

July 24, 2009

**Alabama  
State Board  
of Education**

Dr. Joseph C. Conaty  
Delegated the 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, D.C. 20202-0498

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Dear Dr. Conaty:

I am writing on behalf of Alabama to request a continuation of the one-year waiver Alabama was granted in August of 2008 which allowed local educational agencies (LEAs) within Alabama with one or more schools in improvement, corrective action, or restructuring to offer the interventions of supplemental educational services (SES), public school choice, or both, to eligible students in Title I schools in the first year of school improvement and to count the funds spent providing services 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/or 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).

Alabama was one of seven states last year that met all the flexibility requirements for this pilot waiver:

- (1) timely notification of adequate yearly progress results;
- (2) a state SES evaluation in progress; and
- (3) a state assessment system for which the Department granted Full Approval.

Reporting requirements were met and 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 majority of eligible schools chose SES last year and the raw data in the year-end report indicate that between 21 to 52% of students in schools participating in the pilot took advantage of the free tutoring - besting the state average (around 14%) from previous years.

Alabama has set annual measurable objectives (AMOs) in reading and mathematics, which are among the subjects that are covered by SES providers in Alabama for the 2009–2010 school year.

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

**Joseph B. Morton  
Secretary and  
Executive Officer**

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Alabama will determine adequate yearly progress (AYP) based on assessments administered in the 2009–2010 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. Alabama 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 State to reach the State's proficiency objectives.

Alabama hereby assures that, if it is granted the requested waiver, Alabama 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).

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 email to each LEA and posting the public notice on the ALSDE website 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 emailing the notice to over 1100 news agencies (see copy of notice attached).

Alabama 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.

Please feel free to contact me by phone at 334-242-9700 or email 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-