

Districts and Schools in Improvement as SES Providers

Requests for Waivers of the Prohibition on Approving Schools and LEAs in Improvement, Corrective Action, or Restructuring as SES Providers

The South Dakota Department of Education (State) is planning to submit a request to the Secretary of the U.S. Education (US ED) to waive the prohibition on approving schools and districts in improvement, corrective action or restructuring as SES providers. Prior to submitting this waiver request the State is required to provide all interested Local Education Agencies (LEAs) in the State with notice and a reasonable opportunity to comment on the request. The State will submit all comments it receives related to this request from the LEAs to US ED along with its waiver request. The State will accept comments related to the waiver request until May 14, 2010.

Section 200.47(b)(1)(iv) of the Federal Register prohibits districts and schools identified as in need of improvement from becoming SES providers. The US Secretary invites any interested SEA to request a waiver of this provision so that the SEA may approve as an SES provider a school identified for improvement, corrective action, or restructuring or an LEA identified for improvement or corrective action (“identified school or LEA”).

This waiver would allow, but not require, the State to approve identified schools or LEAs as providers. The decision about which SES providers to approve would remain a decision for the State. The Secretary’s grant of a waiver would not constitute approval of a particular identified school or LEA to serve as an SES provider, nor would it constitute a waiver of any State law or policy that prohibits all or certain identified schools or LEAs from serving as an SES provider.

The State has invited identified schools and LEAs to apply for conditional approval to be an SES provider. Districts receiving conditional approval followed the State’s application process and have met all of the State’s customary approval requirements. The State and affected schools and LEAs are aware that approval cannot become final unless and until the Secretary grants a waiver of the relevant provision. In other words, an identified school or LEA may not begin to serve as an SES provider until the State has received a waiver, but receipt of conditional approval may enable the school or LEA to begin planning its provision of services. Granting conditional approvals may also enable the State to avoid having to conduct a second approval process once it receives a waiver. The State, LEAs, and schools understand that, although the Secretary is inviting requests for these waivers, no State is guaranteed that it will receive a waiver. If the State’s waiver request is not approved by the Department, the State must consider the conditional approval granted to an identified school or LEA to be null and void.

If the State receives this waiver, it must submit to the Secretary, by September 30, 2011, a report containing:

- The total number of LEAs identified for improvement or corrective action that were approved to be an SES provider for the 2010–2011 school year; and
- The total number of schools identified for improvement, corrective action, or restructuring that were approved to be an SES provider for the 2010–2011 school year.

The information in this document is found in questions B-16 through B-22 in the Title I Waiver guidance online at: <http://doe.sd.gov/stimulus/title1waivers>

To provide comments on this waiver, please provide the name of your district, your position and LEA’s comments pertaining to **“Waiving the Prohibition on Approving an Identified School or District as an SES Provider”** to Betsy Chapman, South Dakota Department of Education. Send emails to: betsy.chapman@state.sd.us, on or before May 14, 2010.