



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

January 19, 2005

Dear Chief State School Officer:

I want to thank you for sending your colleagues to the Department's training session on November 8, 2004, regarding the requirements for standards and assessments under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (NCLB). I trust the meeting was informative for those in your State who are developing standards and assessment systems.

One important piece of information that was delivered at this session was the possible outcomes from a peer review of a State's standards and assessment systems. I want to ensure you are aware of the Department's plans as we undertake this important step in implementing NCLB. As you know, under section 1111(e) of NCLB, the Department is required to peer review and approve each State plan, including evidence of how the State has met the NCLB standards and assessments requirements. Depending upon the results of the peer review, a State's system of standards and assessments would receive one of the following:

- *Full Approval.* *Full Approval* will be granted if a State's standards and assessment system meets *all* statutory and regulatory requirements. No additional action is required.
- *Full Approval with Recommendations.* *Full Approval with Recommendations* will be granted if a State's standards and assessment system meets *all* statutory and regulatory requirements, but some pieces of the system could be improved. In this case, we will approve the State's standards and assessment system but will recommend additional actions that the State may wish to take to improve pieces of its system.
- *Deferred Approval.* *Deferred Approval* will be granted if a State's standards and assessment system meets *most, but not all*, of the statutory and regulatory requirements. In this case, the State must take specific steps (such as producing a technical manual or taking board action) to come into full compliance and submit evidence of that compliance. To receive *Deferred Approval*, a State must be able to fully implement its standards and assessment system in the 2005-2006 school year. For States that participate in an early review, we may also grant *Deferred Approval* status in cases where:

- Nearly all requirements have been met;
  - The State can clearly articulate how it will meet remaining requirements; and
  - The State can achieve compliance and administer final assessments by Spring 2005-2006.
- *Final Review Pending.* This is the status of a State that seeks an early review but whose standards and assessment system does not meet a preponderance of the statutory and regulatory requirements. In this instance, the State would have time to resubmit evidence by the 2005-2006 administration to show that its system meets those requirements, pending the outcome of an additional peer review.
  - *Not Approved System.* A *Not Approved System* is one that does not meet a preponderance of the statutory and regulatory requirements or is missing an essential component. In such cases, one or more of the following remedies will be applied:
    - *Withholding State Funds.* Section 1111(g)(2) authorizes the Secretary to withhold State administrative funds until he determines a State's standards and assessment system meets the Title I requirements. This remedy could be used alone or in conjunction with either *Mandatory Oversight Status* or a *Compliance Agreement*.
    - *Compliance Agreement.* A *Compliance Agreement* is a statutory remedy authorized by §457 of the General Education Provisions Act. Its purpose is to bring a State into full compliance with applicable requirements as soon as feasible. A *Compliance Agreement* is jointly negotiated between the State and the Department. Full compliance must be achieved within three years.
    - *Mandatory Oversight Status.* This status could be conferred on a State whose standards and assessment system does not meet the requirements by 2005-2006 but can be revised to meet the requirements within the 2006-2007 school year. This remedy would place specific conditions on a State's grant award, such as requiring additional and more detailed reports or imposing other conditions related to the State's authority to draw down its Title I funds. In imposing such conditions, we will notify the State in writing regarding the reasons for the conditions and the steps that must be taken before they will be removed.

Please note that no timeline waivers will be granted with respect to the NCLB standards and assessment requirements.

Further, if a State's standards and assessment system does not have *Full Approval* or *Full Approval with Recommendations* by July 1, 2006, we will place conditions on the receipt of fiscal year 2006 Title I funding. These conditions will continue until *Full Approval* or *Full Approval with Recommendations* is attained.

There will be several opportunities for your State to submit evidence of its standards and assessment system for peer review. The first review will occur February 2005. Subsequent reviews will occur during May, September and November 2005 and during February, May and September during 2006.

Please contact members of my staff, Dr. Kerri Briggs (202-401-0113) or Dr. Zollie Stevenson, Jr. (202-260-1824) if you have any specific questions regarding the plans or process for peer review.

Sincerely,

/S/

Raymond Simon

cc: Governors  
State Assessment Directors