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SUPPLEMENTARY INFORMATION: Under title I, part A of the Elementary and Secondary Education Act of 1965 (title I), each State, including the District of Columbia and Puerto Rico, was required 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. Each State also was required to develop or adopt performance standards, aligned with its content standards, which describe three levels of proficiency to determine how well students are mastering the content standards. Finally, by the 2000-2001 school year, each State was required 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 in enabling students to meet the State's performance standards.

The Alabama Department of Education (ALDE) submitted, and the Department approved, evidence that it has content standards in at least reading/language arts and mathematics. In October 2000, ALDE submitted evidence of its final assessment system. The Department submitted that evidence to a panel of three assessment experts for peer review and following that review the Acting Assistant Secretary determined that Alabama must enter a compliance agreement with the Department. The ALDE submitted additional information and this evidence was peer reviewed in August 2001. Following that review, the Assistant Secretary for Elementary and Secondary Education concluded that ALDE's proposed final assessment system and performance standards did not meet a number of the Title I requirements.

Section 454 of GEPA, 20 U.S.C. 1234c, sets out the remedies available to the Department when it determines that a recipient "is failing to comply

substantially with any requirement of law" applicable to Federal program funds the Department administers. Specifically, the Department is authorized to—

- (1) Withhold funds;
- (2) Obtain compliance through a cease and desist order;
- (3) Enter into a compliance agreement with the recipient; or
- (4) Take any other action authorized by law. 20 U.S.C. 1234c(a)(1) through (a)(4).

In a letter dated November 19, 2001, to Dr. Edward R. Richardson, Superintendent of Schools for the Alabama Department of Education, the Assistant Secretary notified ALDE that, in order to remain eligible to receive Title I funds, it must enter into a compliance agreement with the Department. The purpose of a compliance agreement is "to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements." 20 U.S.C. 1234f(a). In order to enter into a compliance agreement with a recipient, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements, and that a compliance agreement is a viable means for bringing about such compliance.

On April 8, 2002, the Assistant Secretary issued written findings, holding that compliance by ALDE with the title I standards and assessment requirements is genuinely not feasible until a future date. Having first submitted its assessment system for peer review in October 2000, ALDE was not able to make the significant changes to its system that the Department's peer review required in time to meet the spring 2001 statutory deadline to have approved assessments in place. As a result, ALDE administered its unapproved assessment system in 2001. The Assistant Secretary also determined that a compliance agreement represents a viable means of bringing about compliance because of the steps ALDE has already taken to comply, its commitment of resources, and the plan it has developed for further action. The agreement sets out the action plan that ALDE must meet to come into compliance with the title I requirements. This plan, coupled with specific reporting requirements, will allow the Assistant Secretary to monitor closely ALDE's progress in meeting the terms of the compliance agreement. Both the Superintendent of ALDE, Dr. Edward R. Richardson, and the

Assistant Secretary signed the agreement on March 27, 2002.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the text of the Assistant Secretary's written findings is set forth as appendix A and the compliance agreement is set forth as appendix B of this notice.

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(Authority: 20 U.S.C. 1234c, 1234f, 6311)

Dated: February 13, 2003.

Eugene W. Hickock,
Under Secretary of Education.

Appendix A—Text of the Written Findings of the Assistant Secretary for Elementary and Secondary Education

I. Introduction

The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) of the U.S. Department of Education (Department) has determined, pursuant to 20 U.S.C. 1234c and 1234f, that the Alabama Department of Education (ALDE) has failed to comply substantially with certain requirements of title I, part A of the Elementary and Secondary Education Act of 1965 (title I), 20 U.S.C. 6301 *et seq.*, and that it is not feasible for ALDE to achieve full compliance immediately. Specifically, the Assistant Secretary has determined that ALDE failed to meet a number of the title I requirements concerning the development of performance standards and an aligned assessment system within the statutory timeframe.

For the following reasons, the Assistant Secretary has concluded that it would be appropriate to enter into a compliance agreement with ALDE to bring it into full compliance as soon as feasible. During the effective period of the compliance agreement, which ends three years from the date of these