



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 to request a waiver of the limitation in section 1127(b) of the Elementary and Secondary Education Act of 1965 (ESEA) that prohibits a State educational agency (SEA) from granting to a local educational agency (LEA) a waiver of the carryover limitation in section 1127(a) of the ESEA more than once every three years. Section 1127(b) permits an SEA to waive the limitation in section 1127(a) once every three years if: (1) the LEA's request is reasonable and necessary; or (2) a supplemental Title I, Part A appropriation becomes available. In accordance with these provisions, I am requesting a waiver to allow New York State to waive the carryover limitation more than once every three years for an LEA that needs the additional waiver(s) because of its Title I, Part A funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA), which is, by definition, a supplemental Title I, Part A appropriation. I am requesting this waiver for a period of two years (*i.e.*, to apply to LEA requests to carry over fiscal year (FY) 2009 Title I, Part A funds and to LEA requests to carry over FY 2010 Title I, Part A funds in excess of the carryover limitation).

New York State has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2010–2011 and 2011–2012 school years, which will be accessible at the following website:

<http://www.emsc.nysed.gov/irts/accountability/amos>

New York State will determine adequate yearly progress (AYP) based on assessments administered in the 2010–2011 and 2011–2012 school years in accordance with the requirements of section 1111(b)(2) of the ESEA and in accordance with our USED approved Differentiated Accountability Plan. New York State believes that the requested waiver will provide the State with the ability to grant an LEA the flexibility it needs to spend its Title I, Part A ARRA funds

thoughtfully over the course of two years on activities that are most likely to improve the academic achievement of students. Accordingly, New York State believes that, ultimately, the requested waiver may help more schools and LEAs within the State make AYP by enabling them to direct their funds thoughtfully to activities that will help their students meet the AMOs set forth above.

New York State will ensure that an LEA that is interested in obtaining a waiver of the carryover limitation in section 1127(a), but has already received such a waiver within the prior three years, applies to the SEA in accordance with New York State's regular procedures for waivers of the carryover limitation.

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.

Copies of all comments that New York State received from LEAs in response to this notice are attached hereto. New York State has also provided notice and information regarding this waiver request to the public in the manner in which the State customarily provides such notice and information to the public. A copy of the notice is available at:

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

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

H/sa

c: David Steiner
John King
Roberto Reyes
Sandra Norfleet