

**REQUEST TO WAIVE THE PERIOD OF AVAILABILITY OF FY 2009 FUNDS UNDER  
STATE-ADMINISTERED ELEMENTARY AND SECONDARY EDUCATION ACT  
(ESEA) PROGRAMS**

Dear Acting Assistant Secretary Yudin:

I am writing to request a waiver of section 421(b) of the General Education Provisions Act (GEPA) (the "Tydings Amendment") as it affects the authority of the West Virginia Department of Education and its sub-recipients to obligate fiscal year (FY) 2009 regular and ARRA funds after September 30, 2011. Specifically, I am requesting that the authority to obligate funds for the State-administered Elementary and Secondary Education Act (ESEA) programs listed in the attached chart be extended to September 30, 2012.

The extended authority to obligate these funds would enable the West Virginia Department of Education and its sub-recipients to increase the quality of instruction for students, improve their academic achievement, and continue to assist the same populations served by the programs for which this waiver is being requested in accordance with applicable program requirements.

The West Virginia Department of Education assures that it has/will:

- Provided all sub-recipients of the programs affected by the waiver with notice and a reasonable opportunity to comment on this request. The West Virginia Department of Education provided such notice through the Department's website and through e-mails to all district superintendent's and chief school business officials.
- Attached copies of comments received.
- Provided notice and information regarding this waiver request to the public in the manner that West Virginia customarily provides such information to the public.

The West Virginia Department of Education further assures that, if it receives the requested waiver, it will:

- Ensure that sub-recipients within the State will use FY 2009 funds carried over as a result of the waiver to carry out activities in accordance with program requirements;
- Hold local educational agencies and schools accountable based on the State's annual measurable objectives; and
- Estimate the number of jobs created or retained with regular Federal FY 2009 funds after September 30, 2011, in a manner and format consistent with the quarterly reports required under Section 1512 of the American Recovery and Reinvestment Act of 2009 and make such estimates available to the U.S. Department of Education upon request.

Please feel free to contact Terry Harless by phone or email at 304-957-9833 x53427 or [tharless@access.k12.wv.us](mailto:tharless@access.k12.wv.us) if you have any questions regarding this request. Thank you for your consideration.

Each program is listed for which the waiver is requested.

CFDA Number	Name of Program	Grant Award Number
84.010A	Title I, Part A Grants to LEAs	S010A090048
84.389A	Title I, Part A Grants to LEAs (Recovery)	S389A090048
84.213A	Title I, Part B Subpart 3 Even Start	S213C090049
84.011A	Title I, Part C Migrant Education	S011A090048
84.367	Title II, Part A Improving Teacher Quality	S367A090046
84.366	Math Science Partnerships	S366B090049
84.318X	Title II, Part D, Ed Tech	S318X090048
84.386A	Title II, Part D, Ed Tech (Recovery)	S386A090048
84.365A	Title III, Part A English Language State Grants	S365A090048
84.186A	Title IV, Part A Safe and Drug Free Schools	Q186A090050