

MAJORITY MEMBERS:

JOHN KLINE, MINNESOTA, *Chairman*

THOMAS E. PETRI, WISCONSIN
HOWARD P. "BUCK" McKEON, CALIFORNIA
JOE WILSON, SOUTH CAROLINA
VIRGINIA FOXX, NORTH CAROLINA
TOM PRICE, GEORGIA
KENNY MARCHANT, TEXAS
DUNCAN HUNTER, CALIFORNIA
DAVID P. ROE, TENNESSEE
GLENN THOMPSON, PENNSYLVANIA
TIM WALBERG, MICHIGAN
MATT SALMON, ARIZONA
BRETT GUTHRIE, KENTUCKY
SCOTT DESJARLAIS, TENNESSEE
TODD ROKITA, INDIANA
LARRY BUCSHON, INDIANA
TREY GOWDY, SOUTH CAROLINA
LOU BARLETTA, PENNSYLVANIA
MARTHA ROBY, ALABAMA
JOSEPH J. HECK, NEVADA
SUSAN W. BROOKS, INDIANA
RICHARD HUDSON, NORTH CAROLINA
LUKE MESSER, INDIANA



COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

MINORITY MEMBERS:

GEORGE MILLER, CALIFORNIA
Senior Democratic Member

ROBERT E. ANDREWS, NEW JERSEY
ROBERT C. "BOBBY" SCOTT, VIRGINIA
RUBÉN HINOJOSA, TEXAS
CAROLYN MCCARTHY, NEW YORK
JOHN F. TIERNEY, MASSACHUSETTS
RUSH HOLT, NEW JERSEY
SUSAN A. DAVIS, CALIFORNIA
RAÚL M. GRIJALVA, ARIZONA
TIMOTHY H. BISHOP, NEW YORK
DAVID LOEBACK, IOWA
JOE COURTNEY, CONNECTICUT
MARCIA L. FUDGE, OHIO
JARED FOLIS, COLORADO
GREGORIO KIULI CAMACHO SABLÁN,
NORTHERN MARIANA ISLANDS
JOHN A. YARMUTH, KENTUCKY
FREDERICA S. WILSON, FLORIDA
SUZANNE BONAMICI, OREGON

April 19, 2013

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan:

More than a year ago, the Department of Education chose to stop working with Congress to reauthorize the *Elementary and Secondary Education Act* and instead began issuing temporary, conditional waivers to states. To date, 34 states and the District of Columbia have received waivers; several additional state waiver requests are currently under review. Additionally, the department officially began considering waiver applications from individual school districts last month.

Even though we believe Congress – not the administration – must rewrite the nation's elementary and secondary education law, it is our duty to conduct appropriate oversight over the waiver approval and implementation processes. To better understand how waivers are affecting states' education systems, we request you provide the following information for each approved request, as well as each application under consideration:

1. How many meetings, either by phone, teleconference, or in person, have been conducted for each pending waiver request?
2. How many meetings, either by phone, teleconference, or in person, were needed with the requestor before the waiver received final approval?
3. How many meetings, either by phone, teleconference, or in person, and what written correspondence occurred between provisional and final approval?
4. How many amendments have been requested and how many have been approved for each waiver? Please indicate how the need for the amendment arose and describe the Department of Education's involvement.
5. For waiver applications that were denied, please describe why the waiver was denied and what efforts the Department of Education underwent to try to approve the waiver.

The Honorable Arne Duncan

April 19, 2013

Page 2

6. Please describe the monitoring process for each of the approved waivers. How much oversight is being conducted through desktop monitoring and how much is being conducted through on-site visits?
7. Please describe the top five challenges states have faced in implementing the waivers.
8. Please describe what plans the department has in place for a state that may lose its waiver for noncompliance, and your estimation of the impact of transitioning back to current law.

Please direct your staff to contact our staff and arrange a meeting to discuss the response to this request **no later than Friday, April 26, 2013**. If you have any questions regarding this request, please contact Mandy Schaumburg with the committee staff at (202) 225-6558 or mandy.schaumburg@mail.house.gov.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



TODD ROKITA
Chairman
Subcommittee on Early Childhood,
Elementary, and Secondary Education

Enclosure

CC: The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce

The Honorable Carolyn McCarthy, Ranking Member, Subcommittee on Early Childhood, Elementary, and Secondary Education

Responding to Committee Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be date-stamped sequentially and produced sequentially.
18. Two sets of documents should be delivered, one set to the Majority Staff in Room 2181 of the Rayburn House Office Building and one set to the Minority Staff in Room 2101 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.