

### III. Analysis

#### *A. Overview of Issues To Be Resolved in Determining Whether a Compliance Agreement Is Appropriate*

In deciding whether a compliance agreement between the Assistant Secretary and WVDE is appropriate, the Assistant Secretary must first determine whether compliance by WVDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. 20 U.S.C. 1234f(b). The second issue that the Assistant Secretary must resolve is whether WVDE will be able, within a period of up to three years, to come into compliance with the Title I requirements. Not only must WVDE come into full compliance by the end of the effective period of the compliance agreement, it must also make steady and measurable progress toward that objective while the compliance agreement is in effect. If such an outcome is not possible, then a compliance agreement between the Assistant Secretary and WVDE would not be appropriate.

#### *B. WVDE Has Failed To Comply Substantially With Title I Standards and Assessment Requirements*

In August 2000, WVDE submitted evidence of its final assessment system. The Assistant Secretary submitted that evidence to a panel of three assessment experts for peer review. Following that review, the Assistant Secretary for Elementary and Secondary Education concluded that WVDE's proposed final assessment system did not meet a number of the Title I requirements. Specifically, the Assistant Secretary determined that WVDE must do the following:

- Develop or select an academic assessment system that represents the full range of the WVDE's academic content standards and academic achievement standards in at least reading/language arts and mathematics and is consistent with the Title I requirements for use of multiple measures of student achievement, including measures that assess higher-order thinking and understanding. Document the alignment of the assessment system with WVDE's academic content and student achievement standards.
- Provide evidence that the State assessment will be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments.
- Provide evidence of performance standards aligned to content standards.
- Clarify how reasonable accommodations are provided to students with disabilities and limited English proficient students that allow for their scores to be included in the accountability system.
- Clarify how data for students who take the alternate assessment and students administered assessments with non-standard accommodations will be incorporated into the accountability system.
- Provide complete participation data for students with disabilities and limited English proficient students so that the State's inclusion policies relating to assessment,

reporting, and accountability can be evaluated.

- Provide individual reports of student achievement relative to the State performance standards.
- Provide school, district, and State level reports using disaggregated data by all the required categories.
- Provide evidence that LEAs are completing and disseminating school and district profiles that include statistically sound disaggregated results.
- Clarify how the State defines "full academic year" for including students in determining adequate yearly progress.

#### *C. WVDE Cannot Correct Immediately Its Noncompliance With the Title I Standards and Assessment Requirements*

Under the Title I statute, WVDE was required to implement its final assessment system no later than the 2000–2001 school year. 20 U.S.C. 6311(b)(6). WVDE submitted evidence of its assessment system in August 2000, but the Assistant Secretary determined, on the basis of that evidence, that WVDE'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 Assistant Secretary's concerns, WVDE was not able to complete that task between the time it submitted its system for review and the spring 2001 assessment window. Thus, in spring 2001, WVDE administered the assessment that the 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 WVDE to come into compliance until a future date.

#### *D. WVDE 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, WVDE presented evidence of its commitment and capability to come into compliance with the Title I standards and assessment requirements within three years. For example, the following have been developed in the last 18 months: content standards and objectives for core courses grades K–12; performance standards, three levels performance descriptors for those three levels performance for core courses K–12; a comprehensive, completely revised plan for a statewide assessment system that meets both the old law and the provisions of the reauthorization.

Finally, WVDE has developed a comprehensive action plan, incorporated into the compliance agreement, that sets out a very specific schedule that WVDE has agreed to meet during the next three years for attaining compliance with the Title I standards and assessment requirements. As a result, WVDE 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 WVDE 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 WVDE must follow. These provisions will allow the Assistant Secretary to ascertain promptly whether WVDE 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 WVDE to comply with the terms and conditions of the compliance agreement, it is possible for WVDE 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 WVDE with the standards and assessment requirements of Title I is not feasible until a future date; and (2) that WVDE 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 WVDE. Under the terms of 20 U.S.C. 1234f, that compliance agreement becomes effective on the date of these findings.

Dated: March 29, 2002.

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*Assistant Secretary, Office of 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 West Virginia Department of Education**

##### *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. Title I also required each State to develop or adopt 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 West Virginia Department of Education (WVDE) was not able to meet these requirements by the statutory deadlines. In order to be eligible to continue to receive