



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

### MEMORANDUM

DATE: September 13, 2006

TO: Rachel F. Potter  
Office of Information and Regulatory Affairs  
Office of Management and Budget

THROUGH: James Hyler  
Regulatory Information Management Services

FROM: Henry L. Johnson  
Assistant Secretary

The Department of Education's Office of Elementary and Secondary Education requests an *emergency clearance process* for consideration of the information collection requirements associated with the Final Regulations Title I—Improving the Academic Achievement of the Disadvantaged.

The regulations are needed to implement statutory provisions regarding State, local educational agency (LEA), and school accountability for the academic achievement of limited English proficient (LEP) students and are needed to implement changes to Title I, Part A, of the Elementary and Secondary Education Act of 1965, as amended (ESEA) made by the No Child Left Behind Act of 2001 (NCLB Act).

The information collection associated with these regulations relates to a change in the reporting requirements already required under Title I, Part A of the ESEA for States that voluntarily choose to take advantage of the flexibility to exempt LEP students who are recent arrivals to the United States from one administration from the State's reading/language arts assessment. The Department has added §200.6(b)(4)(i)(C) to require a State and its LEAs, on State and district report cards, respectively, to report annually the number of recently arrived LEP students exempted from one administration of the State's reading/language arts assessment.

States and districts already collect the number of students exempted from State assessments, and report, on State and local report cards, the percentage of students not tested (Section 1111(h)(1)(C)(iii)), disaggregated by student category. In order to take advantage of the flexibility related to recently arrived LEP students, States and LEAs would have to be able to, and would want to, account for and track separately the students to which this exemption would apply in order that those students are not miscounted as non-participants in the State's

[www.ed.gov](http://www.ed.gov)

400 MARYLAND AVE., SW, WASHINGTON, DC 20202-6200

*Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation*

reading/language arts assessment. The regulations would add a reporting category, to be reported on State and local report cards, for the number of students who were not tested because they were identified as LEP students who are recent arrivals to the United States.

We estimate annual reporting and recordkeeping burden for this collection of information to average 1 hour for each of the 52 respondents – the 50 States, the District of Columbia and Puerto Rico.

We are requesting permission for an emergency clearance so that the final regulations can be approved and disseminated as close to the beginning of the 2006-07 school year as possible. States and LEAs that wish to take advantage of this flexibility then, will be aware of their options and the need to report these exemption data on report cards at the earliest possible point in the school year the requirement would take effect. If you have further questions, please contact Kathryn Doherty at 202-401-2563, or via e-mail to [Kathryn.Doherty@ed.gov](mailto:Kathryn.Doherty@ed.gov).

cc: Lorenzo Esters, OESE  
Elizabeth McFadden, OGC  
James Hyler, RIMS  
Kathryn Doherty, ODS

[www.ed.gov](http://www.ed.gov)

400 MARYLAND AVE., SW, WASHINGTON, DC 20202-6200

*Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation*