

- Provide evidence of further objective alignment studies completed by teachers and other experts knowledgeable about Montana's content standards and submit the results for peer review. Montana previously submitted for peer review evidence of a study done by the contractor of the alignment between the ITBS and ITED and Montana's content standards.

- For the Alternate Assessment Scale, Montana must provide evidence of technical quality, the timeline for implementation, and the role of the Scale in the State's accountability system.

- Provide complete participation data for students with disabilities and limited English proficient students so that Montana's inclusion practices relating to assessment, reporting, and accountability can be evaluated.

- Provide data showing that all assessments used in Montana for Title I accountability meet commonly accepted professional standards for technical quality consistent with the uses made of the results.

- Develop and disseminate annual school reports that display assessment results for all students, disaggregated by gender, major racial/ethnic groups, limited English proficient status, migrant status, students with disabilities as compared to non-disabled students, and economically disadvantaged students compared to non-disadvantaged students.

- Upon completion of the development of performance standards, individual student interpretive and descriptive reports must be generated and disseminated to parents to inform them how well their students are meeting those performance standards.

- Provide the Department with the State's definition of "full academic year" for including students in determining adequate yearly progress.

C. OPI Cannot Correct Immediately its Noncompliance With the Title I Standards and Assessment Requirements

Under the Title I statute, OPI was required to implement its final assessment system no later than the 2000–2001 school year. 20 U.S.C. 6311(b)(6). OPI submitted evidence of its assessment system in November 2000, but the Acting Deputy Assistant Secretary determined, on the basis of that evidence, that OPI's system did not fully meet the Title I requirements. Due to the enormity and complexity of developing a new assessment system that addressed the Acting Deputy Assistant Secretary's concerns, OPI was not able to complete that task between the time it submitted its system for review and the spring 2001 assessment window. Thus, in March 2001, OPI administered the assessment that the Acting Deputy Assistant Secretary had determined did not meet the Title I requirements. As a result, the Assistant Secretary finds that it is not genuinely feasible for OPI to come into compliance until a future date.

D. OPI Can Meet the Terms and Conditions of a Compliance Agreement and Come Into Full Compliance With the Requirements of Title I Within Three Years

At the public hearing, OPI presented evidence of its commitment and capability to

come into compliance with the Title I standards and assessment requirements within three years. For example, OPI developed, for grades 4, 8 and 12, a set of approved content standards in reading and mathematics as well as standards in a number of other areas such as science and social studies. OPI also developed performance descriptors in reading and mathematics. OPI has also developed and administered an Alternate Assessment Scale for students with disabilities. It must modify the Alternate Assessment Scale, however, to ensure full alignment and inclusion of all students. Moreover, OPI has committed resources and personnel to continue the work of developing, aligning, implementing, and evaluating its assessment system.

Finally, OPI has developed a comprehensive action plan, incorporated into the compliance agreement, that sets out a very specific schedule that OPI has agreed to meet during the next three years for attaining compliance with the Title I standards and assessment requirements. As a result, OPI is committed not only to coming into full compliance within three years, but to meeting a stringent, but reasonable, schedule for doing so. The action plan also demonstrates that OPI will be well on its way to meeting the new standards and assessment requirements of the No Child Left Behind Act of 2001. The compliance agreement also sets out documentation and reporting procedures that OPI must follow. These provisions will allow the Assistant Secretary to ascertain promptly whether OPI is meeting each of its commitments under the compliance agreement and is on schedule to achieve full compliance within the effective period of the agreement.

The task of developing an assessment system that meets the Title I requirements is not a quick or easy one. However, the Assistant Secretary has determined that, given the commitment of OPI to comply with the terms and conditions of the compliance agreement, it is possible for OPI to come into full compliance with the Title I standards and assessment requirements within three years.

IV. Conclusion

For the foregoing reasons, the Assistant Secretary finds the following: (1) That full compliance by OPI with the standards and assessment requirements of Title I is not feasible until a future date; and (2) that OPI can meet the terms and conditions of the attached compliance agreement and come into full compliance with the Title I standards and assessment requirements within three years of the date of these findings. Therefore, the Assistant Secretary has determined that it is appropriate to enter into a compliance agreement with OPI. Under the terms of 20 U.S.C. 1234f, that compliance agreement becomes effective on the date of these findings.

Dated: April 4, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Appendix B—Text of the Compliance Agreement

Compliance Agreement Under Title I of the Elementary and Secondary Education Act Between the United States Department of Education and the Montana Office of Public Instruction

Introduction

Title I of the Elementary and Secondary Education Act of 1965 (Title I) required each State, including the District of Columbia and Puerto Rico, to develop or adopt, by the 1997–98 school year, challenging content standards in at least reading/language arts and mathematics that describe what the State expects all students to know and be able to do and performance standards, aligned with those content standards, that describe three levels of proficiency to determine how well students are mastering the content standards. By the 2000–2001 school year, Title I required each State to develop or adopt a set of student assessments in at least reading/language arts and mathematics that would be used to determine the yearly performance of schools and school districts in enabling students to meet the State's performance standards.

The Montana Office of Public Instruction (OPI) was not able to meet these requirements by the statutory deadlines. In order to be eligible to continue to receive Title I funds while working to comply with the statutory requirements, the Superintendent of Public Instruction indicated OPI's interest in entering into a compliance agreement with the Office of Elementary and Secondary Education (OESE) of the United States Department of Education. On December 10, 2001, OESE conducted a public hearing regarding OPI's ability to come into compliance with the Title I standards and assessment requirements within three years. Based on testimony at that hearing, the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) determined that compliance by OPI with the Title I standards and assessment requirements was genuinely not feasible until a future date. The Assistant Secretary also determined that a compliance agreement represents a viable means of bringing about compliance because of steps OPI has already taken to address its noncompliance, its commitment of resources and the action plan it has developed. The Assistant Secretary's written findings are incorporated into this agreement.

Pursuant to this compliance agreement under 20 U.S.C. 1234f, OPI must be in full compliance with the requirements of Title I no later than three years from the effective date of this agreement. Specifically, OPI must meet, and document that it has met, the following requirements:

1. Complete development of performance standards by aligning performance descriptors to Montana's content standards and set cut scores on the assessments that define levels of performance.