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## TEXT OF PROPOSED REQUEST FOR TITLE I WAIVERS TO THE U.S. DEPARTMENT OF EDUCATION

Dr. Thelma Melendez de Santa Ana  
Assistant Secretary  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Assistant Secretary,

I am writing on behalf of the District of Columbia Office of the State Superintendent of Education (OSSE) to request waivers of several Title I, Part A requirements upon the recent invitation by the U.S. Department of Education. Each of these requests is presented with the information and assurances required according to the Department's recent guidance, respectively, in parts A through F below. First, before providing these specific items, generally applicable information and assurances are provided.

The OSSE has set the following annual measurable objectives (AMOs) in reading and mathematics for the 2008–2009 and 2009–2010 school years:

<b>AMOs for the District of Columbia</b>	School Year 2008-2009	School Year 2009-2010
Elementary Reading (Grades 3-6)	60.53 %	73.69 %
Elementary Mathematics (Grades 3-6)	55.21 %	70.14 %
Secondary Reading (Grades 7-11)	57.69 %	71.79 %
Secondary Mathematics (Grades 7-11)	55.41 %	70.27 %

The OSSE will determine adequate yearly progress (AYP) based on assessments administered in the 2008–2009 and 2009–2010 school years in accordance with the requirements of section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (ESEA). As outlined more specifically with respect to each respective waiver request below, the OSSE believes that these waivers will assist the District of Columbia and each affected LEA in reaching DC's annual educational goals.

Prior to submitting these waiver requests, the OSSE provided all LEAs in the District with notice and a reasonable opportunity to comment on the requests. Such notice was provided by sending an email to multiple officials at each LEA and posting information regarding each waiver request on the OSSE's website. Copies of all comments that the OSSE received from LEAs in response to this notice are attached as Appendices A through F, with each appendix corresponding to one waiver request. The OSSE has also provided notice and information regarding these waiver requests to the public through the posting on its web site; this is the manner in which the OSSE customarily provides such notice and information to the public (see copy of public notice attached as Appendix G).

### **PART A.**

#### **REQUEST TO ALLOW LEAs TO OFFER SES, IN ADDITION TO PUBLIC SCHOOL CHOICE, TO ELIGIBLE STUDENTS IN TITLE I SCHOOLS IN THE FIRST YEAR OF SCHOOL IMPROVEMENT**

The OSSE requests a one-year waiver to allow local educational agencies (LEAs) within the District with one or more schools in improvement, corrective action, or restructuring to offer supplemental educational services (SES), in addition to public school choice, to eligible students in Title I schools in the first year of school improvement and

to count the funds spent providing SES to eligible students in those schools toward the LEA's obligation to spend an amount at least equal to 20 percent of its Title I, Part A, Subpart 2 allocation on SES and choice-related transportation (20 percent obligation). In the absence of such a waiver, an LEA may only count funds spent providing SES to eligible students attending schools in the second year of improvement, in corrective action, or in restructuring toward its 20 percent obligation (ESEA section 1116(b)(10); 34 C.F.R. § 200.48).

The OSSE believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by providing an incentive for an LEA to offer SES to eligible students one year earlier than the law requires, thereby enabling more students within an LEA to enroll in SES. The OSSE believes that parents of children attending schools in the first year of improvement will be eager to enroll their children in SES, and that the increased enrollment in SES thus enabled by the waiver will contribute to improving student achievement.

The OSSE believes that, ultimately, allowing LEAs to offer SES to eligible students in Title I schools in the first year of improvement and count the costs of providing SES to those students toward the LEA's 20 percent obligation may help more students within the District to reach the District's proficiency objectives.

The OSSE hereby assures that, if it is granted the requested waiver, the OSSE will ensure that it will implement the waiver only with respect to those LEAs that will meet all statutory and regulatory requirements related to SES in the 2009–2010 school year (other than the particular funding requirement being waived).

The OSSE 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 sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

#### **PART B.**

#### **REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING AN LEA'S 20 PERCENT OBLIGATION FOR CHOICE-RELATED TRANSPORTATION AND SES**

On behalf of all local educational agencies (LEAs) in the District that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), the OSSE requests a waiver for fiscal year (FY) 2009 of the requirement in section 1116(b)(10) of the ESEA and in 34 C.F.R. § 200.48(a)(2) to determine an LEA's "20 percent obligation" for public school choice-related transportation and supplemental educational services (SES) based on the 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, the OSSE is seeking this waiver to allow LEAs within the District to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their "20 percent obligation" for choice-related transportation and SES.

The OSSE believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by providing each LEA within the District with flexibility to spend ARRA funds that the LEA would otherwise be obligated to spend on SES or choice-related transportation on other allowable Title I, Part A activities that the LEA believes best address the particular needs of its students.

The OSSE believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the District make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

The OSSE hereby assures that, if it is granted the requested waiver, the OSSE will implement the waiver only with respect to an LEA that provides assurances that:

- It will comply with its statutory and regulatory obligations for the provision of SES and public school choice with respect to its regular Title I, Part A allocation;
- It will use the funds freed up by the waiver to address needs identified based on data, such as District-wide or formative assessment results;
- It will comply with all of its other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that "use effective methods and instructional strategies that are based on scientifically based research;" and

- It will submit an application for Title I funds, or, if necessary depending on when the OSSE may receive approval of this waiver request, an amendment to its existing LEA application, that describes the data on which it relied to identify needs that will be addressed using the funds freed up by the waiver and the evidence that supports the strategies it intends to use to address those needs.

The OSSE further assures that it will not approve an LEA's application or amendment to an LEA's application unless or until it determines that, based on the LEA's description, the LEA has satisfied its obligation to identify needs based on data and address those needs using evidence-based strategies. The OSSE will not approve an LEA to implement the waiver unless or until the LEA has an approved application (or amended application) that includes the required description of the data on which the LEA relied to identify needs and the evidence that supports the strategies to address those needs. If necessary to carry out these assurances, the OSSE will require an LEA seeking to implement the waiver to amend its application in accordance with the OSSE's usual process for changing an LEA's application.

The OSSE hereby assures that, if it is granted the requested waiver, it will submit to the Department, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

### **PART C.**

#### **REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE 10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR AN LEA IN IMPROVEMENT**

On behalf of all local educational agencies (LEAs) in the District that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), the OSSE requests a waiver for fiscal year (FY) 2009 of the requirement in section 1116(c)(7)(A)(iii) of the ESEA to determine an LEA's 10 percent professional development set-aside based on the 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)). In particular, the OSSE is seeking this waiver to allow LEAs within the District that are identified for improvement to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their 10 percent professional development set-aside.

The OSSE believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by providing each LEA within the District with flexibility to spend ARRA funds that the LEA would otherwise be obligated to spend on professional development on other allowable Title I, Part A activities that the LEA believes best address its particular needs. The OSSE believes that the basic 10 percent set-aside, which LEAs will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development, absent actual need, may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development. Through the waiver, each LEA can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

The OSSE believes that, ultimately, the flexibility provided by the requested waiver with respect to how ARRA funds may be spent for allowable Title I, Part A activities may help more schools and LEAs within the District make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

The OSSE hereby assures that, if it is granted the requested waiver, it will implement the waiver only with respect to an LEA that provides assurances that:

- It will comply with its statutory and regulatory obligations for the professional development set-aside with respect to its regular Title I, Part A allocation;
- It will use the funds freed up by the waiver to address needs identified based on data, such as District-wide or formative assessment results;
- It will comply with all of its other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that "use effective methods and instructional strategies that are based on scientifically based research;" and
- It will submit an application for Title I funds (referred to herein as "LEA application"), or, if necessary, an amendment to its existing LEA application, that describes the data on which it relied to identify needs that

will be addressed using the funds freed up by the waiver and the evidence that supports the strategies it intends to use to address those needs.

The OSSE further assures that it will not approve an LEA's application or amendment to an LEA's application unless or until it determines, based on the LEA's description, that the LEA has satisfied its obligation to identify needs based on data and address those needs using evidence-based strategies. The OSSE will not approve an LEA to implement the waiver unless or until the LEA has an approved application (or amended application) that includes the required description of the data on which the LEA relied to identify needs and the evidence that supports the strategies to address those needs. If necessary to carry out these assurances, the OSSE will require an LEA seeking to implement the waiver to amend its application in accordance with the OSSE's usual process for changing an LEA's application.

The OSSE 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 sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

#### **PART D.**

#### **REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE 10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR A SCHOOL IN IMPROVEMENT**

On behalf of all local educational agencies (LEAs) in the District that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), the OSSE requests a waiver for fiscal year (FY) 2009 of the requirement in section 1116(b)(3)(A)(iii) of the ESEA to determine a school's 10 percent professional development set-aside based on the total amount of funds made available to the school under section 1113 of the ESEA for FY 2009 (*i.e.*, including funds made available from both the LEA's regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). In particular, the OSSE is seeking this waiver to allow Title I schools within the District that are identified for improvement to calculate their 10 percent professional development set-aside in accordance with the following formula:

the amount of Title I, Part A funds received by the school under section 1113 of the ESEA  
multiplied by  
the portion of the LEA's FY 2009 Title I, Part A allocation provided through the regular FY 2009 appropriation / the  
LEA's total FY 2009 Title I, Part A allocation, including Title I, Part A ARRA funds  
multiplied by  
10 percent.

As long as it complies with the requirements of section 1113 of the ESEA with respect to serving eligible school attendance areas with its FY 2009 Title I, Part A allocation (consisting of Title I, Part A funds received through the ARRA and the regular FY 2009 appropriation), an LEA has discretion with respect to how it will allocate its Title I, Part A funds to its Title I schools. Accordingly, the OSSE believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by ensuring that no school within an LEA that implements this waiver will be obligated to spend a disproportionate amount of the Title I, Part A funds available to it on professional development activities. The OSSE believes that the basic 10 percent set-aside, which schools in improvement will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development.

The OSSE believes that, ultimately, ensuring that a school is not obligated to spend a disproportionate amount of Title I, Part A funds on professional development may help more schools and LEAs within the District make AYP by enabling them to direct an appropriate portion of their funds to activities other than professional development that they believe will help their students meet the AMOs set forth above. Through the waiver, each school can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

The OSSE hereby assures that, if it is granted the requested waiver, the OSSE will implement the waiver only with respect to an LEA that provides assurances that:

- It will ensure that its schools will implement the waiver in accordance with the formula above;
- It will ensure that all schools in improvement within the LEA will comply with all statutory and regulatory requirements regarding their professional development obligations with respect to the funds that are not “factored out” in accordance with the formula above;
- It will ensure that its schools use the funds freed up by the waiver to address needs identified based on data, such as District-wide or formative assessment results; and
- It and its schools in improvement will comply with all of their other Title I, Part A statutory and regulatory obligations, including the obligations in sections 1114 and 1115 to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research.”

The OSSE 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 sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

#### **PART E.**

##### **REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE PER-PUPIL AMOUNT FOR SES**

On behalf of all local educational agencies (LEAs) in the District that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), the OSSE requests 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, the OSSE is seeking this waiver to allow LEAs within the District to exclude some or all of the Title I, Part A funds they receive under ARRA in calculating the per-pupil amount for SES. The OSSE believes that the requested waiver, by reducing the per-pupil amount, will allow LEAs to provide SES to a greater number of students.

The OSSE 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 District make AYP by enabling more students to receive services that will help them meet the AMOs set forth above.

If the OSSE is granted the requested waiver, the OSSE 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 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), 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.”

The OSSE 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.

#### **PART F.**

##### **REQUEST TO WAIVE THE PROVISION THAT PROHIBITS AN SEA FROM GRANTING TO AN LEA A WAIVER OF THE CARRYOVER LIMITATION MORE THAN ONCE EVERY THREE YEARS**

The OSSE requests 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, the OSSE is requesting a waiver to allow the OSSE 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. The OSSE is 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).

The OSSE believes that the requested waiver will provide the OSSE 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, the OSSE believes that, ultimately, the requested waiver may help more schools and LEAs within the District make AYP by enabling them to direct their funds thoughtfully to activities that will help their students meet the AMOs set forth above.

The OSSE will ensure that an LEA that is interested in obtaining a waiver of the carryover limitation in section 1127(a) so that it can carry over more than 15 percent of its Title I, Part A FY 2009 or FY 2010 allocation and has already received such a waiver within the prior three years (or receives such a waiver with respect to its FY 2009 funds), applies to the SEA in accordance with the OSSE's regular procedures for waivers of the carryover limitation. The OSSE hereby assures that it will implement the requested waiver only with respect to an LEA that needs a waiver of the carryover limitation for the second (or third) time within three years because of its ARRA funds.

Please feel free to contact me at [Cathie.Carothers@dc.gov](mailto:Cathie.Carothers@dc.gov) if you have any questions regarding these waiver requests. Thank you very much for your consideration.

Sincerely,

Cathie Carothers  
Assistant Superintendent for Elementary and Secondary Education