

1. The state of Utah was approved to use its own state-mandated Utah Comprehensive Accountability System (UCAS) for federal accountability purposes.
  - a. The UCAS accountability system incorporates and values measures of student achievement and growth. This provides incentive and recognition to schools for ensuring that there is a focus on the progress of all students. For years, the Utah State Office of Education had unsuccessfully requested that Utah be allowed to incorporate student growth into accountability calculations.
  - b. Utah is now able to use the UCAS accountability system to more accurately identify the lowest-performing Title I schools and focus resources in order to more effectively implement school improvement efforts.
2. Utah was able to eliminate the AYP accountability system under NCLB.
  - a. The NCLB statewide annual measurable objective of 100% proficiency by the end of 2013-14 was eliminated.
  - b. The potential over-identification of Title I schools and districts identified as in need of improvement based on AYP determinations was eliminated.
  - c. The NCLB-mandated sanctions for Title I schools and districts in improvement that were burdensome have been eliminated (mandatory uses of up to 30% of Title I funds).
  - d. The AYP accountability under NCLB only gave credit to schools for students that had achieved proficiency on assessments. Schools were not rewarded for students who started well below grade level and made strong learning gains (but not yet proficient). Neither was there any recognition for schools that helped students who barely met proficiency one year and made significant gains to exceptional levels the following year.
  - e. The NCLB accountability system did not differentiate between schools not achieving AYP for one factor and those not achieving AYP for multiple factors.
  - f. With the forty factors that were part of the AYP calculation, it was not uncommon for higher-performing schools to be identified as in need of improvement under AYP accountability. This questioned the credibility of the NCLB method in determining which schools were required to participate in the Title I school improvement process.
3. Utah has been allowed to use the funds previously restricted to Title I schools and districts identified in need of improvement under AYP determinations to support Utah's lowest-performing Title I

Priority and Focus schools. The state is seeing significant improvement in school achievement in these Title I schools that are implementing the Title I System of Support with fidelity.

4. Utah has been able to align major state education initiatives with federal requirements. Here are a few examples:

<b>State Education Initiative</b>	<b>Meets Federal Requirements</b>
Utah State Core Standards	Rigorous College and Career-ready Standards
Utah SAGE Assessment	State Assessments Aligned to State Standards
Utah Educator Evaluation System	Educator Evaluations that Incorporate Student Achievement

**Potential impacts of not continuing with the ESEA Flexibility Waiver**

1. Utah would not be allowed to use the UCAS accountability system, but would have to return to the NCLB-mandated AYP accountability system.
  - a. Utah would not be able to use student growth in accountability calculations for federal purposes.
  - b. The USOE would have to plan for the time and cost of converting the state technology systems back to conduct AYP determinations. The USOE would need to run AYP calculations for Utah’s districts and schools for the period during which Utah was under the ESEA Flexibility Waiver in order to determine which schools and districts would be identified for improvement.
  - c. It is very probable that the majority of Title I schools and districts (if not all) would be identified as not achieving AYP. This would either communicate to the public that Utah has many “failing” schools or that the accountability system is irrelevant.
  - d. If Utah is required to return to the NCLB AYP accountability system and large numbers of schools and districts were identified in need of improvement under Title I requirements (as anticipated), the USOE would not have adequate human or financial resources to provide adequate support for the Title I Systems of Support.
  - e. Amid the numerous major education initiatives in Utah, educators and parents would have to deal with the uncertainty that would accompany another major change in education accountability.

## Background

### State Standards and Assessments

When Congress reauthorized the Elementary and Secondary Education Act (ESEA) in 2001 as the No Child Left Behind Act (NCLB), states were required to adopt state academic and achievement standards, assess all students to determine performance related to those standards, and to publicly report achievement results at the school, local education agency (LEA), and state levels. At that point in time, Utah was ahead of many states and had already adopted statewide Core Curriculum Standards and developed End-of-Level and End-of-Course criterion-referenced tests (CRTs) that satisfied the new federal requirements

Under NCLB, states were to set annual measurable objectives (AMOs) for schools and districts from the baseline year of 2002 to the final goal of 100% student proficiency by the end of the 2013-14 school year. Utah established its AMOs so that every two years, schools and LEAs would be expected to make consistent improvement in student achievement (see Chart #1).

Chart #1 - Utah's Approved Annual Measurable Objectives

Subject/Grade Span	Start 2002	Goal 1 2005	Goal 2 2007	Goal 3 2009	Goal 4 2012	Goal 5 2013	Final 2014
Language Arts (3-8)	65%	71%	77%	83%	89%	95%	100%
Mathematics (3-8)	57%	64%	71%	45%	63%	81%	100%
Language HS (10)	64%	70%	76%	82%	88%	94%	100%
Mathematics (10-12)	35%	47%	59%	40%	60%	80%	100%

### Accountability – Adequate Yearly Progress

Each year, the state education agency (SEA) would determine whether schools and districts made adequate yearly progress (AYP) toward the annual measurable objectives. The AYP system of accountability included 40 factors by which schools and LEAs were measured. Whether a school or LEA failed to meet one or multiple factors, the determination was the same: “did not achieve AYP.” Title I schools and districts that did not achieve AYP for two consecutive years were identified as “in need of improvement” and required to participate in the Title I school or district improvement process. The Title I school and district improvement requirements included provisions that limited local school district options in the use of Title I funds (required set asides for transportation associated with public school choice, supplemental educational services, and professional development).

The Title I Section of the Utah State Office of Education found that the AYP system of accountability frequently did not identify the lowest-performing schools for the Title I improvement process. The valuable, but limited, resources were not always allocated to help the schools that needed them most. As states approached the end of the 2013-14 school year, intense concern was expressed about the number of schools in districts that would be identified as in need of improvement as they did not achieve the goal of 100% proficiency. The USOE projected the number of schools and districts to increase dramatically (see Chart #2).

Chart #2 - Utah's Title I Schools & Districts in Improvement

	2008-2009	2009-2010	2011-2012	2012-2013
Title I Schools: # in Improvement	12	8	17	99*
Title I Districts: # in Improvement	3	2	2	8*

\*Estimated count for 2012-13 are based on the number of Title I schools/districts on alert (not achieving AYP one year). Because of Utah's approved ESEA Flexibility Waiver, no estimates were made for 2013-14.

### ESEA Flexibility Waiver

After years of debate, Congress has still not reauthorized the ESEA (scheduled for 2007). The accountability provisions of NCLB did much to ensure that schools and districts address the academic achievement of all students and, in particular, students who historically were under-served or under-performing. Many critics of the NCLB have expressed that the NCLB accountability measures, if not modified, would identify virtually all schools and districts as not achieving AYP when the timeline approached the 100% proficiency goal of 2013-14. This potential "over-identification" of what would be interpreted as "failing" schools and districts has been a major focus of criticism of NCLB.

Recognizing that many states had or were developing innovative and rigorous accountability systems, the U.S. Department of Education (ED) announced to states the option to request a waiver of certain ESEA requirements if they met certain eligibility requirements. The requirements that would be waived are listed in Appendix A - Waivers. The requirements that applying states must meet are listed in Appendix B - Assurances.

The Utah State Office of Education applied for the ESEA Flexibility Waiver and after clarification of specific issues with the U.S. Department of Education was approved in June 2012. The approved waiver applied to school years 2011-12, 2012-13, and 2013-14. States desiring to continue with the ESEA Flexibility Waiver beyond the 2013-14 school year will need to submit an extension request.

## Appendix A

### WAIVERS

By submitting this flexibility request, the SEA requests flexibility through waivers of the ten ESEA requirements listed below and their associated regulatory, administrative, and reporting requirements by checking each of the boxes below. The provisions below represent the general areas of flexibility requested; a chart appended to the document titled *ESEA Flexibility Frequently Asked Questions* enumerates each specific provision of which the SEA requests a waiver, which the SEA incorporates into its request by reference.

- 1. The requirements in ESEA section 1111(b)(2)(E)-(H) that prescribe how an SEA must establish annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) to ensure that all students meet or exceed the State's proficient level of academic achievement on the State's assessments in reading/language arts and mathematics no later than the end of the 2013–2014 school year. The SEA requests this waiver to develop new ambitious but achievable AMOs in reading/language arts and mathematics in order to provide meaningful goals that are used to guide support and improvement efforts for the State, LEAs, schools, and student subgroups.
- 2. The requirements in ESEA section 1116(b) for an LEA to identify for improvement, corrective action, or restructuring, as appropriate, a Title I school that fails, for two consecutive years or more, to make AYP, and for a school so identified and its LEA to take certain improvement actions. The SEA requests this waiver so that an LEA and its Title I schools need not comply with these requirements.
- 3. The requirements in ESEA section 1116(c) for an SEA to identify for improvement or corrective action, as appropriate, an LEA that, for two consecutive years or more, fails to make AYP, and for an LEA so identified and its SEA to take certain improvement actions. The SEA requests this waiver so that it need not comply with these requirements with respect to its LEAs.
- 4. The requirements in ESEA sections 6213(b) and 6224(e) that limit participation in, and use of funds under the Small, Rural School Achievement (SRSA) and Rural and Low-Income School (RLIS) programs based on whether an LEA has made AYP and is complying with the requirements in ESEA section 1116. The SEA requests this waiver so that an LEA that receives SRSA or RLIS funds may use those funds for any authorized purpose regardless of whether the LEA makes AYP.
- 5. The requirement in ESEA section 1114(a)(1) that a school have a poverty percentage of 40 percent or more in order to operate a school-wide program. The SEA requests this waiver so that an LEA may implement interventions consistent with the turnaround principles or interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school in any of its priority and focus schools, as appropriate, even if those schools do not have a poverty percentage of 40 percent or more.

6. The requirement in ESEA section 1003(a) for an SEA to distribute funds reserved under that section only to LEAs with schools identified for improvement, corrective action, or restructuring. The SEA requests this waiver so that it may allocate section 1003(a) funds to its LEAs in order to serve any of the State's priority and focus schools.
7. The provision in ESEA section 1117(c)(2)(A) that authorizes an SEA to reserve Title I, Part A funds to reward a Title I school that (1) significantly closed the achievement gap between subgroups in the school; or (2) has exceeded AYP for two or more consecutive years. The SEA requests this waiver so that it may use funds reserved under ESEA section 1117(c)(2)(A) for any of the State's reward schools.
8. The requirements in ESEA section 2141(a), (b), and (c) for an LEA and SEA to comply with certain requirements for improvement plans regarding highly qualified teachers. The SEA requests this waiver to allow the SEA and its LEAs to focus on developing and implementing more meaningful evaluation and support systems.
9. The limitations in ESEA section 6123 that limit the amount of funds an SEA or LEA may transfer from certain ESEA programs to other ESEA programs. The SEA requests this waiver so that it and its LEAs may transfer up to 100 percent of the funds it receives under the authorized programs among those programs and into Title I, Part A.
10. The requirements in ESEA section 1003(g)(4) and the definition of a Tier I school in Section I.A.3 of the School Improvement Grants (SIG) final requirements. The SEA requests this waiver so that it may award SIG funds to an LEA to implement one of the four SIG models in any of the State's priority schools.

Optional Flexibility:

An SEA should check the box below only if it chooses to request a waiver of the following requirements:

- The requirements in ESEA sections 4201(b)(1)(A) and 4204(b)(2)(A) that restrict the activities provided by a community learning center under the Twenty-First Century Community Learning Centers (21st CCLC) program to activities provided only during non-school hours or periods when school is not in session (*i.e.*, before and after school or during summer recess). The SEA requests this waiver so that 21st CCLC funds may be used to support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session.
12. The requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) that require LEAs and SEAs to make determinations of adequate yearly progress (AYP) for schools and LEAs, respectively. The SEA requests this waiver because continuing to determine whether an LEA and its schools make AYP is inconsistent with the SEA's State-developed differentiated recognition, accountability, and support system included in its ESEA flexibility request. The SEA and its LEAs must report on their report cards performance against the AMOs for all subgroups identified in ESEA section

1111(b)(2)(C)(v), and use performance against the AMOs to support continuous improvement in Title I schools that are not reward schools, priority schools, or focus schools.

13. The requirements in ESEA section 1113(a)(3)-(4) and (c)(1) that require an LEA to serve eligible schools under Title I in rank order of poverty and to allocate Title I, Part A funds based on that rank ordering. The SEA requests this waiver in order to permit its LEAs to serve a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if that school does not rank sufficiently high to be served.

## Appendix B

### ASSURANCES

By submitting this application, the SEA assures that:

- 1. It requests waivers of the above-referenced requirements based on its agreement to meet Principles 1 through 4 of the flexibility, as described throughout the remainder of this request.
- 2. It will adopt English language proficiency (ELP) standards that correspond to the State's college- and career-ready standards, consistent with the requirement in ESEA section 3113(b)(2), and that reflect the academic language skills necessary to access and meet the new college- and career-ready standards, no later than the 2013–2014 school year. (Principle 1)
- 3. It will develop and administer no later than the 2014–2015 school year alternate assessments based on grade-level academic achievement standards or alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities that are consistent with 34 C.F.R. § 200.6(a)(2) and are aligned with the State's college- and career-ready standards. (Principle 1)
- 4. It will develop and administer ELP assessments aligned with the State's ELP standards, consistent with the requirements in ESEA sections 1111(b)(7), 3113(b)(2), and 3122(a)(3)(A)(ii). (Principle 1)
- 5. It will report annually to the public on college-going and college credit-accumulation rates for all students and subgroups of students in each LEA and each public high school in the State. (Principle 1)
- 6. If the SEA includes student achievement on assessments in addition to reading/language arts and mathematics in its differentiated recognition, accountability, and support system and uses achievement on those assessments to identify priority and focus schools, it has technical documentation, which can be made available to the Department upon request, demonstrating that the assessments are administered statewide; include all students, including by providing appropriate accommodations for English Learners and students with disabilities, as well as alternate assessments based on grade-level academic achievement standards or alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities, consistent with 34 C.F.R. § 200.6(a)(2); and are valid and reliable for use in the SEA's differentiated recognition, accountability, and support system. (Principle 2)
- 7. It will report to the public its lists of reward schools, priority schools, and focus schools at the time the SEA is approved to implement the flexibility, and annually thereafter, it will publicly recognize its reward schools. (Principle 2)
- 8. Prior to submitting this request, it provided student growth data on their current students and the students they taught in the previous year to, at a minimum, teachers of reading/language arts and

mathematics in grades in which the State administers assessments in those subjects in a manner that is timely and informs instructional programs, or it will do so no later the deadline required under the State Fiscal Stabilization Fund. (Principle 3)

- 9. It will evaluate and, based on that evaluation, revise its own administrative requirements to reduce duplication and unnecessary burden on LEAs and schools. (Principle 4)
- 10. It has consulted with its Committee of Practitioners regarding the information set forth in its request.
- 11. Prior to submitting this request, it provided all LEAs with notice and a reasonable opportunity to comment on the request and has attached a copy of that notice (Attachment 1) as well as copies of any comments it received from LEAs (Attachment 2).
- 12. Prior to submitting this request, it provided notice and information regarding the request to the public in the manner in which the State customarily provides such notice and information to the public (*e.g.*, by publishing a notice in the newspaper; by posting information on its website) and has attached a copy of, or link to, that notice (Attachment 3).
- 13. It will provide to the Department, in a timely manner, all required reports, data, and evidence regarding its progress in implementing the plans contained throughout this request.
- 14. It will report annually on its State report card, and will ensure that its LEAs annually report on their local report cards, for the “all students” group and for each subgroup described in ESEA section 1111(b)(2)(C)(v)(II): information on student achievement at each proficiency level; data comparing actual achievement levels to the State’s annual measurable objectives; the percentage of students not tested; performance on the other academic indicator for elementary and middle schools; and graduation rates for high schools. It will also annually report, and will ensure that its LEAs annually report, all other information and data required by ESEA section 1111(h)(1)(C) and 1111(h)(2)(B), respectively.

**If the SEA selects Option A in section 3.A of its request, indicating that it has not yet developed and adopted all guidelines for teacher and principal evaluation and support systems, it must also assure that:**

- 15. It will submit to the Department for peer review and approval a copy of the guidelines that it will adopt by the end of the 2011–2012 school year. (Principle 3)