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## SUPERINTENDENT OF PUBLIC INSTRUCTION

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June 20, 2014

The Honorable Deborah S. Delisle  
Assistant Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Assistant Secretary Delisle:

RE: Request to Waive 14-Day Notice Requirement for Public School Choice for 2014–15 School Year

The Office of Superintendent of Public Instruction (OSPI) on behalf of Washington State is requesting a waiver of the Public School Choice 14-day parent notification requirement under Section 1116(b)(1)(B) and 34 C.F.R. § 200.32(a)(2) of the Elementary and Secondary Education Act of 1965 (ESEA). This request in part is based upon a petition sent to OSPI from the Washington State School Directors' Association (WSSDA). In their June 11, 2014 letter to OSPI, WSSDA formally petitioned the agency to request "an exemption" from the 14-day parent notification letter requirement for Washington's schools based upon the following points:

- a. Nearly every school in Washington (with the exception of a handful of very small schools) will not meet the 100 percent Annual Yearly Progress (AYP) requirement this year. As a result, nearly every school in every district will be designated as a failing school and required to send a letter to the family of every student notifying them of the failing status of their school.
- b. Under No Child Left Behind (NCLB), the intent of the letter was to provide choice to families living within the boundaries of a failing school in order to allow them to move to a school that had met AYP. The choice point is now moot since there will be no schools that are not designated as failing.
- c. The only other impacts of sending these letters are punitive. These consequences undermine and erode public support with unquestionably dire consequences. Washington's school funding relies heavily on local levy and bond dollars. Indeed, our state Supreme Court has recently concluded that the state relies too heavily on local funding, and policymakers are now identifying ways to reform how our K–12 financing system is designed. But, as the state struggles to comply with the Court's orders to amply fund basic education in our state, one thing is clear—school districts simply cannot provide a quality equitable education to all children using only state funds. As it now stands, public support for local bonds and levies is critical to providing a basic education in our state. The letters' misrepresentation that our schools are failing will erode public support for local funding—and, we think, will needlessly and dangerously distract Washington's voters and lawmakers at a time when transparent, truthful information about our schools is most critical.

- d. The mislabeling of our schools is damaging far beyond the local perception. Washington's schools have been recognized by many, including the U.S. Department of Education, for achievements in graduation rates, closing the achievement gap, NAEP scores, ACT/SAT scores, and our early learning commitment. That these same schools will be designated as "failing" by unarguably flawed NCLB standards will undermine public confidence in our schools and our governance.

In addition to the rationale provided by WSSDA (arguments that are supported by OSPI), OSPI asks that this additional information be considered when reviewing this request.

Due to the U.S. Department of Education letter that required the removal of Washington's ESEA flexibility for the 2014–15 school year, school districts must inform parents in Title I schools of their option for public school choice 14 days before the beginning of school. The student assessment calendar had been set in the summer of 2013 with a timeline for collecting assessment data, providing the data back to school districts for their review, and the final public release of district and school achievement data. The release of assessment data for districts to review was set for the second week in August. Because the test dates were set significantly before the removal of Washington's ESEA flexibility waivers, the timelines for assessments and data release will be extremely difficult to change. This will be particularly challenging because many of Washington's schools start the last week of August, which adversely impacts the ability of districts to meet the 14-day letter requirement.

#### **Waive 14-Day Notice Requirement for Public School Choice for 2014–15 School Year**

OSPI requests a one-year waiver of the Title I, Part A requirement compelling school districts to send the 14-day parent notification letter at the beginning of the 2014–15 school year. This request also asks to be allowed to remove public school choice as an option from any parent notification when there are no options available within that district.

#### **Washington State seeks a waiver of this provision because:**

Washington State cannot guarantee that all school districts within the state will be able to comply with the 14-day notice requirement. As described above, school districts will not have assessment data until mid-August and in many cases likely will not be able to meet the 14-day notification before the 14-day deadline. Schools that will move into improvement or schools that may move out of improvement by meeting AYP for two consecutive years will not receive their AYP standing until mid-August 2014, after which time districts and schools will need to notify parents of the AYP status of schools. With Labor Day on September 1, 2014, many Washington districts may begin school the week before Labor Day. The 2014 timeline does not allow districts to meet the 14-day notice requirement.

Thus, a waiver of the 14-day notice requirement is necessary to give Washington and its school districts sufficient time to carry out the process to ensure valid and reliable AYP determinations so that schools and districts can properly implement school improvement activities to increase the quality of instruction for students and ultimately improve the academic achievement of students. It has been Washington's consistent practice to urge districts to communicate options to parents as soon as possible.

Subject to change as set forth in this letter, Washington has set annual measurable objectives (AMOs) in reading and mathematics for the 2011–12 and 2013–14 school years. (See Attachment A: Reading and Mathematics AMOs.)

Washington will determine AYP based on assessments administered in the 2013–14 school year in accordance with the requirements of section 1111(b)(2) of the ESEA. As stated above, Washington

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believes that providing our state with the time necessary to carry out its assessment timeline as planned will allow the state to ensure that school improvement decisions for the 2013–14 school year are based on valid and reliable AYP determinations.

Prior to submitting the 14-day waiver request, Washington provided all school districts in the state with notice and a reasonable opportunity to comment on this request. Washington State provided such notice by sending an email to each school district on June 16, 2014. (See Attachment B: Copy of District Notice and District Comments.) Washington has also provided notice and information regarding this waiver request to the public in the manner in which Washington State customarily provides such notice and information to the public by posting information regarding the waiver request on OSPI's website. (See Attachment C: Copy of Public Notice.)

Washington State hereby assures that, if it is granted the requested 14-day waiver, both the state and its school districts will meet the following conditions:

- Schools districts within the state will be required to notify parents of their students' schools Adequate Yearly Progress standing at the beginning of the 2014–15 school year using normal means of communication.
- Washington State will ensure compliance with this condition by providing appropriate guidance to all school districts regarding this waiver.

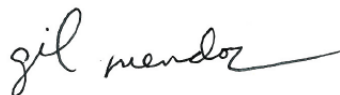
Washington State further assures that, if it is granted the requested waiver, it will submit to the U.S. Department of Education, by October 31, 2014, a report that provides the total number of school districts within the state that had schools that entered or exited improvement status in the 2014–15 school year, and the total number of school districts within the state that took advantage of the waiver or provided parents notice of Public School Choice in districts where choice options were available.

Please feel free to contact Gil Mendoza, Assistant Superintendent of Special Programs & Federal Accountability, at (360) 725-6170 or email [gil.mendoza@k12.wa.us](mailto:gil.mendoza@k12.wa.us), if you have any questions regarding this request. If you have any questions pertaining to Washington's assessment system, please contact Alan Burke, Deputy Superintendent of K–12 Education, at (360) 725-6343 or email [alan.burke@k12.wa.us](mailto:alan.burke@k12.wa.us). Thank you for your consideration.

Sincerely,



Alan Burke, Ed.D.  
Deputy Superintendent  
K–12 Education



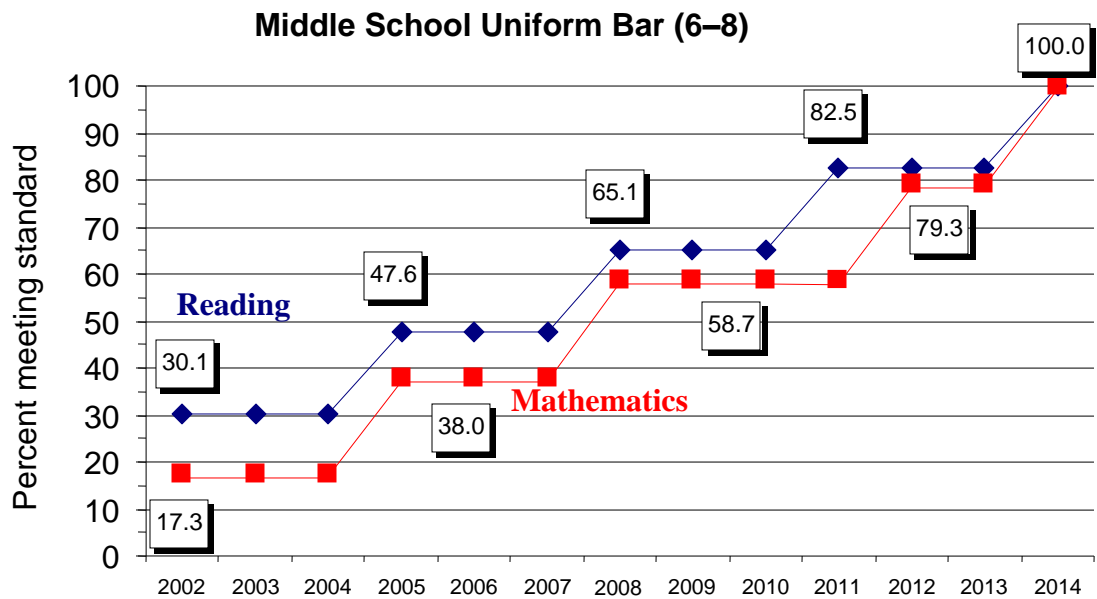
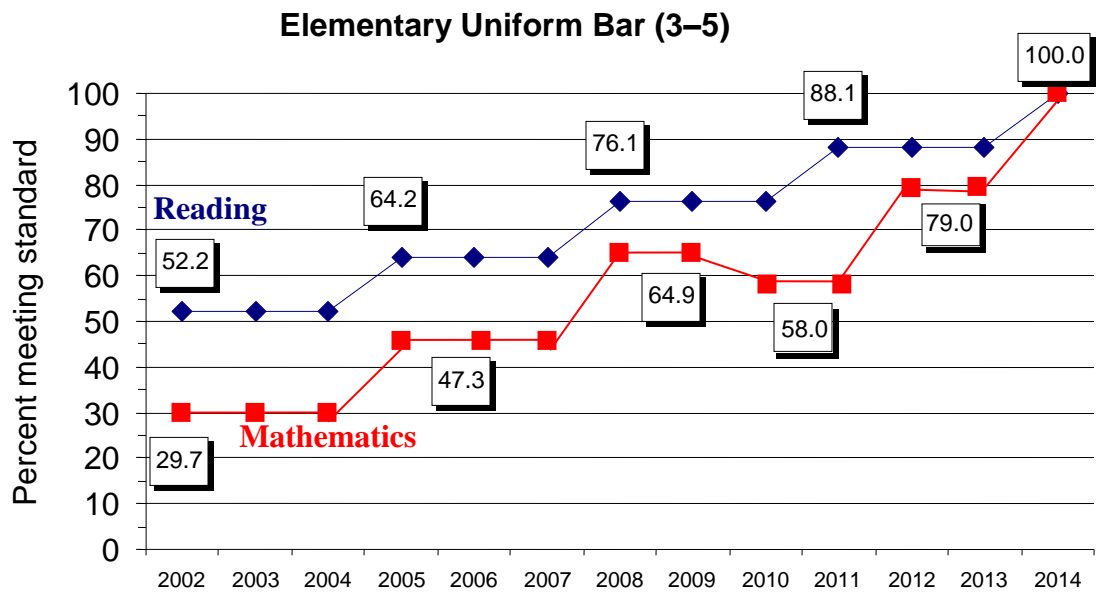
Gil Mendoza, Ed.D  
Assistant Superintendent  
Special Programs & Federal Accountability

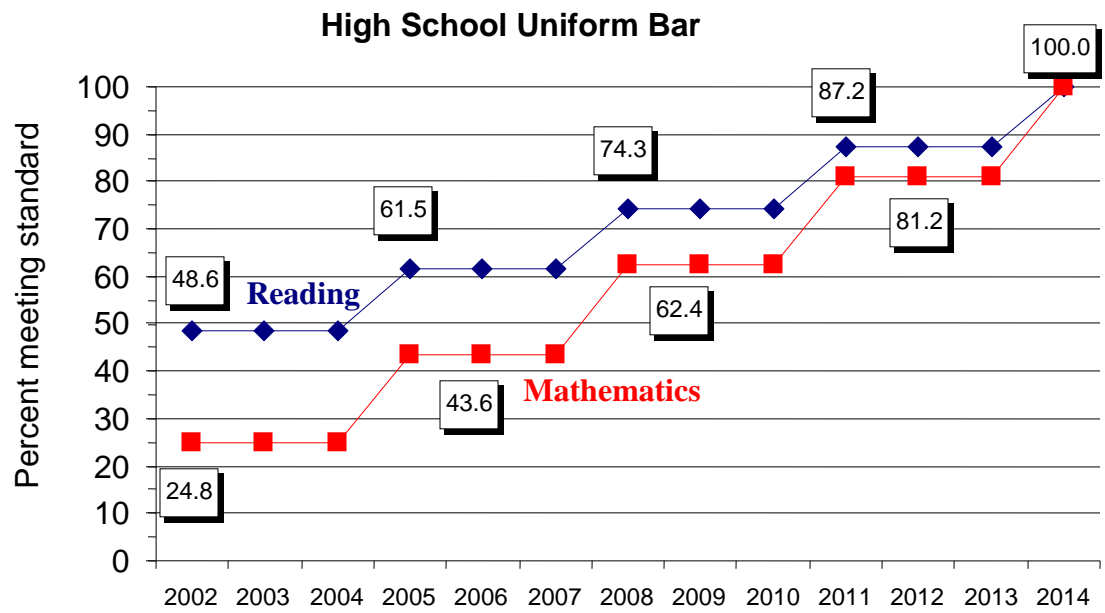
Attachment A: Reading and Mathematics AMOs

Attachment B: Copy of District Notice and District Comments

Attachment C: Copy of Public Notice

Reading and Mathematics AMOs







**Notice to public school districts of the Office of Superintendent of Public Instruction's (OSPI's) intent to apply to the United States Department of Education (ED) for a waiver of the 14-Day Public School Choice Notification Requirement for the 2014–15 school year.**

OSPI is required to notify Washington public school districts of the state's intent to request a waiver for a 14-Day Public School Choice Notification Requirement for the 2014–15 school year. Districts are asked to provide comment on this waiver request to OSPI. Comments from districts will be included in OSPI's request to ED.

**Please send comments to [gayle.paulev@k12.wa.us](mailto:gayle.paulev@k12.wa.us) by close of business on June 18, 2014.**

Washington State through OSPI, requests a one-year waiver of the Title I, Part A requirement for a school district to send the 14-day parent notification letter at the beginning of the 2014–15 school year. This request is specifically to allow the state to exempt school districts with schools in improvement from sending out the 14-day letter for the 2014–15 school year and to be allowed to remove public school choice as an option from the 14-day letter because of the lack of schools available for public school choice.

Washington State seeks a waiver of this provision because:

- a. The majority of schools in Washington (with the exception of a handful of very small schools) will not meet the 100 percent Adequate Yearly Progress (AYP) requirement this year. As a result, nearly every school in every district will be designated as in improvement and required to send a letter to the family of every student notifying them of the status of their school.
- b. The intent of the 14-day notification letter is to provide public school choice to families living within the boundaries of a (Step 1–5) school in order to allow them to move to a school that had met AYP. Public School Choice is now a moot point since there will be an extremely limited number of schools that would be available.

Due to ED's removal of Washington's Elementary and Secondary Education Act (ESEA) flexibility for the 2014–15 school year, the state assessment data notification and distribution will not occur until mid-August. The student assessment calendar had been set in the summer of 2013, with a timeline for collecting assessment data, providing the data back to school districts for their review, and the final public release of district and school achievement data.

The release of assessment data for districts to review was set for the second week in August. Because the test dates were set significantly before the removal of Washington's ESEA flexibility waivers, none of the timelines for assessments and data release could be changed. Many of Washington's schools start the last week of August, which adversely impacts the ability of districts to meet the 14-day letter requirement.

Washington State will ensure compliance with these conditions by providing appropriate guidance regarding these conditions to its school districts. In particular, Washington State intends to distribute a bulletin to all school districts that requires them to sign an assurance that they will meet the required parent notification requirements and that they will implement the 14-day requirement in 2015–16 as required in the ED Guidance of October 2008. The bulletin will also require all districts to provide a dated copy of the Public School Choice notification letter to OSPI to retain in each district’s Title I, Part A application file. OSPI’s Title I, Part A office will verify that all districts have met the timeline with the receipt of each district’s dated Public School Choice notification letter. The requirement to send OSPI a dated notification letter will also be made for the 2015–16 school year to ensure that districts meet the 14-day notification requirement.

Washington State further assures that if it is granted the requested waiver, it will submit to ED, by October 31, 2014, a report that provides the total number of school districts within the state that had schools that entered or exited improvement status in the 2014–15 school year, and the total number of school districts within the state that took advantage of the waiver and provided some parents notice of Public School Choice less than 14 days before the start of the 2014–15 school year.

Please feel free to contact Gil Mendoza, Assistant Superintendent of Special Programs & Federal Accountability, at (360) 725-6170 or email [gil.mendoza@k12.wa.us](mailto:gil.mendoza@k12.wa.us), if you have any questions regarding this request. If you have any questions pertaining to Washington’s assessment system, please contact Alan Burke, Deputy Superintendent of K–12 Education, at (360) 725-6343 or email [alan.burke@k12.wa.us](mailto:alan.burke@k12.wa.us).

### **District Comments**

I wanted to send my support for the 14-Day Public School Notification Waiver as the superintendent of a small rural school district. Parent and community perceptions are very important to us and the loss of the state waiver and 14-day notification continues to fuel the perceptions that we are failing at providing a quality education for our students. This is simply not true. We have worked very hard over the last two years under the state waiver to implement the school/student success improvement process and feel we have gained positive ground, but now we much go back to an unreal expectation for a 100 percent of our students. Dr. Jerry Lewis, Superintendent, White Salmon Valley Schools

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Such a waiver would be most welcome. Mary Jo Buckingham, Ph.D., Director of Special Programs, Central Valley School District

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For what it's worth, I whole heartedly support Washington's request for a waiver from this requirement. If there is anything else I can do to further the chances of our being granted this waiver, please let me know. Kevin DeVere, Principal, Everson Elementary

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I strongly support OSPI's request for a waiver from the U.S. Department of Education requirement that school districts send out Choice Notification Letters. But rather than provide an academic explanation, I prefer to suggest a more personal related rational why the notification requirements should be waived.

The Federal requirement is the same as Washington mandating that all citizens age 50 - 51 run a five minute mile by the end of 2024. Yes, there are some of those lean, fast, greyhound body types that would make the goal. But there are just as many less lean or even rotund types that with a brisk walk could make a 10 minute mile. During the course of their training and preparation they would also improve their cardiac and overall fitness, but would still never make the five minute mark. There are also those with foot challenges, bad knees, rusty backs, or artificial hips that may never make the 10 minute mark and possibly not get there within 15 minutes without assistance from a crutch, walker, wheelchair, or friend.

However, if the goal were modified to help citizens improve their overall fitness, then success would be highly possible. This fitness program could take into account individual differences, abilities, attitudes, and local culture as there may be those would live near water and work on water and prefer to be very good at swimming - rather than really fast on land. Garn Christensen, Superintendent, Eastmont School District 206

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THANK YOU! Dr. Richard Johnson, Superintendent, Okanogan School District

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I wanted to offer one comment on the proposed waiver—it seems like the waiver is for the 14 day notice requirement for 14-15, but not waiving the notice requirement completely. However, this is somewhat unclear in the notice that we received.

Whether it gets clarified in the waiver request or the bulletin that will be sent out sort of doesn't matter, but I thought this paragraph was confusing. I guess my request would be to ensure that the bulletin clearly lays out whether we have to do a notice at all in 14-15 (my read is yes) as well as that in 15-16 we'll have to do it within the 14-day notice requirement. Though frankly, as the notice points out there are no schools to transfer to so the school choice notice will be moot anyway. Also, I'm wondering if you will be providing info on jumping right to SES if no choice schools are available? I saw on some timeline or another that you'll be doing an RFP and will have new providers identified by mid-August or so? Info on SES is probably going to be more important to most of us since we'll be going right to that. Thanks for allowing us to comment, and I hope all is well with you! Holly Ferguson, J.D. Director of Policy Development Highline Public Schools

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The Riverside School District is in complete support of OSPI's request to the US Department of Education for a waiver related to the 14 day letter that must be sent related to school performance and parent choice. It only makes sense that districts need to review their data prior to the letter being sent and I believe parents will have little or no choice anyway because 100% of students are expected to have met standard in 2014. Please let me know if there is any other way we can be of assistance. Roberta Kramer, Superintendent Riverside School District



It would be very exciting if we got this waiver. Thank you for your work on it. It is untenable to attempt to implement school choice given the very few schools that will be eligible as choice in sites. The timeline for notification of school choice is not feasible, given the assessment timeline. We can certainly comply with notification to parents of the schools' AYP status upon receipt of assessment results, and are happy to comply with the accountability measures as set forth in the waiver request. Cynthia Jones, Categorical Programs Director, Everett School District

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Thank you for requesting this 14 day waiver to the Dept. of Education. I have read the request and the OSPI Bulletin, and I support the request. Carey Murray, Principal Bordeaux Elementary School



## **Public Notice for OSPI Title I Waiver Request to U.S. Department of Education for the 2014–15 School Year**

Notice to the public of the Office of Superintendent of Public Instruction's intent to apply to the U.S. Department of Education for a waiver of 14-Day Public School Choice Notification Requirement for the 2014–15 school year.

The Office of Superintendent of Public Instruction is required to notify Washington State citizens of the state's intent to request a waiver of the 14-Day Public School Choice Notification Requirement for the 2014–15 school year.

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**No Public Comments Were Received**