



Title Programs and Services

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July 31, 2009

Notice of Intent to Submit Title I Waiver Requests

The Kansas Department of Education intends to request from the U.S. Department of Education (USED) waivers from certain provisions of the Elementary and Secondary Education Act Title I, Part A, in particular those that are impacted by the Title I, Part A funds received under the American Recovery & Reinvestment Act (ARRA). Each waiver request is summarized below.

The Kansas Department of Education (KSDE) is soliciting comments— both supporting and non-supporting – on each of the waivers below. Please comment on each waiver separately. All comments submitted during the comment period will be read and taken into consideration. Providing comments to the KSDE does not guarantee all comments will be implemented.

This notice meets the notification requirements under Section 9401(b)(3)(A)(i) of the Elementary and Secondary Education Act. **Districts are invited to submit written comments to the KSDE no later than 5:00 PM (CDT) on August 10, 2009.** After that date, the KSDE will submit its waiver requests with district comments to the USED for approval. Submit written comments to Judi Miller at judim@ksde.org or via fax at 785-296-5867.

Upon approval of the waivers from the USED, local education agencies (LEAs, also known as school districts) will apply to the Kansas State Department of Education (KSDE) for each waiver desired. Districts will be notified when KSDE receives approval of the waivers.

Further information regarding the waivers is available in the USDE “Non-Regulatory Guidance on Title I, Part A Waivers” which is posted on the Kansas American and Recovery Investment Act website under Title I Part A at <http://www.ksde.org/Default.aspx?tabid=3497> or on the USED’s website at <http://www.ed.gov/policy/gen/leg/recovery/programs.html> .

Following are the waivers for 2009-2010 that KSDE will request on behalf of its LEAs:

Waivers of the “set-aside” requirements:

1. **Request to exclude part or all of the Title I, Part A ARRA funds in determining an LEA’s 20 percent obligation for choice-related transportation and SES**
2. **Request to exclude some or all of the Title I, Part A ARRA funds in determining the 10 percent professional development set-aside for an LEA in improvement**
3. **Request to exclude some or all of the Title I, Part A ARRA funds in determining the 10 percent professional development set-aside for a school in improvement**

Waiver of the “per pupil amount for SES”:

4. **Request to exclude part or all of the Title I, Part A ARRA funds in determining an LEA’s per pupil amount for supplemental educational services (SES)**

The Kansas State Department of Education will request these waivers on behalf of all districts with Title I district and schools identified for improvement, corrective action or restructuring. Each district that

requests one or more of these waivers must report to the KSDE the amount of the Title I ARRA funds that it seeks to exclude. Note that the district is not required to exclude the same amount of its ARRA allocation for each waiver. In applying for one or more of these waivers, each district must assure the KSDE that:

- The LEA will comply with its statutory and regulatory obligations for the set-aside with respect to its regular Title I, Part A allocation;
- The LEA will use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results;
- The LEA 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
- The LEA will submit an application for Title I, Part A funds (referred to herein as “LEA application”) 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.

In applying for a waiver to exclude ARRA funds from the 10% professional development obligation for a school in improvement, each district must assure that:

- The LEA will ensure that its schools comply with their statutory and regulatory obligations for the set-aside with respect to the funds that are not “factored out” with respect to its regular Title I, Part A allocation;
- The LEA will ensure that its schools use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results or;
- The LEA 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
- The LEA will ensure that each school spends at least 10% of the portion of its total allocation that is the same portion that the regular Title IA funds represent of the total district allocation for Title IA regular plus ARRA funds.

Following are draft versions of the waiver requests:

1. REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING AN LEA’S 20 PERCENT OBLIGATION FOR CHOICE-RELATED TRANSPORTATION AND SES

Dear Assistant Secretary:

I am writing on behalf of all local educational agencies (LEAs) in Kansas 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 Kansas 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.

Kansas 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 Kansas 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.

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

Level	Annual Measurable Objective for Reading	Annual Measurable Objective for Mathematics
K-8	83.7%	82.3%
9-12	81.3%	76.4%
District	81.3%	76.4%

Kansas 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 . Kansas 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.

Kansas, hereby, assures that, if it is granted the requested waiver, Kansas will implement the waiver only with respect to an LEA that provides assurances that:

- 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;
- It will use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results;
- 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
- 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.

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

Prior to submitting this waiver request, Kansas provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Kansas provided such notice by sending an email to each LEA on July 31, 2009 (see copy of notice attached). Copies of all comments that Kansas received from LEAs in response to this notice are attached hereto. Kansas has also provided notice and information regarding this waiver request to the public in the manner in which Kansas customarily provides such notice and information to the public by publishing the notice on the department's website at www.ksde.org

Kansas hereby assures that, if it is granted the requested waiver, it will submit to you, by September 30, 2010, a report that sets forth the name and NCES District Identification Number for each LEA implementing the waiver.

Please contact Judi Miller by phone at 785-296-5081 or by email at judim@ksde.org if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Diane DeBacker
Deputy Commissioner

2. REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE 10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR AN LEA IN IMPROVEMENT

Dear Assistant Secretary:

I am writing on behalf of all local educational agencies (LEAs) in Kansas that are identified for improvement 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(c)(7)(A)(iii) of the ESEA to determine an LEA's 10 percent professional development set-aside 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)). In particular, I am seeking this waiver to allow LEAs within Kansas that are identified for improvement to exclude some or all of the Title I, Part A funds they receive under the ARRA in calculating their 10 percent professional development set-aside.

Kansas 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 Kansas with flexibility to spend ARRA funds that the LEA would otherwise be obligated to spend on professional development on other allowable Title I, Part A activities that the LEA believes best address its particular needs. Kansas believes that the basic 10 percent set-aside, which LEAs will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development, absent actual need, may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development. Through the waiver, each LEA can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

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

Level	Annual Measurable Objective for Reading	Annual Measurable Objective for Mathematics
K-8	83.7%	82.3%
9-12	81.3%	76.4%
District	81.3%	76.4%

Kansas 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. Kansas 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.

Kansas hereby assures that, if it is granted the requested waiver, Kansas will implement the waiver only with respect to an LEA that provides assurances that:

- It will comply with its statutory and regulatory obligations for the professional development set-aside with respect to its regular Title I, Part A allocation;
- It will use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results;
- 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
- It will submit an application for Title I funds (referred to herein as “LEA application”), 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.

Kansas further assures that it will not approve an LEA's application or amendment to an LEA's application unless or until it determines, based on the LEA's description, that the LEA has satisfied its obligation to identify needs based on data and address those needs using evidence-based strategies. Kansas 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, Kansas will require an LEA seeking to implement the waiver to amend its application in accordance with Kansas's usual process for changing an LEA's application.

Prior to submitting this waiver request, Kansas provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Kansas provided such notice by sending an email to each LEA on July 31, 2009 (see copy of notice attached). Copies of all comments that Kansas received from LEAs in response to this notice are attached hereto. Kansas has also provided notice and information regarding this waiver request to the public in the manner in which Kansas customarily provides such notice and information to the public by publishing the notice on the department's website at www.ksde.org (See attached copy of public notice).

Kansas 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 contact Judi Miller by phone at 785-296-5081 or by email at judim@ksde.org if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Diane DeBacker
Deputy Commissioner

3. REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE 10 PERCENT PROFESSIONAL DEVELOPMENT SET-ASIDE FOR A SCHOOL IN IMPROVEMENT

Dear Assistant Secretary:

I am writing on behalf of all local educational agencies (LEAs) in Kansas with schools that are identified for improvement 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)(3)(A)(iii) of the ESEA to determine a school's 10 percent professional development set-aside based on the total amount of funds made available to the school under section 1113 of the ESEA for FY 2009 (*i.e.*, including funds made available from both the LEA's regular Title I, Part A allocation and its Title I, Part A allocation under the American Recovery and Reinvestment Act of 2009 (ARRA)). In particular, I am seeking this waiver to allow Title I schools within Kansas that are identified for improvement to calculate their 10 percent professional development set-aside in accordance with the following formula:

the amount of Title I, Part A funds received by the school under section 1113 of the ESEA

multiplied by

the portion of the LEA's FY 2009 Title I, Part A allocation provided through the regular FY 2009 appropriation / the LEA's total FY 2009 Title I, Part A allocation, including Title I, Part A ARRA funds

multiplied by

10 percent.

As long as it complies with the requirements of section 1113 of the ESEA with respect to serving eligible school attendance areas with its FY 2009 Title I, Part A allocation (consisting of Title I, Part A funds received through the ARRA and the regular FY 2009 appropriation), an LEA has discretion with respect to how it will allocate its Title I, Part A funds to its Title I schools. Accordingly, Kansas believes that the requested waiver will increase the quality of instruction for students and improve the academic achievement of students by ensuring that no school within an LEA that implements this waiver will be obligated to spend a disproportionate amount of the Title I, Part A funds available to it on professional development activities. Kansas believes that the basic 10 percent set-aside, which schools in improvement will still have to provide, is substantial and that requiring significantly more funds to be spent on professional development may actually be counter-productive by overwhelming teachers, many of whom are already over-scheduled and cannot meaningfully absorb substantially more professional development.

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

Level	Annual Measurable Objective for Reading	Annual Measurable Objective for Mathematics
K-8	83.7%	82.3%
9-12	81.3%	76.4%
District	81.3%	76.4%

Kansas 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. Kansas believes that, ultimately, ensuring that a school is not obligated to spend a disproportionate amount of Title I, Part A funds on professional development may help more schools and LEAs within the State make AYP by enabling them to direct an appropriate portion of their funds to activities other than professional development that they

believe will help their students meet the AMOs set forth above. Through the waiver, each school can determine whether its professional development needs warrant expending Title I, Part A ARRA funds to meet those needs.

Kansas hereby assures that, if it is granted the requested waiver, Kansas will implement the waiver only with respect to an LEA that provides assurances that:

- It will ensure that its schools will implement the waiver in accordance with the formula above;
- It will ensure that all schools in improvement within the LEA will comply with all statutory and regulatory requirements regarding their professional development obligations with respect to the funds that are not “factored out” in accordance with the formula above;
- It will ensure that its schools use the funds freed up by the waiver to address needs identified based on data, such as Statewide or formative assessment results; and
- It and its schools in improvement will comply with all of their 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.

Prior to submitting this waiver request, Kansas provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Kansas provided such notice by sending an email to each LEA on July 31, 2009 (see copy of notice attached). Copies of all comments that Kansas received from LEAs in response to this notice are attached hereto. Kansas has also provided notice and information regarding this waiver request to the public in the manner in which Kansas customarily provides such notice and information to the public by publishing the notice on the department’s website at www.ksde.org. (See attached copy of public notice).

Kansas 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 contact Judi Miller by phone at 785-296-5081 or by email at judim@ksde.org if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Diane DeBacker
Deputy Commissioner

4. REQUEST TO EXCLUDE TITLE I, PART A ARRA FUNDS IN DETERMINING THE PER-PUPIL AMOUNT FOR SES

Dear Assistant Secretary:

I am writing on behalf of all local educational agencies (LEAs) in Kansas 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(e)(6)(A) of the ESEA and in 34 C.F.R. § 200.48(c)(1) to determine the per-pupil amount for supplemental educational services (SES) based on an 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 Kansas to exclude some or all of the Title I, Part A funds they receive under ARRA in calculating the per-pupil amount for SES. Kansas believes that the requested waiver, by reducing the per-pupil amount, will allow LEAs to provide SES to a greater number of students.

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

Level	Annual Measurable Objective for Reading	Annual Measurable Objective for Mathematics
K-8	83.7%	82.3%
9-12	81.3%	76.4%
District	81.3%	76.4%

Kansas 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. Kansas believes that, ultimately, allowing an LEA to exclude some or all of its ARRA funds in determining the per-pupil amount for SES and thereby allowing more students to receive SES may help more schools and LEAs within the State make AYP by enabling more students to receive services that will help them meet the AMOs set forth above.

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

- (1) It will comply with all of the statutory and regulatory requirements regarding the provision of SES with respect to its regular FY 2009 Title I, Part A allocation; and
- (2) It will comply with all other Title I, Part A statutory and regulatory requirements (to the extent they are not waived), including the requirements in sections 1114 and 1115 of the ESEA to have schoolwide and targeted assistance programs that “use effective methods and instructional strategies that are based on scientifically based research.”

Prior to submitting this waiver request, Kansas provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Kansas provided such notice by sending an email to each LEA on July 31, 2009 (see copy of notice attached). Copies of all comments that Kansas received from LEAs in response to this notice are attached hereto. Kansas has also provided notice and information regarding this waiver request to the public in the manner in which Kansas customarily provides such notice and information to the public by publishing the notice on the department's website at www.ksde.org. (See attached copy of public notice).

Kansas 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 provides the name and NCES District Identification Number for each LEA implementing the waiver.

Please contact Judi Miller by phone 785-296-5081 or by email at judim@ksde.org if you have any questions regarding this request. Thank you for your consideration.

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