



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING



MICHAEL P. FLANAGAN  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION

August 17, 2009

Dr. Joseph C. Conaty  
Acting Assistant Secretary for Elementary and Secondary Education  
Office of Secondary and Elementary Education  
U.S. Department of Education  
400 Maryland Avenue  
Washington, D.C. 20202

***RE: Michigan Department of Education Request to Exclude Title I, Part A  
ARRA Funds in Determining an LEA's 20 Percent Obligation for  
Choice-Related Transportation and SES***

Dear Dr. Conaty:

I am writing on behalf of all local educational agencies (LEAs) in Michigan that receive funds under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) to request 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, I am seeking this waiver to allow LEAs within Michigan 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.

Michigan 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 Michigan 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.

**STATE BOARD OF EDUCATION**

KATHLEEN N. STRAUS – PRESIDENT • JOHN C. AUSTIN – VICE PRESIDENT  
CAROLYN L. CURTIN – SECRETARY • MARIANNE YARED MCGUIRE – TREASURER  
NANCY DANHOF – NASBE DELEGATE • ELIZABETH W. BAUER  
REGINALD M. TURNER • CASANDRA E. ULBRICH

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
[www.michigan.gov/mde](http://www.michigan.gov/mde) • (517) 373-3324

Michigan has set the following annual measurable objectives (AMOs) in reading (English Language Arts) and mathematics for the 2009–2010 school year:

English Language Arts						
Grade						
3	4	5	6	7	8	11
60%	59%	57%	56%	54%	53%	61%
Mathematics						
Grade						
3	4	5	6	7	8	11
67%	65%	62%	60%	57%	54%	55%

Michigan 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 and in accordance with the growth model approved by the Department in 2008. Michigan 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 State make AYP by enabling them to direct funds appropriately to help their students meet the AMOs set forth above.

If granted the requested waiver, Michigan will implement the waiver only with respect to an LEA that provides assurances that:

- o 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;
- o It will use the funds freed up by the waiver to address needs identified based on data, such as statewide or formative assessment results;
- o 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
- o It will submit an application for Title I funds, 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.

Mr. Joseph C. Conaty  
Page 3  
August 17, 2009

Michigan 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. Michigan 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, Michigan will require an LEA seeking to implement the waiver to amend its application in accordance with Michigan's usual process for changing an LEA's application.

Prior to submitting this waiver request, Michigan provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Michigan provided such notice by sending an e-mail to each LEA on July 31, 2009 (Attachment A). Copies of all comments that Michigan received from LEAs in response to this notice are included as Attachment B. Michigan has also provided notice and information regarding this waiver request to the public in the manner in which the State customarily provides such notice and information to the public, which is by posting information regarding the waiver request on its website (Attachment C).

Michigan 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 National Center for Education Statistics District Identification Number for each LEA implementing the waiver.

Please feel free to contact me or Mike Radke by phone, 517-373-3921, or e-mail, [radkem@michigan.gov](mailto:radkem@michigan.gov), if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Sally Vaughn, Ph.D.  
Deputy Superintendent/Chief Academic Officer

## LEA Comment Request

### Waiver to Exclude Title I, Part A ARRA Funds in Determining an LEA's 20 Percent Obligation for Choice-Related Transportation and SES

Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) requires Local Educational Agencies (LEAs) identified for improvement, corrective action, or restructuring to set aside 20 percent of 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)) for transportation related to Public School Choice and to provide free tutoring (Supplemental Educational Services or "SES") to eligible students.

On August 17, the Michigan Department of Education will submit to the U.S. Department of Education (Dr. Joseph C. Conaty, Acting Assistant Secretary for Elementary and Secondary Education) a request to allow LEAs within Michigan that are identified for improvement, corrective action, or restructuring to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their 20 percent set-aside for Public School Choice and SES. This request is specific to fiscal year 2009-2010. The waiver requests can also be viewed by clicking this link: [http://www.michigan.gov/mde/0,1607,7-140-6530\\_30334\\_51051-218894--,00.html](http://www.michigan.gov/mde/0,1607,7-140-6530_30334_51051-218894--,00.html).

LEAs wishing to comment on the request should submit comments to [ARRAWaiverResponse@michigan.gov](mailto:ARRAWaiverResponse@michigan.gov) by August 14, 2009. Please be sure to reference the waiver request you are commenting on.