

ATTACHMENT 1

To The Administer Addressed Letter –
Notice Intent to Apply for Waivers in
Accordance with of Section 9401, P.L.107-
110, No Child Left Behind Act of 2001



Administrators

school resources



Teachers

teacher resources



Funding

school finance & grants

Testing / Accountability

student assessment & ratings

Curriculum

standards, college prep & programs

Reports

data, statistics & research

News & Events

communications & calendars

ARRA/Ed Jobs

stimulus, stabilization, & ed jobs

Agency Info

District Information

A - Z Index

Help

[Advanced Search](#)

Notice of Intent to Apply for Waivers to U.S.D.E.

[Word Version](#)

**Notice of Waiver Request
and Opportunity to Comment**

September 6, 2012

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: Notice of Intent to Apply for Waivers to U. S. Department of Education and Opportunity to Submit Comments

The Texas Education Agency (TEA) is planning to submit waiver requests to the U. S. Department of Education (USDE) of certain provisions of the Elementary and Secondary Education Act (ESEA), as amended by P.L. 107-110 No Child Left Behind (NCLB) Act of 2001. The waiver requests will be submitted under the NCLB, Section 9401 waiver authority and will give TEA and the state's over 1,200 LEAs additional flexibility while reducing duplication.

The state has long emphasized college and career readiness standards, high-quality assessments, differentiated accountability, and improving teacher quality. However, the state recognizes that the lack of NCLB's reauthorization in a timely manner has created an obsolete system that does not adequately reflect the accomplishments of the state's schools. This, combined with LEAs being required to meet and function within two different assessment and accountability systems, takes valuable resources and time away from the intent and focus of improving student achievement and school accountability.

Texas has developed and begun full implementation of a statewide system that surpasses the requirements of the ESEA statute, as amended. Specifically, the state has already fully implemented the Texas College and Career Readiness Standards (CCRS) and this year is transitioning to a consolidated, differentiated accountability and interventions system that, upon approval of the waiver request, would be a single differentiated accountability system with tiered interventions beginning in school year 2013-2014. This differentiated accountability system is based on the state's rigorous new assessment system. Also, Texas continues to build upon its stringent teacher certification system that ensures every new certified teacher meets the federal highly qualified teacher requirement to ensure teacher and principal accountability for improved teaching and learning for all students.

Review and Comment

TEA is providing this notice of its intent to apply to USDE for the following waivers by posting this letter to LEAs on the TEA web site and disseminated through the TEA "To the Administrator Addressed" electronic mail list server. You may submit comments regarding this waiver application through 5pm CST, **Thursday, September 27, 2012**, via electronic mail to nclb@tea.state.tx.us.

TEA will not respond to individual comments but will use the comments and input from LEAs in finalizing the waiver requests before submission. Copies of the comments received will also be included as part of the waiver submission as required under P.L. 107-110, Section 9401(b)(3)(A).

In addition to the web posting, TEA will also provide notice and information regarding this waiver request to the general public through publishing a notice in the Texas Register in approximately two weeks.

Potential Waivers

Therefore, to further support the implementation of the state's College and Career Readiness Standards, the state accountability system, the state assessment system, the Texas accountability intervention system, and the state's teacher certification and principal accountability systems, TEA intends to request a waiver of the following statutory provisions to reduce duplication and unnecessary burden on TEA and LEAs.

- Subpart 2 – Allocations, Sections 1122, 1124, 1124A, 1125, 1125AA, 1125A, 1126, and 1127 requiring TEA to distribute Title I, Part A allocations to eligible LEAs by the statutory formula and any subsequent carryover limitations.

Specifically, this waiver would allow TEA to allocate Title I, Part A funds to eligible LEAs based on the identified need of economically disadvantaged, educationally disadvantaged, and English Language Learner students based on state-defined eligibility, distribution formula, and carryover limitations rather than the current federal regulations.

- Section 1003(a) requiring TEA to reserve 4% of its Title I, Part A allocation for school improvement activities and to

[Alternative Schooling](#)

[About TEA](#)

[Commissioner](#)

[Complaints](#)

[Copyrights/Royalties](#)

[Dropout Information](#)

[Early Childhood
Education](#)

[Education Laws and
Rules](#)

[Educator Certification](#)

[Educator
Login/Account Set Up](#)

[Educator Preparation](#)

[Enroll Your Child](#)

[Fingerprinting](#)

[GED®](#)

[Health and Safety](#)

[No Child Left Behind](#)

[State Board for
Educator Certification](#)

[State Board of
Education](#)

[Weather Information](#)

distribute 95% to LEAs for use in Title I schools in improvement, corrective action, and restructuring.

Specifically, this waiver would allow TEA to distribute 95% of the 4% reservation, to Title I schools identified as priority, focus, or support schools and for systemic improvement at the LEA level to support the identified schools. Current regulations prohibit the use of any Title I School Improvement Program funds at the LEA level.

- Section 1111(b)(2)(C)(E-H) defining the calculation of Adequate Yearly Progress (AYP), establishing of annual measurable objectives (performance targets) for AYP, 100% proficiency by the end of 2013-2014, and implementation of the respective requirements specified in Sections 1111 and 1116 and Section 1116(a)(1)(A-B) requiring the LEAs to make AYP determinations for schools.

Specifically, this would allow TEA to submit a waiver of the current AYP calculations and performance targets in order to focus on one robust accountability system (the state system) that meets the intent and purposes of the ESEA statute while aligning to the state's existing systems for reform and interventions to develop new ambitious but meaningful goals to guide the support and improvement of teaching and learning. This waiver request will be submitted in January or February 2013, with the state's Accountability Workbook and when all State Assessments (STAAR) are submitted for peer review. Specifically, waivers will be requested for the following federal requirements:

- Performance Targets/Standard Setting Procedures;
 - Use of new Texas accountability system to identify campuses and districts in place of AYP; and
 - Possibly, certain student assessment requirements (Texas has submitted our STAAR Modified Assessment for Peer Review. The remaining State Assessments will be submitted later this school year).
- Section 1116(b) requiring the LEA to identify schools for improvement, corrective action, and restructuring with corresponding requirements for implementation.

Specifically, this waiver would allow TEA to identify schools for graduated levels of support and intervention based on the state accountability system rather than based on the current AYP regulations.

- Section 1116(b)(1)(E) and (e) and all corresponding provisions requiring the LEA to offer, in a federally prescriptive manner, school choice for schools for improvement, corrective action, and restructuring with corresponding requirements for implementation, and Section 1116(e) requiring the federally prescriptive implementation of supplemental educational services under Section 1116(b)(5, 7, and 8).

Specifically, this waiver would allow TEA to continue implementation of the two intervention strategies, but redesign under state-developed procedures a more effective school choice and supplemental educational services program that would align to the state's accountability and interventions system.

- Section 1116(c) requiring TEA to make determinations of AYP for LEAs and identify LEAs for improvement and corrective action with corresponding requirements for implementation.

Specifically, this waiver would allow TEA to identify LEAs based upon school performance with graduated levels of support and intervention based on the state accountability system rather than current AYP regulations.

- Section 1117 requiring TEA to establish a statewide system of support.

Specifically, this waiver would allow TEA to implement this provision using current state systems and procedures rather than the current federal statutory language and regulations.

- Section 1119 requiring TEA and LEAs to determine highly qualified teacher (HQT) determinations and reporting, and Section 2141(a, b, and c) requiring improvement planning and intervention requirements.

Specifically, this waiver would allow TEA to rely on the state's teacher certification standards that exceed the HQT requirements based on the state's educator evaluation system, which balances high expectations with local control rather than the current HQT regulations.

- Sections 6213(b) and 6224(e) requiring TEA to limit participation in, and use of funds under the Small, Rural School Achievement (SRSA) and Rural and Low-Income School (RLIS) programs based on whether an LEA has made AYP and is complying with the requirements in ESEA section 1116.

Specifically, this waiver would allow an LEA that receives SRSA or RLIS funds to use those funds for any authorized purpose regardless of whether the LEA makes AYP.

- Section 1114(a)(1) requiring that a school have a poverty percentage of 40 percent or more in order to operate a

schoolwide program.

Specifically, this waiver would allow an LEA to implement interventions consistent with the state intervention principles that are based on the needs of the students in the school and designed to enhance the entire educational program in a school (operate as a schoolwide program) in any of its support, focus, or priority schools, as identified by the state system, even if those schools do not have a poverty percentage of 40 percent or more.

- Section 1117(c)(2)(A) allowing TEA to reserve Title I, Part A funds to reward a Title I school that (1) significantly closed the achievement gap between subgroups in the school; or (2) has exceeded AYP for two or more consecutive years.

Specifically, this waiver would allow TEA to use funds reserved under this section for any schools the state determines to be reward schools.

- Section 6123 that limit the amount of funds an SEA or LEA may transfer from certain ESEA programs to other ESEA programs under the Funding Transferability provision.

Specifically, this waiver would allow TEA and LEAs to transfer up to 100 percent of the funds it receives under the authorized programs among those programs and into Title I, Part A.

- Section 1003(g)(4) and the definition of a Tier I school in Section I.A.3 of the School Improvement Grant (SIG) final requirements.

Specifically, this waiver would allow TEA to award TTIPS SIG funds to an LEA to implement one of the four SIG models in any of the schools that the state determines are priority schools.

- Sections 4201(b)(1)(A) and 4204(b)(2)(A) that restrict the activities provided by a community learning center under the 21st Century Community Learning Centers (21st CCLC) grant program to activities provided only during non-school hours or periods when school is not in session.

Specifically, this waiver would allow 21st CCLC funds to be used to support expanded learning time during the school day to meet the identified needs of students in addition to activities during non-school hours or periods when school is not in session.

- Section 1113(a)(3-4) and (c)(1) requiring an LEA to serve eligible schools under Title I, Part A in rank order of poverty and to allocate Title I, Part A funds based on that rank ordering.

Specifically, this waiver would permit LEAs to serve a Title I-eligible high school with a graduation rate below 60 percent that TEA has identified as a priority school even if that school does not otherwise rank sufficiently high to be served under section 1113.

TEA believes that these waiver requests will provide the state and LEAs with the flexibility needed to reduce duplication and unnecessary burden while allowing LEAs to focus resources on one coherent system of accountability and improvement. TEA believes these waivers will increase the academic achievement of students by improving and aligning the quality of instruction with the state's college and career readiness standards. LEAs will be better prepared to meet the robust assessment and accountability systems while being supported by the state's intervention and support system.

If you have questions regarding this waiver request, please contact Mr. Gene Lenz, Director of Federal and State Education Policy, via electronic mail at nclb@tea.state.tx.us or at (512) 463-9414.

Sincerely,

Michael L. Williams

Commissioner of Education

MW/cg

Page last modified on 9/6/2012.

