

Notice of Guidance for Desegregation Waivers

DEPARTMENT OF EDUCATION

Part A of Title I of the Elementary and Secondary Education Act of 1965

Oct. 10, 1995 [60 FR 52818]

AGENCY: Department of Education.

ACTION: Notice of guidance for requesting waivers under part A of title I of the Elementary and Secondary Education Act of 1965 for schools under State-ordered or court-ordered desegregation plans.

SUMMARY: In this notice, the Assistant Secretary for Elementary and Secondary Education provides guidance to local educational agencies (LEAs) with schools under a court-ordered or State-ordered desegregation plan or a plan that continues to be implemented in accordance with a court-ordered or State-ordered desegregation plan. This guidance is intended to assist the Secretary in implementing section 1113(a)(7) of title I of the Elementary and Secondary Education Act of 1965 (Title I). The information obtained enables the Secretary to waive certain requirements of Title I for eligible LEAs.

ADDRESSES: Requests for waivers should be submitted, in writing, to the Honorable Richard W. Riley, Secretary of Education, U.S. Department of Education, 600 Independence Avenue SW., room 6300, Attn: Waiver Action Board, Washington, D.C. 20202-0125.

FOR FURTHER INFORMATION

CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Portals Building, room 4400), Washington, D.C. 20202-6132. Telephone (202) 260-0826. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION

One of the overarching principles of part A of title I of the Elementary and Secondary Education Act of 1965, as recently amended by the Improving America's Schools Act, is to target resources on those elementary and secondary schools with the highest concentrations of children from low-income families. As a result, section 1113(a) of title I requires an LEA to identify its eligible school attendance areas and schools, rank those areas and schools according to concentra-

tions of poverty, and serve those areas and schools in rank order. An eligible area or school is one in which the percentage of children from low-income families is above the districtwide poverty average or 35 percent. Under section 1113(c)(1) of title I, the LEA must allocate funds to participating areas or schools in rank order on the basis of the total number of children from low-income families in each area or school.

Section 1113(a)(7) of title I recognizes that a State-ordered or court-ordered school desegregation plan or a plan that continues to be implemented in accordance with such a desegregation plan may alter the concentrations of poverty in schools governed by the plan. To accommodate this situation, if the number of children from low-income families in a school under a desegregation plan is at least 25 percent of the school's total enrollment, the LEA may request the Secretary to waive the eligibility and allocation requirements in section 1113(a) and (c) so that the LEA may identify as eligible and serve the school under title I. The Secretary may grant the LEA's request if the Secretary determines that approval of the request would further the purposes of part A of title I.

If an LEA desires a waiver of the requirements in either section 1113(a) or (c) for a school under a State-ordered or court-ordered school desegregation plan or a plan that continues to be implemented in accordance with such a desegregation plan, the LEA must submit a written request to the Secretary. The Secretary encourages the LEA, in preparing its request, to seek comment from interested parties, including the State educational agency and private school officials, if appropriate, and to include the following information in its request so that the Secretary may determine whether the request meets the statutory criteria in section 1113(a)(7):

- The school or schools for which the waiver is requested.
- A copy of the LEA's ranking of school attendance areas and schools, indicating which schools the LEA would fund if the waiver is granted and which schools the LEA would fund absent a waiver.
- A brief explanation of the LEA's desegregation plan (indicating the date of the plan and whether it is court-ordered, State-ordered, or

continues to be implemented in accordance with a court- or State-ordered plan), how the desegregation plan affects the schools for which the waiver is requested (including, if available, the plan's impact on the concentrations of poverty in those schools), and how the plan would be furthered by the waiver.

- An explanation of the educational justification supporting the waiver request, including measurable educational improvement goals and expected outcomes for affected students and the methods to be used to measure progress in meeting those goals and outcomes.
- If the LEA proposes to skip eligible schools in order to serve schools under a waiver, an explanation of why it would further the purposes of the title I program to serve the schools for which the waiver is requested rather than the schools that would be skipped, including a description of the services to be provided and the number of children who would benefit.
- If the LEA is requesting a waiver of section 1113(c), the per-pupil amount the LEA intends to allocate to the schools for which the waiver is requested and the per-pupil amount(s) the LEA intends to allocate to its other schools.
- An explanation of how the LEA will continue to ensure the equitable participation of eligible private school children if the waiver is granted, including a description of how it consulted with private school officials in the development of the waiver request.

The Secretary may grant the LEA's request if the Secretary determines that approval of the request would further the purposes of part A of title I.

(Approved by the Office of Management and Budget under control number 18100586)

(Catalog of Federal Domestic Assistance Number: 84.010, Improving Programs Operated by Local Educational Agencies)
Dated: September 27, 1995.

Thomas W. Payzant,
Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95-24963 Filed 10-6-95; 8:45 am]

BILLING CODE 4000-01-P