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For Immediate Release:

June 20, 2012

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Wyoming Department of Education's Waiver Request Sent to U.S. Secretary of Education Arne Duncan

Cheyenne – Today Wyoming's Superintendent of Public Instruction, Cindy Hill, sent a letter to the Honorable Arne Duncan, the United States' Secretary of Education requesting a waiver of certain requirements of the Elementary and Secondary Education Act (ESEA), see Enclosure 1.

Superintendent Hill stated, "This is a request to freeze the Annual Measurable Objectives at the 2011 levels established by No Child Left Behind. My waiver request is similar to the joint request made by [Maine](#) and [New Hampshire](#) in February 2012."

Annual Measurable Objectives (AMO) are targets established by federal law to determine if a school accomplishes its Adequate Yearly Progress (AYP). AMO targets have been increasing over the life of No Child Left Behind (NCLB).

"This is not the waiver request described in the [September 23, 2011 flexibility option](#) mandated by the U.S. Department of Education. The flexibility option requires Wyoming to implement additional federal requirements such as effectively linking student performance to teacher evaluation. While efforts are on-going to link student performance to teacher evaluation, it has not been successfully demonstrated elsewhere nor can I promise when it could be in Wyoming."

Hill is asking the U.S. Department of Education to freeze AMOs while not expanding federal regulatory authority over Wyoming schools.

A major piece of legislation produced by Wyoming's 61st Legislature during the 2012 Budget Session was Enrolled Act 65. The goals of that legislation, listed below, are heavily oriented toward developing, implementing, and maintaining a meaningful and rigorous system of accountability:

1. Become a national education leader among states;
2. Ensure all students leave Wyoming schools career or college ready;
3. Recognize student growth and increase the rate of that growth for all students;
4. Recognize student achievement and minimize achievement gaps;

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5. Improve teacher, school and district leader quality.
6. Maximize efficiency of Wyoming education;
7. Increase credibility and support for Wyoming public schools.

Those wishing to offer comments concerning the waiver request may send them to David.Holbrook@wyo.gov or Clementina.Jimenez@wyo.gov .

For assistance, please contact Jerry Zellars at 307-777-6386 or Jerry.Zellars@wyo.gov.

Enclosures

1. Waiver Request – Wyoming
2. Letter from U.S. Secretary of Education Arne Duncan, September 23, 2011
3. Flexibility to Improve Student Academic Achievement and Increase the Quality of Instruction, June 7, 2012

References

For additional information relating to AMOs and AYP click on this hyperlink [State of Wyoming Consolidated State Application Accountability Workbook](#) or go to the WDE website (www.edu.wyoming.gov).

-END-

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Enclosure 1

June 19, 2012
The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington D.C. 20202

Re: Waiver Request - Wyoming

Dear Secretary Duncan:

On behalf of the students, parents, teachers, and the citizens of Wyoming, I am writing to request a waiver of certain requirements of the Elementary and Secondary Education Act (ESEA) as reauthorized by the No Child Left Behind Act of 2001 (NCLB). Specifically, I am requesting that the Annual Measurable Objectives (AMO) be frozen at the 2011 level. As we are rapidly approaching the AYP calculation deadlines, your prompt attention to this part of the request is greatly appreciated.

In addition, I recognize that NCLB has stimulated the national focus on accountability. I also acknowledge the possible application through the NCLB waiver option outlined in the September 23, 2011 flexibility application. However, at this time and under Wyoming's current legislatively mandated restraints, I do not believe it to be in the best interests of Wyoming, nor is it consistent with Wyoming's educational goals and commitment to the learning of our students, to request a waiver described in the September 23, 2011 flexibility option.

As you may be aware, with the recent passage of Wyoming Enrolled Act 65, the Wyoming Accountability in Education Act (Chapter 101, 2012 Session Laws), Wyoming has committed itself to further refinement of its state accountability system. Wyoming is fortunate to have a high level of support from our Legislature to work together to improve outcomes for our students, teachers, and schools through this Act.

Nevertheless, the timelines and requirements of the current federal accountability system and the flexibility offered by the US Department of Education will not work in Wyoming. In place of the current federal accountability system, Wyoming seeks to implement its state accountability system beginning in the 2013-2014 school year. Wyoming is working with our communities to create a comprehensive and true student/learner-based system and is in the process of redesigning our accountability system, our evaluation system of teacher and leader effectiveness, and our implementation of state standards. I have briefly explored the possibility of seeking a

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waiver with the State Board of Education and I will be seeking public comment on this letter and the attached summary.

Moreover, our state board of education recently adopted the Common Core State Standards and at this date we are awaiting gubernatorial approval of the rules related to the standards.

Therefore, Wyoming requests permission under Section 9401 of NCLB to retain our Annual Measureable Objectives (AMOs) at the 2010-2011 levels for the 2011-2012 school year for federal accountability decisions. As our accountability system and the common core standards are implemented, I believe other requirements of the NCLB waiver application process will become manageable, and therefore at that time I intend also to seek a waiver of the Supplemental Educational Services (SES) and improvement plans regarding highly qualified teachers.

If the AMO freeze is granted, then Wyoming intends to apply for this waiver annually until either reauthorization of ESEA describes a new process or Wyoming's state accountability system is fully functional, its teacher and leader effectiveness evaluation system is in place, and its college and career ready standards are fully implemented.

I look forward to collaborating with the U.S. Department of Education in our future work and will provide additional information on Wyoming's accountability system. Together through our combined efforts we will make a difference for the students of Wyoming.

Respectfully yours,

Cindy Hill
Superintendent of Public Instruction

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Enclosure 2

Letters from the Education Secretary or Deputy Secretary

September 23, 2011

September 23, 2011

Dear Chief State School Officers:

Over the past few years, States and districts have initiated groundbreaking reforms and innovations to increase the quality of instruction and improve academic achievement for all students. Forty-four States and the District of Columbia have adopted a common set of State-developed college- and career-ready standards, and 46 States and the District of Columbia are developing high-quality assessments aligned with these standards. Over 40 States are developing next-generation accountability and support systems, guided by principles developed by the Council of Chief State School Officers. Many States are also moving forward with reforms in such areas as teacher and principal evaluation and support, turning around low-performing schools, and expanding access to high-quality schools.

Many of these innovations and reforms, however, were not anticipated when the No Child Left Behind Act of 2001 (NCLB) was enacted nearly a decade ago. While NCLB helped State and local educational agencies (SEAs and LEAs) shine a bright light on the achievement gap and increased accountability for groups of high-need students, it inadvertently encouraged some States to set low academic standards, failed to recognize or reward growth in student learning, and did little to elevate the teaching profession or recognize the most effective teachers. Instead of fostering progress and accelerating academic improvement, many NCLB requirements have unintentionally become barriers to State and local implementation of forward-looking reforms designed to raise academic achievement. Consequently, many of you are petitioning us for relief from the requirements of current law. One of my highest priorities is to help ensure that Federal laws and policies can support these reforms and not hinder State and local innovation aimed at increasing the quality of instruction and improving student academic achievement.

For these reasons, I am writing to offer you the opportunity to request flexibility on behalf of your State, your LEAs, and your schools, in order to better focus on improving student learning and increasing the quality of instruction. This voluntary opportunity will provide educators and State and local leaders with flexibility regarding specific requirements of NCLB in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. This flexibility is intended to build on and support the significant State and local reform efforts already under way in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness. Of course, programs and activities

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your SEA or LEAs have been implementing under NCLB that are increasing the quality of instruction and improving student academic achievement may be incorporated into your implementation of this flexibility.

I invite each interested SEA to request this flexibility pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), which allows me to waive, with certain exceptions, any statutory or regulatory requirement of the ESEA for an SEA that receives funds under a program authorized by the ESEA and requests a waiver. In order to provide a rigorous review process, we will draw on expertise of those outside the Department through a peer review process. Taking into account the comments of the peer reviewers, we will review requests for this flexibility and, if appropriate, grant waivers through the 2013–2014 school year, after which time an SEA may request an extension of the flexibility.

In addition to this letter, we have posted two documents on our Web site at <http://www.ed.gov/esea/flexibility>. The first document is titled ESEA Flexibility, which is also attached to this letter. This document contains three parts. First, it sets forth the statutory and regulatory requirements that would be waived in order to provide flexibility for SEAs and LEAs. Second, it lays out the principles to which SEAs and LEAs must adhere in order to receive that flexibility. Finally, it defines key terms (in bold type the first time they appear) and specifies timelines for implementation of the waivers and key principles.

The second document is titled ESEA Flexibility Request. An SEA should use this request form if it wishes to request the flexibility. The request details specific evidence that an SEA will need to submit. We will also provide in the near future additional information to assist an SEA in preparing its request for the flexibility, including answers to frequently asked questions and peer review guidance.

If an SEA needs additional time to plan for implementation of the flexibility, it may request approval to use as its annual measurable objectives (AMOs) for adequate yearly progress (AYP) determinations based on assessments administered in the 2011-2012 school year the same AMOs that it used the previous year. In return for this temporary flexibility, the SEA must adopt college- and career-ready standards; link teacher, principal, and student data and provide that information to educators to improve their practices; and identify persistent achievement gaps within the State that need to be closed.

If you have questions about this flexibility, please e-mail us at ESEAfflexibility@ed.gov or write to us at the following address:

U.S. Department of Education
Office of Elementary and Secondary Education
Student Achievement and School Accountability Programs
400 Maryland Avenue, SW
Washington, DC 20202

To assist us in planning for the peer review process, I encourage you to notify us by October 12,

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2011, using the e-mail address above, of your intent to request the flexibility. Please see the document titled ESEA Flexibility Request for information on submission windows and deadlines so that you can indicate in your e-mail the specific window during which you intend to request the flexibility. Thank you for your commitment to increasing the quality of instruction and improving academic achievement for all students. I look forward to receiving your SEA's flexibility request.

Sincerely,

/s/

Arne Duncan

Retrieved from <http://www2.ed.gov/policy/gen/guid/secletter/110923.html> on June 20, 2012.

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Enclosure 3

FLEXIBILITY TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT AND INCREASE THE QUALITY OF INSTRUCTION

In order to move forward with State and local reforms designed to improve academic achievement and increase the quality of instruction for all students in a manner that was not originally contemplated by the No Child Left Behind Act of 2001 (NCLB), a State educational agency (SEA) may request flexibility, on its own behalf and on behalf of its local educational agencies (LEAs), through waivers of ten provisions of the Elementary and Secondary Education Act of 1965 (ESEA) and their associated regulatory, administrative, and reporting requirements. In order to receive this flexibility, an SEA must meet the principles described in the next section. Terms that are defined in the Definitions section of this document are in bold type the first time they appear.

This document was originally issued on September 23, 2011. It has been updated to include two optional waivers that have been added to ESEA flexibility since that time and to reflect the implementation timeline for an SEA that requests this flexibility at the beginning of the 2012–2013 school year.

1. Flexibility Regarding the 2013–2014 Timeline for Determining Adequate Yearly Progress (AYP): An SEA would no longer need to follow the procedures in ESEA section 1111(b)(2)(E) through (H) for setting annual measurable objectives (AMOs) to use in determining AYP. Instead, an SEA would have flexibility to develop new ambitious but achievable AMOs in reading/language arts and mathematics in order to provide meaningful goals that will be used to guide support and improvement efforts for the State, LEAs, schools, and student subgroups.
2. Flexibility in Implementation of School Improvement Requirements: An LEA would no longer be required to comply with the requirements in ESEA section 1116(b) to identify for improvement, corrective action, or restructuring, as appropriate, its Title I schools that fail, for two consecutive years or more, to make AYP, and neither the LEA nor its schools would be required to take currently required improvement actions; however, an SEA may still require or permit an LEA to take such actions. An LEA would also be exempt from all administrative and reporting requirements related to school improvement under current law.
3. Flexibility in Implementation of LEA Improvement Requirements: An SEA would no longer be required to comply with the requirements in ESEA section 1116(c) to identify for improvement or corrective action, as appropriate, an LEA that, for two consecutive years or more, fails to make AYP, and neither the LEA nor the SEA would be required to take currently required improvement actions. An LEA would also be exempt from all associated administrative and reporting requirements related to LEA improvement under current law.
4. Flexibility for Rural LEAs: An LEA that receives Small, Rural School Achievement Program funds or Rural and Low-Income School Program funds would have flexibility under ESEA

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sections 6213(b) and 6224(e) to use those funds for any authorized purpose regardless of the LEA's AYP status.

5. Flexibility for Schoolwide Programs: An LEA would have flexibility to operate a schoolwide program in a Title I school that does not meet the 40 percent poverty threshold in ESEA section 1114(a)(1) if the SEA has identified the school as a **priority school** or a **focus school**, and the LEA is implementing interventions consistent with the **turnaround principles** or interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in the school, as appropriate.
6. Flexibility to Support School Improvement: An SEA would have flexibility to allocate ESEA section 1003(a) funds to an LEA in order to serve any priority or focus school, if the SEA determines such schools are most in need of additional support.
7. Flexibility for Reward Schools: An SEA would have flexibility to use funds reserved under ESEA section 1117(c)(2)(A) to provide financial rewards to any **reward school**, if the SEA determines such schools are most appropriate for financial rewards.
8. Flexibility Regarding Highly Qualified Teacher (HQT) Improvement Plans: An LEA that does not meet its HQT targets would no longer have to develop an improvement plan under ESEA section 2141 and would have flexibility in how it uses its Title I and Title II funds. An SEA would be exempt from the requirements regarding its role in the implementation of these plans, including the requirement that it enter into agreements with LEAs on the uses of funds and the requirement that it provide technical assistance to LEAs on their plan. This flexibility would allow SEAs and LEAs to focus on developing and implementing more meaningful evaluation and support systems. An SEA would not be exempt from the requirement of ESEA section 1111(b)(8)(C) that it ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers; however, once more meaningful evaluation and support systems are in place in accordance with principle 3 (described below), an SEA may use the results of such systems to meet that requirement.
9. Flexibility to Transfer Certain Funds: An SEA and its LEAs would have flexibility to transfer up to 100 percent of the funds received under the authorized programs designated in ESEA section 6123 among those programs and into Title I, Part A. Moreover, to minimize burden at the State and local levels, the SEA would not be required to notify the Department and its participating LEAs would not be required to notify the SEA prior to transferring funds.
10. Flexibility to Use School Improvement Grant (SIG) Funds to Support Priority Schools: An SEA would have flexibility to award SIG funds available under ESEA section 1003(g) to an LEA to implement one of the four SIG models in any priority school.

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Optional Flexibility

In addition to its request for waivers of each of the requirements above, an SEA may wish to request flexibility through waivers related to the following:

11. Flexibility in the Use of Twenty-First Century Community Learning Centers (21st CCLC) Program Funds: An SEA would have flexibility under ESEA sections 4201(b)(1)(A) and 4204(b)(2)(A) to permit community learning centers that receive funds under the 21st CCLC program to use those funds to support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session (*i.e.*, before and after school or during summer recess).
12. Flexibility Regarding Making AYP Determinations: An SEA and its LEAs would no longer be required to comply with the requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) to make AYP determinations for LEAs and schools, respectively. Instead, an SEA and its LEAs must report on their report cards performance against the AMOs for all subgroups identified in ESEA section 1111(b)(2)(C)(v), and use performance against the AMOs to support continuous improvement in Title I schools.
13. Flexibility Regarding Within-District Title I Allocations: An LEA would have flexibility under ESEA section 1113(a)(3)-(4) and (c)(1) so that it may serve with Title I funds a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if that school does not rank sufficiently high to be served based solely on the school's poverty rate.

Retrieved from <http://www.ed.gov/esea/flexibility/documents/esea-flexibility.doc> on June 20, 2012.

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