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HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

July 5, 2011

MEMORANDUM

TO: District Superintendents, Charter LEA Directors, Title I Directors, SES Providers

FROM: Sam Ornelas, Director
Title I Bureau

RE: **NOTICE OF INTENT TO REQUEST TITLE I WAIVERS**

The US Department of Education (USDE) has provided states with the opportunity to apply for waivers of specific Title I requirements. This notice of intent to file waiver requests is required under the waiver process. Comments regarding this notice can be submitted to sharyn.perea@state.nm.us by 5:00 pm on July 19, 2011. The USDE Non-Regulatory Title I Waiver Guidance can be accessed at <http://www.ed.gov/policy/gen/leg/recovery/programs.html>.

The PED intends to request waivers in the following areas:

Approval of Schools and LEAs in Improvement as SES Providers

This waiver would allow, but not require, an SEA to approve schools or LEAs identified for improvement as SES providers. The decision about which SES providers to approve would remain a decision for the SEA. The USDE's granting of a waiver would not constitute approval of a particular identified school or LEA to serve as an SES provider.

Requests for waivers to allow an LEA to offer SES in addition to public school choice to eligible students in Title I schools in the first year of school improvement

Under section 1116(b)(10) of the ESEA and 34 C.F.R. § 200.48, an LEA with one or more schools in improvement, corrective action, or restructuring must spend an amount at least equal to 20 percent of its Title I, Part A, allocation on public school-choice related transportation and SES ("20 percent obligation") if demand for these services equals this amount. In determining

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whether an LEA has met its 20 percent obligation, an LEA may not count the funds that it spends on providing SES to students attending schools in the first year of improvement because the LEA has no statutory or regulatory obligation to provide SES to students attending those schools.

This waiver would provide an LEA with the flexibility to offer SES to eligible students in Title I schools in year one of improvement (a year earlier than the law normally requires), in addition to offering public school choice options to students in those schools, and to count the costs of providing SES to those students toward meeting the LEA's 20 percent obligation. Note that, unlike past flexibility the USDE has granted in this area, an LEA that implements this waiver may not offer *only* SES to eligible students in schools in the first year of improvement, but may offer SES *in addition to* public school choice to eligible students in those Title I schools.

If you have questions regarding these waivers please contact me at 505-222-4740.

Thank you.

so/sp

cc: Dr. Kristine Meurer, Acting Assistant Secretary, Student Success Division