



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 20, 2011

The Honorable Gerard Robinson
Commissioner of Education
Florida Department of Education
325 West Gaines Street, Suite 1514
Tallahassee, Florida 32399

Dear Commissioner Robinson:

Thank you for submitting Florida's request for ESEA flexibility. We appreciate the hard work required to transition to college- and career-ready standards and assessments; develop systems of differentiated recognition, accountability, and support; and evaluate and support teacher and leader effectiveness. The U.S. Department of Education (Department) is encouraged that Florida and ten other States are leading the way in designing plans to increase the quality of instruction and improve student academic achievement.

As you know, Florida's request was reviewed by a panel of seven peer reviewers during the week of December 5-9, 2011. During the review, the expert peers considered each component of Florida's request and provided comments in the form of Peer Panel Notes to inform the Secretary's decision whether to approve Florida's request. The Peer Panel Notes, a copy of which is enclosed with this letter, also provide feedback on the strengths of Florida's request and areas that would benefit from further development. Department staff also reviewed Florida's request, informed by the Peer Panel Notes, to determine consistency with the ESEA flexibility principles.

The peers noted, and we agree, that Florida's request has strengths across the principles and was particularly strong in Principle 1. Florida articulated a well-rounded plan to transition to college- and career-ready standards that illustrates the work that the State had done to benchmark its standards against a variety of rigorous national and international indicators, to prepare all students to enter college and the workforce, and to collaborate with institutions of higher education to enhance the capacity of educators entering the teaching profession to integrate college- and career-ready standards into their instructional practices. Further, Florida built on its longstanding and widely recognized school grading system to address Principle 2. While Florida will continue to refine elements of its school grading system to ensure that it leads to improved teaching and learning for all students, it has demonstrated the positive impact of its multi-measure index that aims to shine a light on the lowest performing students and gauge college- and career-readiness for all students.

At the same time, based on the peer reviewers' comments and our review of the materials Florida has provided to date, we have identified certain components of your request that need further

clarification and may need additional development or revision. In particular, significant concerns were identified with respect to the following:

- The exclusion of the performance of some students from your State grading system calculations;
- The low emphasis on graduation rate in a high school's grade and in the criteria for a high school to exit priority school status; and
- The lack of emphasis of subgroups in your State grading system calculations.

The enclosed list provides details regarding these concerns as well as all other issues raised in the review of Florida's request. We encourage Florida to consider the peers' comments and technical assistance suggestions in making revisions to its request.

Furthermore, as described in the document titled *ESEA Flexibility Frequently Asked Questions*, in deciding whether to approve an SEA's request for flexibility, the Department may take into account instances of substantial or recurring non-compliance with statutory and regulatory requirements applicable to Department programs under which the SEA receives funds. The Department is concerned that Florida repeatedly has not complied fully with the requirements regarding how School Improvement Grants (SIG) funds are to be awarded. We will discuss this concern with you more fully as we continue to review Florida's request for ESEA flexibility.

Please keep in mind that while the peers identified weaknesses in all of the requests submitted by States during this first round of review, this result should be viewed in the context of the difficult, trailblazing work that Florida and others are doing in the context of ESEA flexibility. You and your team deserve great credit for your efforts thus far, and we are confident that we will be able to work together to address outstanding concerns and provide Florida with the requested flexibility.

At the same time, it is our responsibility to ensure that as we permit States to depart from the requirements of current law, they do so in a manner that continues to increase the quality of instruction and improve achievement for all students, but especially those most at risk of academic failure, including low-achieving students, English Learners, and students with disabilities.

While the Peer Panel Notes for Florida provide information specific to your request, your State also may benefit from comments and technical assistance suggestions made by other peer panels regarding issues common to multiple States' requests. For this reason, we will soon send you a document that summarizes some of these technical assistance suggestions and other considerations that may be useful as you revise and refine your request.

We remain committed to working with Florida to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Florida as quickly as possible and will be in touch to set up a call as early as this week to discuss the timeline and process for providing revisions or materials. If you have any additional questions or want to request technical assistance, please do not hesitate to contact Victoria Hammer, at 202-260-1438.

Sincerely,

Michael Yudin
Acting Assistant Secretary

Enclosure

SUMMARY ADDITIONAL INFORMATION REGARDING FLORIDA'S ESEA FLEXIBILITY REQUEST

CONSULTATION

- Please provide more specific information on the steps Florida took to meaningfully engage diverse stakeholders and communities, especially organizations representing English Learners, or describe how Florida will meaningfully engage diverse stakeholders and communities as it continues to develop and implement ESEA flexibility. *See Consultation Question 2.*

PRINCIPLE 2: STATE-DEVELOPED DIFFERENTIATED RECOGNITION, ACCOUNTABILITY, AND SUPPORT

- Please address concerns regarding Florida's A-F school grading system as proposed for use in ESEA flexibility, including:
 - The lack of documentation that demonstrates full inclusion of English Learners and students with disabilities in the school rating calculations. *See 2.A.i, 2.A.i.a, 2.A.i.b, 2.A.i.c.*
 - The lower requirement for participation rates necessary for a school to earn a B through F school grade. *See 2.A.i.a.*
 - Alternative schools can opt out of the State grading system and thus, under the flexibility, may not be held accountable. *See 2.A.i.a.*
 - The low emphasis on graduation rate accountability in the State grading system. *See 2.A.i.a (in particular, see technical assistance suggestions).*
 - The potential masking of the low performance of some subgroups because of the use of the lowest performing students as the focus of the system. *See 2.A.i.b.*
- Please clarify that graduation and participation rates will continue to be reported annually by subgroups as required under the Elementary and Secondary Education Act of 1965 (ESEA). *See 2.A.i.a, 2.A.i.b, 2.B.*
- Please address concerns regarding the identification of reward, priority, and focus schools, including:
 - By demonstrating that the schools Florida provided on its list of reward, priority, and focus schools align with the respective definitions of these schools provided in the document titled *ESEA Flexibility*. *See 2.C.i, 2.D.ii.b, 2.E.ii.b-c.*
 - The lack of rigor of reward school criteria given the large number of reward schools identified under Florida's proposed methodology. *See 2.C.i.*
- Please address concerns related to intervention and support strategies, including:
 - By clarifying whether priority schools must implement interventions for three years (regardless of their school grade). *See 2.D.iii.c.*
 - The lack of direct technical assistance and implementation support for LEAs with schools identified as focus schools. *See 2.E.iii.*
 - The lack of details on how Florida will use its differentiated accountability system to provide incentives and supports for other Title I schools that, based on the SEA's new AMOs and other measures, are not making progress in improving student achievement and narrowing achievement gaps. *See 2.F.*
- Please address concerns regarding exit criteria, including:
 - That priority school exit criteria for high schools do not include graduation rate. *See 2.D.v.*

- The criteria the State Board of Education will establish to determine whether to exit a school from priority status. *See 2.D.v.*
- Please address the concern that certain elements of the request (*e.g.*, interventions in focus schools, capacity building, etc.), do not specifically address the needs of subgroups, particularly English Learners and students with disabilities. *See 2.A.i.c, 2.E.iii, 2.G.i.*

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- Please provide a plan to develop and implement the principal evaluation and support system. *See 3.A.i, 3.A.ii.a, 3.A.ii.d.*
- Please describe how Florida will continuously improve its teacher and principal evaluation and support systems, including:
 - How Florida will use results from the first year of implementation to make adjustments to the systems accordingly in order to meet the requirement to pilot the system. *See 3.A.i, 3.B.*
 - How Florida will conduct ongoing review and analysis of measures, methods, and fidelity of implementation of the teacher evaluation and support system and the support provided to teachers based on their evaluations. *See 3.A.ii.c, 3.A.ii.e.*
- Please clarify how educator effectiveness scores will be calculated, recorded, reported, and monitored by the State (for both teachers of tested grades and subjects and teachers of non-tested grades and subjects). In this context, provide the plan for adopting student growth measures. *See 3.A.i, 3.A.ii.a, 3.A.ii.b, 3.A.ii.c, 3.A.ii.c(i-ii), 3.B.*
- Please address concern related to requiring LEAs to develop assessments for teachers of non-tested grades and subjects, monitoring/quality control regarding the implementation of these assessments, and the phasing in of alternative growth measures developed by the State and how the item bank that houses these alternative growth measures will work. *See 3.A.ii.b, 3.A.ii.c, 3.A.ii.c(iii).*
- Please describe any guidance that will be provided to LEAs regarding how many observations must be conducted in an annual performance evaluation. *See 3.A.ii.c, 3.A.ii.c(i), 3.A.ii.d.*