



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2012

The Honorable John B. King, Jr.  
Commissioner of Education  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

Dear Commissioner King:

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

As you know, New York's request was reviewed by a panel of six peer reviewers during the week of March 26–30, 2012. During the review, the expert peers considered each component of New York's request and provided comments in the form of Peer Panel Notes that the Secretary will use to inform any revisions to your request that may be needed to meet the principles of ESEA flexibility. The Peer Panel Notes, a copy of which is enclosed with this letter, also provide feedback on the strengths of New York's request and areas that would benefit from further development. Department staff also have carefully reviewed New York's request, taking into account the Peer Panel Notes, to determine consistency with the ESEA flexibility principles.

The peers noted, and we agree, that New York's request was particularly strong in its design of a unified, multi-tiered system of supports, technical assistance, and monitoring that emphasizes local educational agency (LEA) responsibility through the establishment of focus districts; supports and interventions for all students, including English learners and students with disabilities; and using best practices in its new teacher and principal evaluation framework.

At the same time, based on the peer reviewers' comments and our review of the materials New York has provided to date, we have identified certain components of your request that need further clarification, additional development or revision. In particular, significant concerns were identified with respect to the following:

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*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

- Safeguards for ensuring that schools identified as focus or priority schools do not exit improvement status for reasons inconsistent with their identification; and
- Ensuring that LEAs develop and implement meaningful growth measures and other locally-determined components of their teacher and principal evaluation systems by the 2014-2015 school year.

The enclosed list provides details regarding these concerns, as well as other key issues raised in the review of New York's request, that we believe must be addressed before the Secretary can approve your request for ESEA flexibility. We encourage New York to consider all of the peers' comments and technical assistance suggestions in making revisions to its request, but we encourage you to focus primarily on addressing the concerns identified on the enclosed list.

Although the Peer Panel Notes for New York provide information specific to your request, New York also may benefit from comments and technical assistance suggestions made by other peer panels regarding issues common to multiple State educational agencies' (SEA) requests. For this reason, Department staff will provide relevant technical assistance suggestions and other considerations raised by other peer panels that may be useful as you revise and refine your request.

We remain committed to working with New York to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with New York as quickly as possible and are asking SEAs to submit revisions and other materials that address the issues described in the enclosed list by May 1. Department staff will be in touch to set up a call as early as this week to discuss the process for providing revisions or materials.

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. 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 OF ADDITIONAL INFORMATION REGARDING NEW YORK'S ESEA FLEXIBILITY REQUEST

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## CONSULTATION

- Please provide more specific information on the steps the New York State Education Department (NYSED) took to meaningfully engage and solicit input from teachers and their representatives from areas outside of the New York City metropolitan area. *See Consultation Question 1.*

## PRINCIPLE 1: COLLEGE- AND CAREER-READY EXPECTATIONS FOR ALL STUDENTS

- Please address the following concerns related to the transition to college- and career-ready standards.
  - Clarify that teaching and learning aligned with college- and career-ready standards will take place in all public schools in the State for English Learners and students with disabilities no later than the 2013-2014 school year. *See 1.B.*
  - Elaborate on the professional development that will be provided to prepare all teachers who teach English learners to ensure that these students have full access to the new standards. *See 1.B.*
  - Further describe the professional development that will be provided to prepare principals to provide effective leadership during the transition to college- and career-ready standards. *See 1.B.*
  - Provide additional information on expanding access to college-level courses or their prerequisites, dual enrollment courses, or accelerated learning opportunities. *See 1.B.*

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

- Please address concerns regarding the NYSED's new differentiated recognition, accountability, and support system:
  - Describe NYSED's strategy to both communicate to the field about the new accountability system and implement the new system in the 2012-2013 school year, given the size of the State and complex nature of some elements of the system (*e.g.*, method for identifying focus schools). *See 2.A.i.*
  - Explain how NYSED will ensure strong accountability for improving subgroup graduation rates. *See 2.A.i.*
- Please address the following concern regarding NYSED's ambitious but achievable annual measurable objectives (AMOs):
  - Demonstrate that NYSED's proposed AMOs represent ambitious but achievable targets, given the use of a safe harbor, "effective annual measurable objectives" or EAMOs, and growth-to-standard. *See 2.B.*
- Please address concerns regarding NYSED's reward schools:
  - Demonstrate that a reasonable number of schools that NYSED has identified as reward schools using its proposed method meet the definition of reward schools in ESEA Flexibility. *See 2.C.i* and refer to the document titled *Demonstrating that an SEA's list of Reward, Priority, and Focus Schools Meet ESEA Flexibility Definitions.*

- Please address concerns regarding the NYSED’s priority schools:
  - Demonstrate that NYSED has identified the required number of priority schools using its proposed method that meet the definition of priority schools in ESEA Flexibility. Refer to the document titled *Demonstrating that an SEA’s list of Reward, Priority, and Focus Schools Meet ESEA Flexibility Definitions*.
  - Explain how NYSED will retain the requisite number of priority schools if some identified schools successfully appeal their status and are removed from the list of priority schools. *See 2.D.i.*
  - Provide NYSED’s definitions of “transfer high school cohort” and “regular high school cohort,” given the distinction made in the flexibility request with regard to priority school identification. *See 2.D.i.*
  - Demonstrate that NYSED will implement interventions aligned with all of the components of turnaround principles (interventions aligned with turnaround principles 1, 2, and 5 are not clear). *See 2.D.iii.*
  - Clarify how NYSED will ensure that all priority schools will implement interventions no later than the 2014-2015 school year. *See 2.D.iv.*
  - Clarify that all intervention models will be implemented in priority schools for no less than three years. *See 2.D.v.*
  
- Please address concerns regarding the NYSED’s focus schools:
  - Demonstrate that NYSED has identified a pool of focus schools that meet the definition of focus schools in ESEA flexibility. *See 2.E.i and 2.E.ii and refer to the document titled Demonstrating that an SEA’s list of Reward, Priority, and Focus Schools Meet ESEA Flexibility Definitions.*
  - Explain how NYSED will ensure that the process it proposes to implement for identifying its final list of focus schools (whereby LEAs, after being identified as a focus district, choose the focus schools in which they want to intervene) will result in the identification of the requisite number of schools. *See 2.E.i. and 2.E.ii.*
  - Clarify steps 32, 33, 34, 40 and 41 in NYSED’s proposed method of identifying focus schools. *See 2.E.i and 2.E.ii.*
  - Explain how NYSED will retain the requisite number of focus schools if some identified schools successfully appeal their status and are removed from the list of focus schools. *See 2.E.i.*
  - Clarify the exit criteria to ensure that all the schools and subgroups within these schools that led to the district being identified as a focus district and the school being identified as a focus school within that district must improve in order for the district in which they reside to exit focus status. *See 2.E.iv.*
  
- Please address concerns regarding NYSED’s other title I schools:
  - Describe how supports will be differentiated to meet the needs of other Title I schools not identified as priority or focus. *See 2.F.i.*
  
- Please address concerns regarding SEA, LEA, and school capacity:
  - Describe how NYSED will monitor focus districts and support them as necessary if their focus schools are not showing improvement. *See 2.G.i.*
  - Provide the rationale for requiring Title I focus and priority schools to continue to offer students public school choice. *See 2.G.ii.*
  - Describe the ratio of intervention teams to schools, the frequency with which they interact with schools, and their roles. *See 2.G.ii.*

### **PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP**

- Please address concerns regarding NYSED’s plans for developing and adopting guidelines for local teacher and principal evaluation and support systems:
  - Describe how teachers and principals will receive feedback that can be used for continual improvement of instruction and to help identify appropriate professional development, including how multiple sources of information will contribute to this feedback. *See 3.A.i, Option B.1, 3.A.ii(a), 3.A.ii.d, and 3.A.ii.e.*
  - Provide additional information regarding those who evaluate teachers who teach English Learners and students with disabilities in terms of providing feedback that can be used to inform and improve instruction. *See 3.A.ii(a).*
  - Address concerns regarding LEAs selecting the appropriate weighting of measures and setting of cut scores to ensure the meaningful differentiation of performance using at least three levels. *See 3.A.ii(b).*
  - Address concern regarding validation of growth measures. *See 3.A.ii.c(i).*
  - Explain implications of moving from student growth to value-added measures. *See 3.A.ii.c(ii).*
  - Address concern on measures of student growth for untested grades and subjects. *See 3.A.ii.c(iii).*
  
- Please address concerns regarding the NYSED’s ensuring LEA’s implement teacher and principal evaluation systems:
  - Address concerns regarding review of LEA teacher and leader evaluation and support proposals. *See 3.B.*
  - Describe how NYSED has planned for the full implementation of teacher and leader evaluation and support systems in LEAs across the State. *See 3.B.*
  - Explain how NYSED plans to work with teachers and administrators, or as appropriate, their designated representatives, in order to implement the evaluation and support plans outlined in the request. *See 3.B.*