



THE SECRETARY OF EDUCATION  
WASHINGTON, DC 20202

January 4, 2013

Dr. Michael W. Kirst  
President  
California State Board of Education  
1430 N Street, Suite 5111  
Sacramento, CA 95814

Dear Dr. Kirst:

Thank you for your June 15, 2012, letter requesting a waiver to exempt local educational agencies within California from certain provisions of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Specifically, you sought waivers of sections 1116(b) and (c) for the 2012-2013 and 2013-2014 school years.

Section 9401 of the ESEA permits me to waive, with certain enumerated exceptions, any statutory or regulatory requirement of the ESEA. In deciding whether to grant such a waiver, I must determine if a State's waiver will increase academic achievement and improve the quality of instruction for students. It was with these twin goals in mind that I offered each State the opportunity to request a package of waivers of certain ESEA requirements, including most of sections 1116(b) and (c), in exchange for a rigorous and comprehensive State-developed plan designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. To receive this flexibility, a State must have college- and career-ready expectations in reading/language arts and mathematics for all students and develop aligned assessments; develop and implement a system of differentiated recognition, accountability, and support; support effective instruction and leadership through teacher and leader evaluation and support systems that include, as a significant factor, data on student growth; and reduce duplication and unnecessary burden. These principles are described in the document titled *ESEA Flexibility* (updated June 7, 2012), which is available at <http://www.ed.gov/esea/flexibility>.

For a waiver of nearly all of the requirements of ESEA sections 1116(b) and (c) to result in meeting the goals of increased academic achievement and improved quality of instruction set forth in ESEA section 9401, I believe that a State must agree and be prepared to take on the rigorous reforms required by all of the principles of ESEA flexibility in exchange for that waiver. Because California's request did not indicate that California intended to meet that high bar, I am declining to exercise my authority to approve your waiver request.

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Thank you for all that you do to support improving educational outcomes for the children of California. We look forward to continuing our partnership to meet this shared goal.

Sincerely,

/s/

Arne Duncan

cc: Honorable Tom Torlakson, Superintendent of Public Instruction