



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2012

The Honorable Larry K. Shumway
State Superintendent of Public Instruction
Utah State Office of Education
250 East 500 South
P.O. Box 14420
Salt Lake City, Utah 84114

Dear Superintendent Shumway:

Thank you for submitting Utah'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 Utah and many other States are designing plans to increase the quality of instruction and improve student academic achievement.

As you know, Utah'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 Utah'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 Utah's request and areas that would benefit from further development. In addition, Department staff have carefully reviewed Utah's request, taking into account the Peer Panel Notes, to determine consistency with the ESEA flexibility principles.

The peers noted, and we agree, that Utah's request is strong in several elements of Principles 1 and 3. In particular, the peers noted that Utah has made substantial progress in transitioning to the college- and career-ready standards. The peers also expressed confidence that Utah has a solid foundation for developing its educator evaluation system that has involved teachers and principals throughout the process.

At the same time, based on the peer reviewers' comments and our review of the materials Utah 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.

- The lack of ambitious but achievable annual measurable objectives (AMO) for all students and all subgroups based solely on proficiency;
- The lack of adequate protections for subgroup accountability, including the use of a combined subgroup that could mask achievement gaps for individual student subgroups;
- The lack of evidence that Utah will implement rigorous interventions in focus schools targeted to the needs of students in those schools, including low-achieving students, English learners, and students with disabilities; and
- Utah's lack of incentives and supports for other Title I schools that are not priority or focus schools.

The enclosed list provides details regarding these concerns, as well as other key issues raised in the review of Utah's request, that we believe must be addressed before the Secretary can approve your request for ESEA flexibility. We encourage Utah 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 in this letter on the enclosed list.

Although the Peer Panel Notes for Utah provide information specific to your request, Utah 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 reach out to Utah to provide relevant technical assistance suggestions and other considerations that may be useful as you revise and refine your request.

We remain committed to working with Utah to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Utah as quickly as possible. In order to ensure prompt consideration of revisions or additional materials, we are asking SEAs to submit those materials by May 1, 2012. Department staff 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.

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 David Harmon, at 202-205-3554.

Sincerely,



Michael Yudin
Acting Assistant Secretary

Enclosure

SUMMARY OF ADDITIONAL INFORMATION REGARDING UTAH'S ESEA FLEXIBILITY REQUEST

CONSULTATION

- Please provide more specific information on the steps Utah took to meaningfully engage teachers and their representatives on Utah's entire flexibility request, beyond what is discussed in the consultation section of the request for the development of teacher and principal evaluation and support systems, or describe how Utah will meaningfully engage teachers and their representatives as it continues to develop and implement ESEA flexibility. *See Consultation Question 1.*
- Please provide more information on the outreach conducted with diverse stakeholders and communities, particularly civil rights organizations, community based organizations, students, and parents, or describe how Utah will meaningfully engage diverse stakeholders and communities as it continues to develop and implement ESEA flexibility. *See Consultation Question 2.*

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

- Please address the concerns regarding professional development and training to ensure that all content teachers are well equipped to provide instruction and use differentiated instructional strategies to ensure English Learners and students with disabilities have equitable access to college- and career-ready standards. *See 1.B.*

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

- Please address concerns regarding Utah's proposed accountability system:
 - Provide AMOs for the State, local educational agencies (LEA), and schools that are ambitious but achievable, based solely on proficiency, set separately for reading/language arts and mathematics, applied to each ESEA subgroup, and require subgroups that are further behind to make greater rates of progress. *See 2.B.*
 - Explain how the assessment participation rate is used in Utah's differentiated recognition, accountability and support system. *See 2.B.*
 - Clarify that Utah's graduation cohort rate definition does not include, in the numerator, students with disabilities who age out of or leave the public education system without a regular high school diploma. *See 2.A.i.a.*
- Please address concerns regarding subgroup accountability:
 - Address concerns regarding a lack of accountability for individual ESEA subgroups, particularly the use of the non-proficient combined subgroup that could mask the performance of ESEA subgroups, by providing additional safeguards for ESEA subgroups. *See 2.A.i and 2.A.i.a.*
 - Address the concern that Utah relies solely on reporting as a tool to ensure subgroup accountability by demonstrating that the UCAS includes sufficient incentives for LEAs to provide supports for ESEA subgroups that are not making progress in improving student achievement and narrowing achievement gaps. *See 2.A.i.*
- Please address concerns regarding reward, priority, and focus schools:

- Demonstrate that Utah has identified the required number of focus, and reward schools that meet the respective definitions in ESEA flexibility. Refer to the document titled *Demonstrating that an SEA's Lists of Schools meet ESEA Flexibility Definitions*.
- Address the concern that identifying nearly a quarter of schools as reward schools does not sufficiently differentiate among Utah's highest-performing and highest-progress schools and thus could diminish the impact of the recognition and rewards associated with reward status. *See 2.C.i.*
- Describe the tangible rewards that Utah will provide to reward schools, such as bonuses, grants, or increased autonomy. *See 2.C.iii.*
- Demonstrate that Utah's proposed exit criteria for priority schools are rigorous and will result in significant progress in improving student achievement. *See 2.D.v.*
- Provide additional details regarding Utah's proposed interventions in focus schools, including a description of specific strategies for improving the achievement of all students and narrowing achievement gaps, particularly for English learners and students with disabilities, and for raising graduation rates. *See 2.E.iii.*
- Demonstrate that Utah's proposed exit criteria for focus schools are rigorous, tied to the reason for identification, and will ensure that significant progress has been made in improving student achievement and narrowing achievement gaps, especially among subgroup(s) whose performance resulted in focus school identification. *See 2.D.v.*
- Describe the steps Utah will take to ensure meaningful consequences for priority and focus schools that do not make progress after full implementation of interventions. *See 2.D.iii.b and 2.E.iv.*
- Please address concerns regarding incentives and supports for other Title I schools:
 - Describe in further detail Utah's plan for providing incentives and supports, including supports for English learners and students with disabilities, in other Title I schools that, based on Utah's proposed AMOs and other measures, are not making progress in improving student achievement and narrowing achievement gaps. *See 2.F.i and 2.F.ii.*
 - Address the concern that LEAs are not required, only "strongly encouraged," to work with other Title I schools that have not achieved AMOs for two consecutive years. *See 2.F.i.*
- Please address concerns regarding SEA, LEA, and school capacity:
 - Provide additional details regarding Utah's plan for building SEA, LEA, and school capacity to improve instruction for all students, especially by supporting the full and effective implementation of interventions in Utah's priority, focus, and other Title I schools identified through the SEA's differentiated recognition, accountability, and support system. *See 2.G.*
 - Provide a description of the process for the rigorous review and approval of any external providers used to support the implementation of interventions in priority and focus schools. *See 2.G.*
 - Describe whether Utah will support interventions in priority, focus or other Title I schools by leveraging funds that LEAs were previously required to reserve under ESEA Section 1116(b)(10) to support the implementation of interventions in schools identified for improvement, corrective action, or restructuring. *See 2.G.*

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- Please explain how Utah's teacher and principal evaluation and support guidelines will include, as a significant factor, data on student growth for all students, consistent with the definition for student growth in ESEA flexibility. *See 3.A.i and 3.B.*
- Please describe how Utah will ensure that all LEAs, including charter schools, create teacher and principal evaluation and support systems that include as a significant factor data on student growth for all students, consistent with the definition for student growth in ESEA flexibility. *See 3.B.*
- Please address how Utah will ensure that local teacher and principal evaluation and support systems are valid, reliable, and are consistent with the Utah's guidelines, and that they will evaluate and support all teachers who work with special populations of students, such as students with disabilities and English Learners. *See 3.B.*
- Please provide a more detailed timeline to ensure that Utah's LEAs develop, pilot, and implement teacher and principal evaluation and support systems by the 2014-2015 school year. *See 3.B.*
- Please provide more details on Utah's plans for providing support and technical guidance to LEAs on the development of their systems. *See 3.B.*
- Please explain how Utah 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.*

ADDITIONAL CONCERNS:

- In submitting an updated flexibility request, please use the Window 2 request form and check all appropriate assurances and waivers.