



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MAY 22 2012

Terry Holliday
Commissioner of Education
Kentucky Department of Education
Capitol Plaza Tower
500 Metro Street
Frankfort KY 40601

Dear Commissioner Holliday:

I am writing in response to the Kentucky Department of Education's (KDE's) request to waive certain requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. In particular, KDE requested waivers of the requirements of (1) ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) and the corresponding regulatory provisions that require each local educational agency (LEA) and the State educational agency (SEA) to determine adequate yearly progress (AYP) for all schools and LEAs, respectively; and (2) ESEA sections 1113(a)(3)-(4) and 1113(c)(1) and the corresponding regulatory provisions that require an LEA to serve eligible schools under Title I in rank order of poverty and to allocate Title I, Part A funds based on that rank ordering. KDE submitted this request in response to a voluntary opportunity that the U.S. Department of Education provided to all SEAs requesting ESEA flexibility.

After reviewing KDE's request, I am granting, pursuant to my authority under ESEA section 9401, the following waivers:

- A two-year waiver of ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) and the corresponding regulatory provisions so that KDE and its LEAs are not required to make AYP determinations for the 2011–2012 and 2012–2013 school years, respectively. I am granting this waiver because it is likely to increase the quality of instruction and improve the academic achievement of students by enabling KDE and its LEAs to focus on implementing the differentiated recognition, accountability, and support system described in its approved ESEA flexibility request that KDE believes will better differentiate among schools and provide more useful information on LEA and school performance to educators, parents, and the public than AYP does.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- A two-year waiver of ESEA sections 1113(a)(3)-(4) and 1113(c)(1) and the corresponding regulatory provisions so that KDE may permit, for the 2012–2013 and 2013–2014 school years, an LEA to serve with Title I funds a Title I-eligible high school with a graduation rate below 60 percent that KDE has identified as a priority school even if that school has a lower poverty rate than other Title I-participating schools in the LEA. I am granting this waiver based on my determination that, because these high schools have low graduation rates, receiving Title I, Part A funds would enable them to better increase the quality of their instruction and improve the academic achievement of all of their students, and concurrently to increase their graduation rates.

As KDE has assured in its request, it must:

- Report on its State report card the following data, which mirror the components of AYP:
 - For the “all students” group and each subgroup described in ESEA section 1111(b)(2)(C)(v)(II) —
 - information on student achievement at each proficiency level;
 - data comparing actual achievement levels to the State’s annual measurable objectives (AMOs);
 - the percentage of students not tested;
 - performance on the other academic indicator for elementary and middle schools; and
 - graduation rates for high schools.
- Ensure that its Title I LEAs report the above-referenced data on their local report cards for each school and the LEA as a whole.
- Continue to comply with all other reporting requirements in ESEA section 1111(h)(1)(C) and ensure that its LEAs continue to comply with all other reporting requirements in ESEA section 1111(h)(2)(B), including the requirement for both the SEA and LEAs to report information on achievement at each proficiency level disaggregated by gender and migrant status.
- Hold any Title I-eligible high schools that are served through the waiver of ESEA section 1113 accountable for meeting KDE’s new AMOs and include those schools in its differentiated recognition, accountability, and support system as it does all other Title I schools.
- Ensure that any LEA that takes advantage of the waiver of ESEA section 1113 with respect to Title I-eligible high schools implements interventions in those schools consistent with the turnaround principles as set forth in KDE’s ESEA flexibility request and complies with all other Title I requirements with respect to the schools.

I appreciate the work you are doing to move forward with implementing your approved ESEA flexibility request. If you have any questions, please contact Victoria Hammer via email or phone at Victoria.Hammer@ed.gov or 202-260-1438.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Yudin', with a long horizontal flourish extending to the right.

Michael Yudin
Deputy Assistant Secretary of Policy and Strategic
Initiatives
Delegated Authority to Perform the Functions and
Duties of the Assistant Secretary for Elementary and
Secondary Education