



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

FEB 26 2008

Honorable Hank M. Bounds
State Superintendent of Education
Mississippi Department of Education
P.O. Box 771
Jackson, Mississippi 39205

Dear Superintendent Bounds:

This is a response to your letter requesting a waiver of the maintenance of effort (MOE) requirements as they apply to fiscal year (FY) 2008 (school year (SY) 2007-08) expenditures by local educational agencies (LEAs) in Mississippi under section 9521 of the Elementary and Secondary Education Act (ESEA). We cannot waive MOE for FY 2008 because LEAs' expenditures for that year (SY 2007-08) are not final. However, SY 2007-08 expenditures will not be part of MOE determinations for several years. In the interim, Mississippi is covered by the MOE waivers for expenditures in FY 2006 and FY 2007 already granted by the U.S. Department of Education (ED), as discussed more fully below.

In a July 10, 2007 letter to you from Secretary Margaret Spellings, ED granted MOE waivers for expenditures in FY 2006 (SY 2005-06) and FY 2007 (SY 2006-07) under the Hurricane Education Recovery Act (HERA). Note that the HERA waiver applies to the years in which the LEA expenditures occurred rather than to the years in which the LEA allocations for Title I, Part A and other covered programs would be reduced because they failed to meet the MOE requirements. Expenditures in FYs 2006 and 2007 are among the years compared in MOE determinations for covered programs in which funds were made available on July 1, 2007 (FY 2006 compared with FY 2005) and funds that will become available on July 1, 2008 (FY 2007 compared with FY 2006). Therefore, no additional waivers are needed for those years.

An MOE waiver under section 9521 of ESEA would, however, be needed for any LEAs that do not maintain effort during FY 2008 (which applies to LEA expenditures in SY 2007-08) in order for the Mississippi Department of Education (MDE) to avoid reducing their SY 2009-10 allocations from funds for covered programs that will become available on July 1, 2009. We will be able to consider any MOE waiver requests for FY 2008 once SY 2007-08 is completed and MDE has the information required to complete the calculations needed to identify which LEAs failed to maintain effort (FY 2008 compared with FY 2007). If you have any questions concerning the MOE requirements, please contact Todd Stephenson of my staff at (202) 260-0826.

Sincerely,

Kerri L. Briggs, Ph.D.