



UTAH STATE BOARD OF EDUCATION

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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: December 5, 2014

DISCUSSION: Elementary and Secondary Education Act (ESEA) Flexibility Waiver Renewal

Background: ESEA Flexibility Waiver Renewal: The U.S. Congress reauthorized the Elementary and Secondary Education Act (ESEA) in 2001 as No Child Left Behind (NCLB). States were required to develop, assess, and determine performance levels as they related to state academic and achievement standards. The UCAS Accountability System was originally developed to comply with S.B. 59, *School Grading System* (2011 Legislative Session). It was also approved by the U.S. Department of Education as the Utah Accountability System for the ESEA Flexibility Waiver. UCAS replaced Adequate Yearly Progress (AYP) for NCLB.

The ESEA was to be reauthorized in 2007 and is still pending. The U.S. Department of Education allowed states to request a waiver to certain requirements under the law. Utah requested and was granted a waiver for SY11-12, SY12-13, and SY13-14. Additionally, Utah has an approved waiver for SY14-15.

The Department of Education announced on November 13, 2014, the opportunity for SEAs with approved requests to request a four-year renewal of ESEA flexibility through the 2018-2019 school year. A request for renewal must be submitted no later than March 31, 2015. Utah is eligible to participate in an expedited review process if the request is submitted by January 30, 2015.

If Congress reauthorizes the ESEA during the period of waivers, the Department will provide guidance on the transition to the new law.

Key Points: ESEA Flexibility Waiver Renewal: A document will be provided to the Board with specific information on the requirements to request a renewal for the ESEA Flexibility Waiver.

Anticipated Action: Board Members will discuss the information provided in preparation for giving guidance to staff regarding the ESEA Flexibility Waiver in the Board's January 2015 meeting.

Contact: Judy Park, 801-538-7550
Jo Ellen Shaeffer, 801-538-7811
Ann White, 801-538-7827

ESEA Flexibility Waiver Renewal Requirements

The Department of Education announced on November 13, 2014, the opportunity for SEAs with approved requests to request a three or four-year renewal of ESEA flexibility through the 2017-2018 or 2018-2019 school year. A request for renewal must be submitted no later than March 31, 2015. Utah may be eligible to participate in an expedited review process if the request is submitted by January 30, 2015.

If Congress reauthorizes the ESEA during the period of waivers, the Department will provide guidance on the transition to the new law.

The ESEA Flexibility Waiver Renewal must contain the following:

1) Nine Required Waivers

a) Six waivers are identical to current waiver

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.

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.

b) Three waiver have minor wording changes (displayed in red)

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 **that meet the definitions of "priority schools" and "focus schools," respectively, set forth in the document titled *ESEA Flexibility*, 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 **that meet the definitions of "priority schools" and "focus schools," respectively, set forth in the document titled *ESEA Flexibility*.**

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 that meet the definition of "reward schools" **set forth in the document titled *ESEA Flexibility*.**

c) One waiver eliminated on SIG schools

~~10. The requirements in ESEA section 1003(g)(4) and the definition of a Tier 1 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.~~

2) Five Optional Waiver Flexibilities

a) One optional waiver is identical to previous optional waiver

10. 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.

b) Two optional waivers are similar

11. 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.

12. 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 otherwise rank sufficiently high to be served **under ESEA section 1113**.

c) Two optional waivers are new

13. 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 in addition to waiver #6 so that, when it has remaining section 1003(a) funds after ensuring that all priority and focus schools have sufficient funds to carry out interventions, it may allocate section 1003(a) funds to its LEAs to provide interventions and supports for low-achieving students in other Title I schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

If the SEA is requesting waiver #13, the SEA must demonstrate in its renewal request that it has a process to ensure, on an annual basis, that all of its priority and focus schools will have sufficient funding to implement their required interventions prior to distributing ESEA section 1003(a) funds to other Title I schools.

14. The requirements in ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) that, respectively, require the SEA to apply the same academic content and academic achievement standards to all public schools and public school children in the State and to administer the same academic assessments to measure the achievement of all students. The SEA requests this waiver so that it is not required to double test a student who is not yet enrolled in high school but who takes advanced, high school level, mathematics coursework. The SEA would assess such a student with

the corresponding advanced, high school level assessment in place of the mathematics assessment the SEA would otherwise administer to the student for the grade in which the student is enrolled. For Federal accountability purposes, the SEA will use the results of the advanced, high school level, mathematics assessment in the year in which the assessment is administered and will administer one or more additional advanced, high school level, mathematics assessments to such students in high school, consistent with the State's mathematics content standards, and use the results in high school accountability determinations.

If the SEA is requesting waiver #14, the SEA must demonstrate in its renewal request how it will ensure that every student in the State has the opportunity to be prepared for and take courses at an advanced level prior to high school.

3) Fourteen Required Assurances

a) Eight assurances are identical to current assurances

1. If the SEA is requesting waiver #14, the SEA must demonstrate in its renewal request how it will ensure that every student in the State has the opportunity to be prepared for and take courses at an advanced level prior to high school.

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) no later than the 2015–2016 school year. (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)

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 ESEA flexibility 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 SEA 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)

b) Four assurances are similar to previous assurances

2. It has ~~will~~ adopted 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 State's college- and career-ready standards. (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)

7. It will ~~annually make 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,~~ **prior to the start of the school year as well as** publicly recognize its reward schools, **and will update its lists of priority and focus schools at least every three years.** (Principle 2)

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.~~ **its ESEA flexibility request, and will ensure that all such reports, data, and evidence are accurate, reliable, and complete or, if it is aware of issues related to the accuracy, reliability, or completeness of its reports, data, or evidence, it will disclose those issues.**

c) Two assurances are new

8. It will provide to the Department, no later than January 31, 2016, an updated list of priority and focus schools, identified based on school year 2014–2015 data, for implementation beginning in the 2016–2017 school year.

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, each subgroup described in ESEA section 1111(b)(2)(C)(v)(II), and for any combined subgroup (as applicable): 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. In addition, it will 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. It will ensure that all reporting is consistent with *State and Local Report Cards Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended Non-Regulatory Guidance* (February 8, 2013).

d) Two assurances have been eliminated

~~8. Prior to submitting this request, it provide 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 and informs instructional programs, or it will do so no later than the deadline required under the State Fiscal Stabilization Fund. (Principal 3)~~

~~10. 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 2011-12 school year. (Principle 3)~~

4) **Principal 3 Assurance**

Utah will select Option A, The SEA is on track to fully implement Principal 3, including incorporation of student growth based on State assessments into educator ratings for teachers of tested grades and subjects and principals.

5) **Consultation**

In the 2012 waiver, the state provided assurance that it had consulted with the Committee of Practitioners, groups representing students with disabilities, Coalition of Minorities Advisory Committee (CMAC), Comprehensive Accountability System Advisory Committee, Utah Association of Elementary School Principals, Utah Association of Secondary Principals, Utah Education Association Board, Utah LEA Assessment Directors, Utah LEA Indian Education Coordinators and Tribal Leaders, Utah LEA Special Education Directors, Utah Policy Advisory Committee, Utah School Superintendents Association, and Utah Technical Advisory Committee. As a result of the waiver application, the USOE has been able to gather valuable information that both informed and assisted in the development of the waiver and its subsequent implementation.

New Guidance: An SEA must provide a description of how it meaningfully solicited input on the implementation of ESEA flexibility, and the changes that it made to its currently approved ESEA flexibility request in order to seek renewal, from LEAs, teachers and their representatives, administrators, students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities, organizations representing English Learners, business organizations, institutions of higher education (IHEs) and Indian tribes.

6) **Principle 1: College and Career-Ready Expectation for All Students**

Each SEA must update its currently approved ESEA flexibility request to describe how it will continue to ensure all students graduate from high school ready for college and a career, through implementation of college- and career-ready standards and high-quality aligned assessments (general, alternate, and English language proficiency), including how the SEA will continue to support all students, including English Learners, students with disabilities, low-achieving students, and economically disadvantaged students, and teachers of those students.

7) **Principle 2: State-Developed Systems of Differentiated Recognition, Accountability, an Support**

Each SEA must provide narrative responses for each of the items enumerated below. In providing these narrative responses, each SEA must describe its process for continuous improvement of its systems and processes supporting implementation of its system of differentiated recognition,

accountability, and support. In describing its process for continuous improvement, an SEA should consider how it will use systematic strategies to analyze data and revise approaches to address implementation challenges in order to ensure that it and its LEAs are meeting the needs of all students.

2.A. Develop and Implement a State-Based System of Differentiated Recognition, Accountability, and Support: In its request for renewal of ESEA flexibility, each SEA must demonstrate that a school may not receive the highest rating in the SEA's differentiated recognition, accountability, and support system if there are significant achievement or graduation rate gaps across subgroups that are not closing in the school.

2.D. Priority Schools: In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of priority schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of priority schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its timeline for implementation of interventions aligned with all of the turnaround principles in all priority schools; and
- c) Describe its process for identifying any schools that, after implementing interventions for three school years, have not made sufficient progress to exit priority status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

2.E. Focus Schools: In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of focus schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of focus schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its process, including a timeline, for ensuring that its LEAs implement interventions targeted to a focus school's reason for identification; and
- c) Describe its process for identifying any schools that have not made sufficient progress to exit focus status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

2.F. Other Title I Schools: In its renewal request, each SEA must update its plan for providing incentives and supports to other Title I schools to include a clear and rigorous process for ensuring that LEAs provide interventions and supports for low-achieving students in those schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

2.G. Build SEA, LEA, and School Capacity to Improve Student Outcomes: In its request for renewal of ESEA flexibility, each SEA must describe its statewide strategy to support and monitor LEA implementation of the State's system of differentiated recognition, accountability, and support. This description must include the SEA's process for holding LEAs accountable for improving school and student performance.

November 13, 2014

Dear Chief State School Officer:

In September 2011, the U.S. Department of Education (ED) offered each State educational agency (SEA) the opportunity to request flexibility on behalf of itself and its local educational agencies (LEAs) and schools. This voluntary opportunity provided educators and State and local leaders with flexibility from certain requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. SEAs have used this flexibility to design and implement innovative, locally-tailored strategies to address their most pressing education challenges and better support their students. Now, three years later, I invite each SEA with an approved request that will expire at the end of the 2014-2015 school year to request a three-year renewal of ESEA flexibility, through the 2017-2018 school year. As discussed below, certain SEAs will be invited to request a four-year renewal, through the 2018-2019 school year.

Accompanying this letter are two documents. The first, titled *ESEA Flexibility Guidance for Renewal Process*, provides useful information about the substantive requirements for receiving renewal as well as information about the renewal process. The second, titled *ESEA Flexibility Renewal Form*, should be used by an SEA to request renewal of ESEA flexibility.

An SEA must submit its request for renewal of ESEA flexibility no later than March 31, 2015. SEAs that were approved to implement ESEA flexibility beginning in the 2012-2013 school year (Windows 1 or 2 SEAs), that are meeting their commitments to the original timelines and principles of ESEA flexibility, will be eligible for a four-year renewal through the 2018-2019 school year and will be invited to participate in an expedited review process if they submit their requests by January 30, 2015. SEAs that are eligible for a four-year renewal of ESEA flexibility may request that four-year renewal regardless of whether or not they choose to participate in the expedited review.

The Department will continue to provide technical assistance throughout the renewal process, including the following:

- November 20, 2014: ED will conduct a webinar for all SEAs eligible for ESEA flexibility renewal. This will be an opportunity for you and your staff to ask questions, gain clarity, and learn more about the ESEA flexibility renewal process.
- In the coming weeks, ED will release *Frequently Asked Questions* that will provide additional information on how an SEA can request and receive renewal of ESEA flexibility.
- ED will also conduct additional webinars over the next several months to support SEAs in the development of their renewal requests.

Additionally, given the range of State and local educational strategies being implemented under ESEA flexibility, the Department is interested in working with SEAs to evaluate and learn from different State and local approaches, including providing some funding for such

evaluations. The purpose of these evaluations would be to increase understanding of how different State approaches and strategies (including implementation of college- and career- ready standards, differentiated accountability systems, and teacher and principal evaluation and support systems) contribute to improving educational outcomes for all students. In December, after further consultation with SEAs and research experts, the Department will share additional information on the process by which States can propose evaluations of innovative approaches to improving student achievement and increasing the quality of instruction.

Should you have any questions regarding ESEA flexibility or the renewal process, please do not hesitate to reach out to your ESEA flexibility State contact or to send questions by e-mail to eseaflexibility@ed.gov.

Thank you for your commitment to improving educational outcomes for all students in your State. I look forward to our continued partnership in this critical work.

Sincerely,

Deborah S. Delisle
Assistant Secretary

Attachments

cc: Council of Chief State School Officers

ESEA Flexibility

Renewal Form

[STATE NAME]

November 13, 2014

OMB Number: 1810-0581

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 16 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to retain the benefits of ESEA flexibility, offered to State educational agencies under section 9401 of the Elementary and Secondary Education Act of 1965, as amended, and voluntary. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20210-4537 or email ICDocketMgr@ed.gov and reference the OMB Control Number 1810-0581. Note: Please do not return the completed ESEA Flexibility Renewal Request Form to this address.

RENEWAL FORM

SECTION I: COVER SHEET, WAIVERS, ASSURANCES AND CONSULTATION

Each SEA must remove the Cover Sheet, Waivers, and Assurances pages from its currently approved ESEA flexibility request. It must replace those pages with the completed Cover Sheet, Waivers, and Assurances pages from this form as part of its renewal request.

Cover Sheet for ESEA Flexibility Request

Legal Name of Requester:	Requester's Mailing Address:
<p>State Contact for the ESEA Flexibility Request</p> <p>Name:</p> <p>Position and Office:</p> <p>Contact's Mailing Address:</p> <p>Telephone:</p> <p>Fax:</p> <p>Email address:</p>	
Chief State School Officer (Printed Name):	Telephone:
Signature of the Chief State School Officer: X_____	Date:
The State, through its authorized representative, agrees to meet all principles of ESEA flexibility.	

WAIVERS

By submitting this updated ESEA flexibility request, the SEA renews its request for flexibility through waivers of the nine ESEA requirements listed below and their associated regulatory, administrative, and reporting requirements, as well as any optional waivers the SEA has chosen to request under ESEA flexibility, by checking each of the boxes below. The provisions below represent the general areas of flexibility requested.

- 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 that meet the definitions of “priority schools” and “focus schools,” respectively, set forth in the document titled *ESEA Flexibility*, 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 that meet the definitions of “priority

schools” and “focus schools,” respectively, set forth in the document titled *ESEA Flexibility*.

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 that meet the definition of “reward schools” set forth in the document titled *ESEA Flexibility*.

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.

Optional Flexibilities:

If an SEA chooses to request waivers of any of the following requirements, it should check the corresponding box(es) below:

10. 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.

11. 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.

12. 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 otherwise rank sufficiently high to be served under ESEA section 1113.

13. 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 in addition to waiver #6 so that, when it has remaining section 1003(a) funds after ensuring that all priority and focus schools have sufficient funds to carry out interventions, it may allocate section 1003(a) funds to its LEAs to provide interventions and supports for low-achieving students in other Title I schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

If the SEA is requesting waiver #13, the SEA must demonstrate in its renewal request that it has a process to ensure, on an annual basis, that all of its priority and focus schools will have sufficient funding to implement their required interventions prior to distributing ESEA section 1003(a) funds to other Title I schools.

[Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.](#)

14. The requirements in ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) that, respectively, require the SEA to apply the same academic content and academic achievement standards to all public schools and public school children in the State and to administer the same academic assessments to measure the achievement of all students. The SEA requests this waiver so that it is not required to double test a student who is not yet enrolled in high school but who takes advanced, high school level, mathematics coursework. The SEA would assess such a student with the corresponding advanced, high school level assessment in place of the mathematics assessment the SEA would otherwise administer to the student for the grade in which the student is enrolled. For Federal accountability purposes, the SEA will use the results of the advanced, high school level, mathematics assessment in the year in which the assessment is administered and will administer one or more additional advanced, high school level, mathematics assessments to such students in high school, consistent with the State's mathematics content standards, and use the results in high school accountability determinations.

If the SEA is requesting waiver #14, the SEA must demonstrate in its renewal request how it will ensure that every student in the State has the opportunity to be prepared for and take courses at an advanced level prior to high school.

[Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.](#)

ASSURANCES

By submitting this request, the SEA assures that:

- 1. It requests waivers of the above-referenced requirements based on its agreement to meet Principles 1 through 4 of ESEA flexibility, as described throughout the remainder of this request.
- 2. It has adopted 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 State's college- and career-ready standards. (Principle 1)
- 3. It will 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) no later than the 2015–2016 school year. (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 annually make public its lists of reward schools, priority schools, and focus schools prior to the start of the school year as well as publicly recognize its reward schools, and will update its lists of priority and focus schools at least every three years. (Principle 2)

If the SEA is not submitting with its renewal request its updated list of priority and focus schools, based on the most recent available data, for implementation beginning in the 2015–2016 school year, it must also assure that:

- 8. It will provide to the Department, no later than January 31, 2016, an updated list of priority and focus schools, identified based on school year 2014–2015 data, for implementation beginning in

the 2016–2017 school year.

- 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 ESEA flexibility 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 SEA 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 its ESEA flexibility request, and will ensure that all such reports, data, and evidence are accurate, reliable, and complete or, if it is aware of issues related to the accuracy, reliability, or completeness of its reports, data, or evidence, it will disclose those issues.
- 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, each subgroup described in ESEA section 1111(b)(2)(C)(v)(II), and for any combined subgroup (as applicable): 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. In addition, it will 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. It will ensure that all reporting is consistent with *State and Local Report Cards Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended Non-Regulatory Guidance* (February 8, 2013).

Principle 3 Assurances

Each SEA must select the appropriate option and, in doing so, assures that:

Option A	Option B	Option C
<p><input type="checkbox"/> 15.a. The SEA is on track to fully implementing Principle 3, including incorporation of student growth based on State assessments into educator ratings for teachers of tested grades and subjects and principals.</p>	<p>If an SEA that is administering new State assessments during the 2014- 2015 school year is requesting one additional year to incorporate student growth based on these assessments, it will:</p> <p><input type="checkbox"/> 15.b.i. Continue to ensure that its LEAs implement teacher and principal evaluation systems using multiple measures, and that the SEA or its LEAs will calculate student growth data based on State assessments administered during the 2014- 2015 school year for all teachers of tested grades and subjects and principals; and</p> <p><input type="checkbox"/> 15.b.ii. Ensure that each teacher of a tested grade and subject and all principals will receive their student growth data based on State assessments administered during the 2014- 2015 school year.</p>	<p>If the SEA is requesting modifications to its teacher and principal evaluation and support system guidelines or implementation timeline other than those described in Option B, which require additional flexibility from the guidance in the document titled <i>ESEA Flexibility</i> as well as the documents related to the additional flexibility offered by the Assistant Secretary in a letter dated August 2, 2013, it will:</p> <p><input type="checkbox"/> 15.c. Provide a narrative response in its redlined ESEA flexibility request as described in Section II of the ESEA flexibility renewal guidance.</p>

CONSULTATION

An SEA must provide a description of how it meaningfully solicited input on the implementation of ESEA flexibility, and the changes that it made to its currently approved ESEA flexibility request in order to seek renewal, from LEAs, teachers and their representatives, administrators, students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities, organizations representing English Learners, business organizations, institutions of higher education (IHEs) and Indian tribes.

Click here to identify page numbers in the renewal request where the SEA has provided its response to the Consultation requirement. Do not insert new text here – insert new text in redline into the revised request.

SECTION II: CONTINUED COMMITMENT TO AND PROGRESS TOWARDS ESEA FLEXIBILITY PRINCIPLES

An SEA must provide a narrative response updating the SEA’s currently approved ESEA flexibility request to address each of the items under Section II. Specifically, an SEA must address each of the Principles as described below through at least the end of the 2017- 2018 school year (an SEA that is eligible for and requests a four-year renewal must address each of the Principles as described below through at least the end of the 2018- 2019 school year).

For each of the following items, an SEA should make revisions in a redline version of its currently approved ESEA flexibility request, and indicate in the text boxes on this form the pages where relevant changes have been made. To the extent that an SEA has sufficiently addressed any requirement in its currently approved request, the SEA may reference the relevant pages and existing text in its approved request in response to that requirement.

Principle 1: College and Career-Ready Expectations for All Students

In its request for renewal of ESEA flexibility, each SEA must update its currently approved ESEA flexibility request to describe how it will continue to ensure all students graduate from high school ready for college and a career, through implementation of college- and career-ready standards and high-quality aligned assessments (general, alternate, and English language proficiency), including how the SEA will continue to support all students, including English Learners, students with disabilities, low-achieving students, and economically disadvantaged students, and teachers of those students.

Click here to enter page numbers where responsive edits and updates have been made. Do not insert new text here – insert new text in redline into the revised request.

Principle 2: State-Developed Systems of Differentiated Recognition, Accountability, and Support

Each SEA must provide narrative responses for each of the items enumerated below. In providing these narrative responses, each SEA must describe its process for continuous improvement of its systems and processes supporting implementation of its system of differentiated recognition,

accountability, and support. In describing its process for continuous improvement, an SEA should consider how it will use systematic strategies to analyze data and revise approaches to address implementation challenges in order to ensure that it and its LEAs are meeting the needs of all students.

2.A. Develop and Implement a State-Based System of Differentiated Recognition, Accountability, and Support: In its request for renewal of ESEA flexibility, each SEA must demonstrate that a school may not receive the highest rating in the SEA's differentiated recognition, accountability, and support system if there are significant achievement or graduation rate gaps across subgroups that are not closing in the school.

Click here to enter page numbers where responsive edits and updates have been made, and where new attachments, if applicable, have been added. Do not insert new text here – insert new text in redline into the revised request.

2.D. Priority Schools: In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of priority schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of priority schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its timeline for implementation of interventions aligned with all of the turnaround principles in all priority schools; and
- c) Describe its process for identifying any schools that, after implementing interventions for three school years, have not made sufficient progress to exit priority status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

Click here to enter page numbers where responsive edits and updates have been made, and where new attachments, if applicable, have been added. Do not insert new text here – insert new text in redline into the revised request.

2.E. Focus Schools: In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of focus schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of focus schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its process, including a timeline, for ensuring that its LEAs implement interventions targeted to a focus school's reason for identification; and
- c) Describe its process for identifying any schools that have not made sufficient progress to exit focus status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

Click here to enter page numbers where responsive edits and updates have been made, and where new attachments, if applicable, have been added. Do not insert new text here – insert new text in

redline into the revised request.

2.F. Other Title I Schools: In its renewal request, each SEA must update its plan for providing incentives and supports to other Title I schools to include a clear and rigorous process for ensuring that LEAs provide interventions and supports for low-achieving students in those schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

Click here to enter page numbers where responsive edits and updates have been made. Do not insert new text here – insert new text in redline into the revised request.

2.G. Build SEA, LEA, and School Capacity to Improve Student Outcomes: In its request for renewal of ESEA flexibility, each SEA must describe its statewide strategy to support and monitor LEA implementation of the State’s system of differentiated recognition, accountability, and support. This description must include the SEA’s process for holding LEAs accountable for improving school and student performance.

Click here to enter page numbers where responsive edits and updates have been made. Do not insert new text here – insert new text in redline into the revised request.

Principle 3: Supporting Effective Instruction and Leadership

An SEA that checked option C under assurance 15 must provide a narrative response to this item detailing:

- a) The progress made to date in ensuring that each LEA is on track to implement high-quality teacher and principal evaluation and support systems designed to support educators and improve instruction;
- b) The proposed change(s) and the SEA’s rationale for each change; and
- c) The steps the SEA will take to ensure continuous improvement of evaluation and support systems that result in instructional improvement and increased student learning.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

SECTION III: ADDITIONAL AMENDMENTS (OPTIONAL)

If an SEA wishes to make any additional amendments to its currently approved ESEA flexibility request to clarify or revise how the SEA and its LEAs will close achievement gaps, improve student achievement, and increase the quality of instruction, the SEA must include those amendments in its redlined request and identify on the renewal request form the page numbers on which amendments have been made. An SEA need not make any amendments beyond those discussed in Sections I and II above in order to receive renewal of ESEA flexibility. For any additional amendments the SEA makes to its currently approved ESEA flexibility request, the SEA must provide a rationale for the proposed change(s), either in the text of the ESEA flexibility request or on the ESEA flexibility renewal form. In considering whether or not to make additional amendments to its approved ESEA flexibility request, an SEA should keep in mind that the Department will not approve any amendment that conflicts with the ESEA flexibility principles.

Flexibility Element(s) Affected by the Amendment	Page Number(s) Affected in Redlined Request	Brief Description of Requested Amendment	Rationale

ESEA Flexibility

Guidance for Renewal Process

November 13, 2014

INTRODUCTION

In September 2011, the U.S. Department of Education (Department) offered each State educational agency (SEA) the opportunity to request flexibility, on behalf of itself and its local educational agencies (LEAs) and schools, to help them move forward with State and local reforms designed to improve student learning and increase the quality of instruction for all students. This voluntary opportunity provides educators and State and local leaders with flexibility regarding specific requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction (ESEA flexibility). States have utilized this flexibility to put in place innovative, locally-tailored strategies to address their most pressing education challenges. The Department is now extending the option of this flexibility for all States continuing to implement their plans and committed to continuously reviewing and improving their work.

Through its core principles, ESEA flexibility builds on and supports significant State and local efforts to improve educational outcomes for all students. Each of the core principles is intended to complement each other so that the quality of teaching and learning is enhanced.

- Under Principle 1, each SEA is raising expectations so that all students graduate from high school ready for college and a career, by implementing State-developed college- and career-ready standards. In addition, each SEA has committed to implement high-quality assessments aligned to those standards to help educators improve instructional practice, to provide all students with the opportunity to demonstrate what they know and are able to do, and provide parents with useful information about student performance.
- Under Principle 2, each SEA is implementing differentiated accountability systems for schools and districts that incorporate a variety of measures, including rigorous performance and graduation rate targets, to identify under-performing schools and subgroups and more effectively target meaningful interventions based on need, and to identify high-performing or rapidly improving schools. This strategic approach creates purposeful differentiation, allowing States to take dramatic action in the lowest-performing schools, provide greater autonomy to high-performing schools, and target interventions and resources at a subgroup level in schools that may be performing well overall but in which a single subgroup may be lagging.
- Under Principle 3, each SEA has committed to implement teacher and principal evaluation and support systems based on multiple measures, including student growth as a significant factor, and other measures of professional practice such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys, that meaningfully differentiate performance, and that evaluate teachers and principals on a regular basis. These systems are designed to provide teachers and leaders with clear, timely, and useful feedback, as well as targeted supports, to continuously improve instructional and leadership practices so that every student has access to a high-quality education.
- Under Principle 4, each SEA is working to reduce duplication and unnecessary burden.

The Department invited SEAs to request this flexibility pursuant to section 9401 of the ESEA, which allows the Secretary to waive, with certain exceptions, statutory or regulatory requirements for an SEA that receives funds under a program authorized by the ESEA and requests a waiver. Approvals of SEA requests have occurred in the following phases:

- Window 1, for which SEAs submitted requests in November 2011;
- Window 2, for which SEAs submitted requests in February 2012;
- Window 3, for which SEAs submitted requests in September 2012;
- Window 4, for which SEAs submitted requests in spring 2013;
- Window 5, for which SEAs submitted requests in spring 2014.

The Department is now inviting all SEAs with requests that will expire at the end of the 2014-2015 school year to request a three-year renewal of ESEA flexibility, which would extend through the end of the 2017–2018 school year. In addition, any Window 1 or 2 SEA that is fully meeting its commitments to the timelines and principles of ESEA flexibility is eligible to request a four-year renewal through the 2018–2019 school year. If Congress reauthorizes the ESEA during the period of the waivers, the Department will provide guidance on the transition to the new law.

The Department will review each SEA request for renewal of ESEA flexibility against the principles of ESEA flexibility, as well as the specific information requested in this document. As in the initial review process, this renewal process will ensure that each request approved by the Department is consistent with the principles of ESEA flexibility; is likely to close achievement gaps, improve student academic achievement, and increase the quality of instruction; and is both educationally and technically sound.

The Department has determined that this document is a “significant guidance document” under the Office of Management and Budget’s Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf.

The purpose of this guidance is to invite each SEA with ESEA flexibility to request a three-year renewal of that flexibility and to provide assistance to each SEA in preparing its request for renewal. Therefore, this guidance provides considerable detail and information on how an SEA should prepare its renewal request. However, this guidance does not impose any requirements beyond those required under applicable law and regulations. It does not create or confer any rights for or on any person.

If you are interested in commenting on this guidance, or if you have further questions that are not answered here, please e-mail ESEAFlexibility@ed.gov using the subject “ESEA Flexibility Renewal Guidance” or write to us at the following address:

U.S. Department of Education
Office of Elementary and Secondary Education
Office of State Support
400 Maryland Avenue, SW
Washington, DC 20202

GENERAL INSTRUCTIONS

An SEA seeking renewal of ESEA flexibility must submit an updated ESEA flexibility request describing how it will continue to meet the ESEA flexibility principles, so that the Secretary can determine, consistent with ESEA section 9401(d), that the waivers have been effective in enabling the SEA to carry out the activities for which the waivers were requested, have contributed to improved student achievement, and their extension is in the public interest. As part of the SEA's updated ESEA flexibility request, the SEA must include in redline any changes made to its currently approved flexibility request and all narrative responses to the items described below (Sections I – II of this document). In addition, the SEA must submit a completed ESEA flexibility renewal form indicating where text in the redlined ESEA flexibility request is responsive to renewal requirements.

The request for renewal of ESEA flexibility also provides an opportunity for an SEA to amend its approved request as part of a continuous improvement process to address challenges and build on successes from current implementation. In addition, an SEA is encouraged to align its ESEA flexibility implementation efforts with other improvement efforts within the State to ensure consistency and coherence across its statewide systems. Therefore, an SEA may choose, but is not required, to amend its currently approved ESEA flexibility request to make any additional changes it deems necessary to improve implementation going forward and to reflect implementation activities that have already occurred (Section III). An SEA requesting to amend its currently approved request must complete the table contained in Section III on the ESEA flexibility renewal form.

In order to receive renewal of ESEA flexibility, each SEA must resolve outstanding issues relating to implementation of ESEA flexibility. These issues include outstanding findings of non-compliance, conditions placed on approval, high-risk status, next steps identified in ESEA flexibility monitoring reports, and specific issues identified during approval of the SEAs request for extension, and may include findings in related program monitoring reports or noncompliance with federal civil rights laws.

If an SEA's request for ESEA flexibility is not approved, the SEA and its LEAs will be required to resume complying with all ESEA requirements by the beginning of the 2015–2016 school year, including making adequate yearly progress (AYP) determinations; identifying schools and LEAs for improvement, corrective action, or restructuring, as applicable; and taking required improvement actions, as required by Title I of the ESEA, including offering and paying for supplemental educational services and transportation for public school choice.

Preparing the Request

To prepare a high-quality request for renewal of ESEA flexibility, an SEA must continue to adhere to the document titled [ESEA Flexibility](#), which contains the principles of ESEA flexibility. Additionally, the documents titled [ESEA Flexibility Frequently Asked Questions \(FAQ\)](#) and [FAQ Addendum](#) provide guidance that applies to all SEAs requesting renewal of ESEA flexibility. The Department intends to release additional FAQs specific to the renewal process in the coming weeks. In order to receive renewal, an SEA must meet all elements of the principles of ESEA flexibility.

As used in this guidance, the following terms have the meanings set forth in the document titled *ESEA Flexibility*: (1) college- and career-ready standards, (2) focus school, (3) high-quality assessment, (4) priority school, (5) student growth, and (6) turnaround principles.

In requesting renewal of ESEA flexibility, each SEA must update its currently approved ESEA flexibility request by providing in redline each of the following (as well as relevant attachments, if necessary):

- A description of how the SEA has met the consultation requirements with respect to its renewal request and will continue to consult with appropriate stakeholders over the period of the waivers consistent with Section I.
- A narrative response updating the SEA’s currently approved ESEA flexibility request to address each of the items under Section II and describe continuous improvement efforts across all principles.
- Any other amendments beyond the requested items and a rationale supporting each of those amendments consistent with Section III, if applicable.

In addition, an SEA must remove the cover sheet, waivers, and assurances pages in its currently approved ESEA flexibility request and replace them with the completed cover sheet, waivers, and assurances pages from the ESEA flexibility renewal form.

Because the Department intends to post the final documents submitted by the SEA once the renewal request has been approved, an SEA must ensure that its request does not include personally identifiable information.

Process for Submitting a Renewal Request

In order to be considered for renewal of ESEA flexibility, an SEA must submit its redlined flexibility request to the Department, together with a completed copy of the ESEA flexibility renewal form. The renewal form and other pertinent documents are available on the Department’s website at: <http://www.ed.gov/esea/flexibility/>.

Electronic Submission: The Department strongly prefers to receive an SEA’s request for renewal of ESEA flexibility electronically. The SEA should submit its request to the following address: ESEAflexibility@ed.gov.

Paper Submission: As an alternative, an SEA may submit its request for renewal of ESEA flexibility and two copies to the following address:

Dr. Monique M. Chism, Director
Office of State Support
U.S. Department of Education
400 Maryland Avenue, SW
Room 3W224
Washington, DC 20202-6132

Due to potential delays in processing mail sent through the U.S. Postal Service, an SEA is encouraged to use alternate carriers for paper submissions.

REQUEST SUBMISSION DEADLINE

An SEA seeking renewal of ESEA flexibility must submit its request no later than March 31, 2015. A Window 1 or 2 SEA fully meeting its commitments to the timelines and principles of ESEA flexibility will be invited to submit a request by January 30, 2015 to participate in an intensive, expedited review process. An SEA invited to participate in this process may request and be considered for a four-year renewal. The process will be consistent in terms of rigor with the review process for all States, but will take place on a condensed timeline and will include a meeting between Department staff and SEA officials in Washington, DC. This review process reflects feedback the Department has received from several States and is part of the Department's efforts to continuously improve the way it serves and supports SEAs so that SEAs, in turn, can continuously improve the way they serve and support their students.

TECHNICAL ASSISTANCE

The Department will assist an SEA in preparing its renewal request through webinars, email, and telephone communications with the SEA's contact. Please visit the Department's website at: <http://www.ed.gov/esea/flexibility/> for relevant technical assistance materials and feel free to email or call your SEA's contact within the Department with any questions you may have.

EVALUATION

Given the range of State and local educational strategies being implemented under ESEA flexibility, the Department is interested in working with SEAs to evaluate and learn from different State and local approaches, including providing funding for such evaluations. The purpose of these evaluations is to increase understanding of how different State approaches and strategies (including differentiated accountability systems and teacher and principal evaluation and support systems) contribute to improving educational outcomes for all students. The Department will share additional information on the process by which States can propose evaluations of innovative approaches to improving student achievement and increasing the quality of instruction.

GUIDANCE

SECTION I: WAIVERS, ASSURANCES, AND CONSULTATION

An SEA must renew its request for each of the waivers offered under ESEA flexibility by checking the box next to each waiver on the ESEA flexibility renewal form. An SEA may also request, or opt to no longer request, the three optional waivers offered as part of the original ESEA flexibility process (21st Century Community Learning Centers, making AYP determinations, within-district Title I allocations) and either or both new optional waivers (use of 1003(a) funds in other Title I schools and middle school mathematics assessment flexibility). In requesting renewal, an SEA must also, by checking the box next to each assurance, renew its assurances and provide additional assurances relating to implementation of teacher and principal evaluation and support systems.

An SEA must remove the cover sheet, waivers, and assurances pages from its currently approved request and replace these pages with completed copies of the cover sheet, waivers, and assurances pages from the ESEA flexibility renewal form.

In addition, an SEA seeking renewal must provide a description of how it meaningfully solicited input on the implementation of ESEA flexibility, and the changes that it made to its currently approved flexibility request, from LEAs, teachers and their representatives, administrators, students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities, organizations representing English Learners, business organizations, institutions of higher education (IHEs), and Indian tribes.

SECTION II: CONTINUED COMMITMENT TO ESEA FLEXIBILITY PRINCIPLES

An SEA seeking renewal of ESEA flexibility must demonstrate a continued commitment to implementing the ESEA flexibility principles. Specifically, an SEA must address each of the principles as described below through at least the end of the 2017- 2018 school year (an SEA that is eligible for and requests a four-year renewal must address each of the principles as described below through at least the end of the 2018- 2019 school year).

Principle 1: College- and Career-Ready Expectations for All Students

Each SEA must update its currently approved ESEA flexibility request to describe how it will continue to ensure all students graduate from high school ready for college and a career, through implementation of college- and career-ready standards and high-quality aligned assessments (general, alternate, and English language proficiency), including how the SEA will continue to support all students, including English Learners, students with disabilities, low-achieving students, and economically disadvantaged students, and teachers of those students.

Principle 2: State-Developed Systems of Differentiated Recognition, Accountability, and Support

Each SEA must provide narrative responses for each of the items enumerated below. In providing these narrative responses, each SEA must describe its process for continuous improvement of its

systems and processes supporting implementation of its system of differentiated recognition, accountability, and support. In describing its process for continuous improvement, an SEA should consider how it will use systematic strategies to analyze data and revise approaches to address implementation challenges in order to ensure that it and its LEAs are meeting the needs of all students.

2.A. Develop and Implement a State-Based System of Differentiated Recognition, Accountability, and Support:

To receive ESEA flexibility, an SEA had to implement a differentiated recognition, accountability, and support system that was likely to improve student achievement and school performance, close achievement gaps, and increase the quality of instruction for all students. This system must be based on student achievement, graduation rates, and school performance and progress over time, including for all students and all subgroups of students identified in ESEA section 1111(b)(2)(C)(v)(II). As part of the SEA's process of ensuring that schools are accountable for the performance of all subgroups of students, in its renewal request, each SEA must demonstrate that a school may not receive the highest rating in the SEA's differentiated recognition, accountability, and support system if there are significant achievement or graduation rate gaps across subgroups that are not closing in the school.

2.D. Priority Schools: To receive ESEA flexibility, an SEA had to commit to ensuring its LEAs implement interventions aligned to all of the turnaround principles in all of its priority schools (no later than the 2014–2015 school year for Windows 1 and 2 States and no later than the 2015–2016 school year for Windows 3 and 4 States). Therefore, each SEA must update its list of priority schools to ensure that interventions are being implemented in the lowest-performing schools. In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of priority schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of priority schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its timeline for implementation of interventions aligned with all of the turnaround principles in all priority schools; and
- c) Describe its process for identifying any schools that, after implementing interventions for three school years, have not made sufficient progress to exit priority status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015–2016 school year.

2.E. Focus Schools: To receive ESEA flexibility, an SEA had to commit to ensuring that its LEAs would implement interventions and supports in each focus school that are targeted to the school's reason for identification. In its renewal request, each SEA must:

- a) Submit either (i) its updated list of focus schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of focus schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its process, including a timeline, for ensuring that its LEAs implement interventions targeted to focus school's reason for identification;

- c) Describe its process for identifying any schools that have not made sufficient progress to exit focus status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015–2016 school year.

2.F. Other Title I Schools: Each SEA approved for ESEA flexibility committed to provide incentives and supports to ensure continuous improvement in other Title I schools that, based on the SEA’s annual measurable objectives (AMOs) and other measures, were not making progress in improving student achievement and narrowing achievement gaps. In addition, in a guidance letter issued to SEAs on November 26, 2012, the Department clarified that each SEA approved for ESEA flexibility must incorporate, to a significant degree, the four-year adjusted cohort graduation rate in its State-developed system of differentiated recognition, accountability, and support, including using graduation rate targets for all students and for all subgroups to drive incentives, interventions, and supports in other Title I schools. In its renewal request, each SEA must update its plan for providing incentives and supports to other Title I schools to include a clear and rigorous process for ensuring that LEAs provide interventions and supports for low-achieving students in those schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

2.G. Build SEA, LEA, and School Capacity to Improve Student Outcomes: Each SEA approved for ESEA flexibility committed to hold LEAs accountable for improving school and student performance, particularly in priority and focus schools. Each SEA seeking renewal of ESEA flexibility must describe its statewide strategy to support and monitor LEA implementation of the State’s system of differentiated recognition, accountability, and support. This description must include the SEA’s process for holding LEAs accountable for improving school and student performance.

Principle 3: Supporting Effective Instruction and Leadership

Each SEA approved for ESEA flexibility committed to implementing teacher and principal evaluation and support systems that use multiple measures of performance, including student growth as a significant factor. These systems must include other factors in addition to student growth, such as measures of professional practice (*e.g.*, observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys). These systems must be used to guide professional development for teachers, as well as identify excellent teachers. An SEA that is on track for full implementation of teacher and principal evaluation and support systems need only check assurance 15.a. on the ESEA flexibility renewal form and does not need to provide a narrative response to this item. An SEA that is requesting a one-year delay in incorporating student growth based on State assessments into educator ratings for teachers and principals of tested grades and subjects because of the transition to new assessments in school year 2014–2015 need only check assurance 15.b.i and 15.b.ii and also does not need to provide a narrative response to this item.

An SEA requesting other modifications to its teacher and principal evaluation and support system guidelines or implementation timelines that require additional flexibility that goes beyond the flexibility offered in the document titled *ESEA Flexibility* as well as the documents related to the additional flexibility offered by the Assistant Secretary in a letter dated August 2, 2013 ([Teacher and Principal Evaluation and Support Systems Flexibility](#)), must provide a narrative response to this item detailing:

- a) The progress made to date in ensuring that each LEA is on track to implement a high-quality teacher and principal evaluation and support system designed to support educators and improve instruction;
- b) The proposed change(s) and the SEA's rationale for each change; and
- c) The steps the SEA will take to ensure continuous improvement of evaluation and support systems that result in instructional improvement and increased student learning.

SECTION III: ADDITIONAL AMENDMENTS (OPTIONAL)

As part of the process for continuous improvement, the Department expects each SEA approved for ESEA flexibility to continuously evaluate the implementation of its approved plans and processes, analyze data, and revise strategies to build on successes and address challenges. The Department therefore encourages each SEA to consider if changes are necessary to implement its currently approved flexibility request more efficiently and/or effectively, or to further align its implementation with other improvement efforts within the SEA. If an SEA wishes to make any additional amendments to its currently approved flexibility request to clarify or revise how the SEA and its LEAs will close achievement gaps, improve student achievement, and increase the quality of instruction, the SEA must include those amendments in its redlined request and identify on the renewal request form the page numbers on which amendments have been made. An SEA need not make any amendments beyond those discussed in Sections I and II above in order to receive renewal of ESEA flexibility. For any additional amendments the SEA makes to its currently approved flexibility request, the SEA must provide a rationale for the proposed change(s), either in the text of the ESEA flexibility request or on the ESEA flexibility renewal form.

In considering whether or not to make additional amendments to its approved ESEA flexibility request, an SEA should keep in mind that the Department will not approve any amendment that conflicts with the ESEA flexibility principles.