

July 24, 2009

Alabama  
State Board  
of Education

Dr. Joseph Conaty  
Delegated Authority to Perform the Functions and Duties  
of the Assistant Secretary for Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Governor Bob Riley  
President

Dear Dr. Conaty:

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I am writing on behalf of Alabama to request a one-year waiver of the Title I, Part A requirement for a local educational agency (LEA) to provide parents of eligible students with notice of their public school choice options at least 14 days before the start of the school year (34 C.F.R. § 200.37(b)(4)(iv)). This waiver would apply only with respect to students in schools that are newly identified for improvement for the 2009-2010 school year or that could possibly have exited improvement, corrective action, or restructuring for the 2009-2010 school year but did not. Alabama seeks a waiver of this provision because Alabama would have had to modify previously determined assessment schedules, AYP process schedules, and guidance issued regarding school starting dates for the 2008–2009 school year to ensure that all of its LEAs are able to comply with this requirement with respect to students in those schools. In particular, Alabama established the attached timelines for administering and scoring assessments and for determining adequate yearly progress (AYP) based on those assessments. These timelines, which were agreed to by the vendors, were issued to its LEAs and to the public.

Alabama would not be able to ensure that all LEAs within the State are able to comply with the 14-day notice requirement unless Alabama amended the previously determined timelines. This was not possible for Alabama to do since these timelines, were agreed to by the vendors and issued to its LEAs and to the public. In many cases LEA calendars are established up to two (2) years in advance. (*see* attached timelines and guidance issued to the LEAs regarding the start of school.)

Thus, a waiver of the 14-day notice requirement is necessary to give Alabama and its LEAs sufficient time to carry out the assessment timeline as planned and thereby ensure statistically valid and reliable AYP determinations. Alabama must be able to ensure valid and reliable AYP determinations so that schools and LEAs can properly implement school improvement activities to increase the quality of instruction for students and ultimately improve the academic achievement of students.

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

Reading

	2008-2009	2009-2010
<b>Grade 3</b>	81	85
<b>Grade 4</b>	77	82
<b>Grade 5</b>	81	85
<b>Grade 6</b>	81	85
<b>Grade 7</b>	74	79
<b>Grade 8</b>	59	67
<b>Grade 11</b>	86	89

Mathematics

	2008-2009	2009-2010
<b>Grade 3</b>	74	79
<b>Grade 4</b>	72	78
<b>Grade 5</b>	71	77
<b>Grade 6</b>	56	65
<b>Grade 7</b>	57	66
<b>Grade 8</b>	63	70
<b>Grade 11</b>	77	82

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Secretary and  
Executive Officer

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Alabama 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 stated above, Alabama believes that providing Alabama with the time necessary to carry out its assessment timeline as planned will allow the State to ensure that school improvement decisions for the 2009–2010 school year are based on valid and reliable AYP determinations.

Prior to submitting this waiver request, Alabama provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Alabama provided such notice by sending an e-mail to each LEA on July 17, 2009. Copies of all comments that Alabama received from LEAs in response to this notice are attached hereto. Alabama has also provided notice and information regarding this waiver request to the public in the manner in which Alabama customarily provides such notice and information to the public e.g. posting information on the department's Web site and e-mailing the notice to over 1100 news agencies (see copy of notice attached).

Alabama hereby assures that, if it is granted the requested waiver, it and its LEAs will meet the following conditions:

- LEAs within the State will provide notice of public school choice less than 14 days before the school year only with respect to students in schools that are newly identified for improvement for the 2009–2010 school year (based on results of assessments administered in the 2008–2009 school year) or that could possibly have exited improvement, corrective action, or restructuring for the 2009–2010 school year (based on results of assessments administered in the 2008–2009 school year) but did not;
- All LEAs within the State will comply with the 14-day notice requirement with respect to students in schools that are already identified for improvement, corrective action, or restructuring and cannot exit that status for the 2009–2010 school year;
- All LEAs within the State will comply with the statutory requirement in section 1116(b) to provide notice of public school choice before the start of the school year;
- The State will encourage all LEAs to provide notice of public school choice as early as possible and, ideally, at least 30 days before the start of the school year;
- LEAs that offer public school choice earlier to students in some schools than to students in other schools will reserve a portion of the available transportation slots for students in the schools who receive the later notice, in accordance with the Department's Public School Choice Non-Regulatory Guidance; and
- The State will take all steps necessary to ensure that its assessment schedule and test vendor contract for the 2009–2010 school year (and beyond) will permit LEAs within the State to provide notice of public school choice sufficiently in advance of, but no later than 14 days before, the start of the 2010–2011 school year (and all subsequent school years).

Alabama will ensure compliance with these conditions by providing appropriate guidance regarding these conditions to its LEAs. In particular, Alabama intends to notify identified LEAs of the requirement through web conference, letter, and state-wide training sessions. Compliance will be monitored as part of Alabama's scheduled oversight procedures.

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Alabama further 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 total number of LEAs within the State that had schools that entered or exited improvement status in the 2009–2010 school year, and the total number of LEAs within the State that took advantage of the waiver and provided some parents notice of public school choice less than 14 days before the start of the 2009–2010 school year.

Please feel free to contact me by phone at 34-242-8199 or e-mail at [jmorton@alsde.edu](mailto:jmorton@alsde.edu) if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Joseph B. Morton  
State Superintendent of Education

JBM/DKS/NJ

**FY09-**

DRAFT