



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

April 24, 2006

Dear Chief State School Officer:

I want to thank you for your participation in the standards and assessment peer review process under Title I of the *Elementary and Secondary Education Act* (ESEA), as amended by the *No Child Left Behind Act of 2001* (NCLB). Notably, every State will administer assessments in each of grades 3-8 and high school in both reading/language arts and mathematics this year. I appreciate the efforts required to prepare for the peer review of these assessments and hope the process continues to provide you useful feedback to support the development and refinement of your State's standards and assessment system.

With the implementation of NCLB's accountability provisions, each school, district, and State is held accountable for making adequate yearly progress (AYP) towards having all students proficient by 2013-14. An assessment system that produces valid and reliable results is fundamental to a State's accountability system. In a January 19, 2005 letter to Chief State School Officers, then Assistant Secretary, Raymond Simon, notified States of the schedule for peer reviews and possible outcomes of the peer review. According to that letter, depending on the results of the peer review, a State's system of standards and assessments would receive one of the following: *Full Approval*, *Full Approval with Recommendations*, *Deferred Approval*, *Final Review Pending*, or *Not Approved*.

As evidenced by the documentation provided to peer reviewers, many States have made significant progress towards meeting the requirements of NCLB, as outlined in the peer review guidance (please refer to <http://www.ed.gov/policy/elsec/guid/saaprguidance.doc>). However, it has become clear that some States will not have all the necessary documentation, studies, standards-setting, and, in some cases, major components of their assessment system complete by July 1, 2006. As we approach the last scheduled peer review date of May 2006, the categories of *Deferred Approval* and *Final Review Pending* articulated in the Assistant Secretary's January 19 letter are no longer applicable. To address this issue, the Department has redefined its approval categories to take into account States' progress towards meeting the statutory standards and assessment requirements.

Depending on the results of the peer review, a State's system of standards and assessments will receive one of the following approval categories: *Full Approval*, *Full Approval with Recommendations*, *Approval Expected*, *Approval Pending*, and *Non-Approved*. These approval categories will replace the categories in the January 19, 2005

letter and will serve to appraise the compliance of each State's assessment system to ensure all students are assessed using valid and reliable instruments.

After a State's evidence has been peer reviewed, the State will be assigned an appropriate approval category. Between now and July 1, 2006, a State may submit available evidence to address any outstanding issues. The Department will allow States to submit evidence for peer review on a rolling or "on demand" basis. As of July 1, the Department may impose consequences for States that have not achieved *Full Approval* or *Full Approval with Recommendations*. The approval categories and possible consequences follow:

- *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 the statutory and regulatory requirements, but some pieces of the system could be improved. In this case, the Department will approve the State's standards and assessment system but will recommend additional actions that the State may wish to take to improve elements of its system.
- *Approval Expected: Approval Expected* will be granted when the State administers an assessment system in grades 3-8 and high school in 2005-06 that the evidence to date suggests is fully compliant with the statutory and regulatory requirements. There may be certain elements of the State's system, however, that may not be complete by July 1, 2006 because of the nature of assessment development. For example, a State may have all elements of its assessment system approved except for setting academic achievement standards, which the State cannot do until the data from the 2005-06 assessment administration are available. The State must be able to provide the Department with the complete documentation and evidence needed to satisfy the remaining requirements *before* administering its assessments in 2006-07.

The possible consequences for States in this category include:

- *Conditions on Grant Awards.* The Department will place specific conditions on a State's Title I grant award necessary to ensure a fully compliant assessment system is in place before the next test administration.
- *Restrictions on NCLB flexibility agreements.* The status of a State's assessment system may be a factor in granting the State additional flexibility, such as the interim 2 percent flexibility options for students with certain disabilities.
- *Approval Pending: Approval Pending* will be granted when the standards and assessment system a State administers in 2005-06 has one or a few fundamental

components that are missing or do not meet the statutory and regulatory requirements. For example, a State has a compliant system for 2005-06 except for its alternate assessment based on alternate achievement standards for students with the most significant cognitive disabilities, which does not comply with the regulatory requirements. To receive *Approval Pending*, the State must be able to administer a fully compliant system during the 2006-07 school year.

The possible consequences for States in this category include:

- *Mandatory Oversight Status.* The Department will place specific conditions on a State's grant award, such as additional, more detailed reporting or restrictions on 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 the State must take before they will be removed. This status may be used alone or in conjunction with the withholding of the State's Title I, Part A administrative funds.
  - *Withholding of State Title I, Part A Administrative Funds:* Section 1111(g)(2) of the ESEA authorizes the Secretary to withhold a State's Title I, Part A administrative funds if the State fails to meet any of the requirements in section 1111 of the ESEA.
  - *Significant limitations on the approval of flexibility requests:* States in this approval category would have significant limitations on the type of flexibility the Department would consider granting.
- *Non-Approved: Non-Approved* status will be granted when many fundamental components of a State's standards and assessment system are missing or do not meet the statutory or regulatory requirements. This category may include, for example, a situation in which assessments have not been developed based on grade-specific content standards or grade-level equivalents. The State may or may not be able to implement a fully compliant system during the 2006-07 school year.

The possible consequences for States in this category include:

- *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 but not to exceed two years. A *Compliance Agreement* is jointly negotiated between the State and the Department. This status may be used alone or in conjunction with the withholding of the State's Title I, Part A administrative funds.
- *Withholding of State Title I, Part A Administrative Funds:* Section 1111(g)(2) of the ESEA authorizes the Secretary to withhold a State's Title I, Part A administrative funds if the State fails to meet any of the requirements in section 1111 of the ESEA.

- *Significant limitations on the approval of flexibility requests:* States in this approval category would have significant limitations on the type of flexibility the Department would consider granting.

Please contact members of my staff, Catherine Freeman (202- 401-3058) or Sue Rigney (202-260-0931), if you have specific questions regarding these approval categories.

Sincerely,

A handwritten signature in cursive script that reads "Henry L. Johnson".

Henry L. Johnson