



# Wyoming Department of Education

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## MEMORANDUM NO. 2010-122

**TO:** School District Superintendents

**FROM:** Alan Moore, Director  
Standards and Assessment Division

**DATE:** July 2, 2010

**SUBJECT:** AYP Waiver Request

*APM*

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### TIME SENSITIVE MATERIAL INFORMATION TO SHARE

This memorandum invites comment from Wyoming school districts (LEAs) regarding a proposed request by the Wyoming Department of Education (WDE) to the U.S. Department of Education (USDE) for a 1-year waiver of the Title I, Part A statutory and regulatory requirements related to reporting of Adequate Yearly Progress (AYP).

WDE is requesting the waiver of the requirement to use the state's academic assessments and other academic indicators described in the state plan to review the progress of each school to determine whether the school is making AYP. The proposed waiver letter is attached to this memorandum.

The letter requesting the waiver is scheduled to be sent on July 9, 2010. One of the requirements of the waiver guidelines is that LEAs be notified and provided opportunity for comments about the proposed waiver request. Copies of all comments received from LEAs must then be submitted to USDE along with the waiver request.

WDE will accept comments to the proposed waiver request from LEAs through July 16, 2010, and forward these to USDE. Please submit any comments to Tracy Stibitz, [tstibi@educ.state.wy.us](mailto:tstibi@educ.state.wy.us), Wyoming Department of Education, 2020 Grand Ave., Suite 500, Laramie, WY 82070, (307)721-1902.

AM/al

Attachment (1): USDE Waiver Letter

July 9, 2010

Thelma Meléndez de Santa Ana  
Assistant Secretary for Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Av., W.W.  
Washington, D.C. 20202-6100

Dear Assistant Secretary Meléndez de Santa Ana:

I am writing on behalf of Wyoming to request a one-year waiver of the following Elementary and Secondary Education Act of 1965 (ESEA), Title I, Part A statutory and regulatory requirements:

- Sections 1111(b)(3)(C)(v)(I) and 1111(b)(3)(C)(vii) of the ESEA and 34 C.F.R. § 200.5(a)(2), which require a state to assess students in reading/language arts and mathematics in each of grades 3 through 8 and at least once in grades 10 through 12;
- Section 1111(b)(C)(v)(II) and 34 C.F.R. § 200.5(b), which require a state to assess students in science at least once during each of three specified grade spans; and
- Section 1116(a)(1)(A), which requires a state to use the state's academic assessments and other academic indicators described in the state plan to review the progress of each school to determine whether the school is making AYP.

The above request will also include a waiver of the Wyoming's Carl D. Perkins Act of 2006 requirement for reporting secondary performance in reading/language arts and mathematics identified in the following for one year:

- Section 113 (b) (2) (A) (i)
- Section 113 (b) (2) (F)

Wyoming seeks a waiver of these statutory and regulatory requirements because Wyoming encountered substantial difficulties during the administration of the spring 2010 statewide assessments required by ESEA. In particular, Wyoming's online assessment system experienced a significant malfunction and, consequently, no valid achievement data from the 2009-2010 test administration can be recovered. Moreover, the malfunction has prevented Wyoming from determining student progress toward achieving the State's academic standards, the other indicator for adequate yearly progress (AYP) determinations for elementary and middle schools, as well as the participation rate on the State's assessments. As a result, Wyoming cannot make AYP determinations based on current assessment data (i.e., assessment data collected in the 2009-2010 school year

Prior to submitting this waiver request, Wyoming provided all LEAs in the State with notice and a reasonable opportunity to comment on this request. Wyoming provided such notice on July 2, 2010 via a Superintendents' Memorandum sent by e-mail to each LEA (see copy of notice attached). Superintendents' Memoranda are placed on the Wyoming Department of Education's website for public access. Copies of all comments that Wyoming received from LEAs in response to this notice will be forwarded to the Assistant Secretary by July 23, 2010. Wyoming has also provided notice and information regarding this waiver request to the public in the manner in which Wyoming customarily provides such notice and information to the public by placing a classified advertisement in 44 Wyoming newspapers reaching more than 179,000 households through the Wyoming Classified Ad Network (<http://www.wyopress.org/services.php> during the week of July 4 (see copy of noticed attached).

If the waiver is granted, since AYP for the ELL subgroup is also used for Title III accountability as Annual Measurable Achievement Objective #3 (AMAO #3), Wyoming requests that whatever is

done for AYP for the ELL subgroup (i.e. using last year's AYP determinations for this year) is also used for AMAO 3. Furthermore, the waiver will affect the requirements of IDEA regarding the State Performance Plan and the State's Annual Performance Report to be submitted February 1, 2011. Lack of state assessment data affects Indicator 3 – Participation and performance of children with IEPs on statewide assessments. This includes A) Percent of districts with a disability subgroup that meets the State's minimum "n" size that meet the State's AYP targets for the disability subgroup; B) Participation rate for children with IEPs; and C) Proficiency rate for children with IEPs against grade level, modified and alternate achievement standards. (20 U.S.C. 1416(a)(3)(A)). Table 6 of the 618 Data, due to the USDE on November 1, 2010 will be affected by Wyoming's inability to use the assessment data, as well as, Indicator 20 of the Annual Performance Report – State reported data (618) and State Performance Plan and Annual Performance Report are timely and accurate(20 U.S.C.1416(a)(3)(b)). Timely and accurate data affect the State's Determination Level.

Wyoming hereby assures that, if the requested waiver is granted, Wyoming will implement the waiver in compliance with the following conditions:

- Except as provided below with respect to high schools, Wyoming will assign all schools and districts the same improvement status as was assigned based on 2008-2009 assessment results and report these statuses on state and district report cards providing results of assessments administered in 2009-2010, as well as in reporting for the 2009-2010 Consolidated State Performance Report, with a note of the events that caused a repetition of last year's reported AYP status;
- Except as provided below with respect to high school, no school or district will have its improvement status changed as a result of repeating last year's AYP results (i.e., no school or district will exit, enter, or move further into improvement status);
- Every school and district will continue to carry out all required improvement activities based on their assigned improvement status (e.g., offering public school choice and supplemental educational services);
- A high school that does not meet the other academic indicator (graduation rate), and so would not make AYP regardless of student results on the Statewide assessments or participation rate, will enter or move further into school improvement status, as appropriate; and
- Wyoming will submit to the U.S. Department of Education (ED), within thirty days of receipt of the waiver, a corrective action plan detailing the actions it will take to prevent this problem from arising in the event of another malfunction of its online assessment system.
- Wyoming will submit all other reporting requirements pertaining to the Carl D. Perkins Act of 2006 by the deadline of December 31, 2010.

Please feel free to contact me by phone or email at [supt@educ.state.wy.us](mailto:supt@educ.state.wy.us) if you have any questions regarding this request. Thank you for your consideration.

Sincerely,

Jim McBride, Ed.D.

Cc: Alexa Posny  
Ruth Ryder