the start of the school year, or within the first few weeks of the school year, and provide SES shortly thereafter.
- The state must require pilot LEAs to offer continuous enrollment in SES or multiple SES enrollment periods throughout the 2007-08 school year until each pilot LEA spends the 20 percent required by Title I or all students who request SES and choice are served.
- The state must submit complete and accurate public school choice and SES data to the U.S. Department of Education via the Educational Data Exchange Network (EDEN) for the 2006-07 school year by the end of October 2007, and for the 2007-08 school year by the end of October 2008.
- The state must submit to the Department two reports on how it met the terms of its flexibility agreement under this pilot due January 1, 2008, and June 30, 2008.