



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2012

The Honorable James W. Guthrie
Superintendent of Public Instruction
Nevada Department of Education
700 East Fifth Street
Carson City, Nevada 89701

Dear Superintendent Guthrie:

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

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

The peers noted, and we agree, that Nevada has taken promising steps toward developing a system of differentiated recognition, accountability and support that includes a rating system to make performance across Nevada schools visible and a robust set of incentives for reward schools. Nevada also has passed legislation and taken preliminary steps to adopt guidelines for local teacher and principal evaluation and support systems.

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

- Plans for transitioning to college- and career-ready standards and developing and implementing teacher and principal evaluation and support systems were not sufficiently developed;
- The timeline for a number of elements in the request did not meet the ESEA flexibility guidelines: 1) full implementation of the Common Core State Standards in Mathematics did not indicate implementation by school year (SY) 2013—2014; 2) focus school interventions were planned for SY 2013—2014 rather than the start of SY 2012—2013; 3) Principle 3 guidelines were planned for adoption by June 2013 rather than the end of SY 2011—2012, which leaves little time for a successful launch in September 2013;
- Ambitious but achievable annual measurable objectives (AMO) were not provided for the State, local educational agencies (LEA) and schools, nor was there evidence that AMOs will be set separately for reading/language arts and mathematics, applied to each ESEA subgroup, and used to identify other Title I schools that are not making progress in improving student achievement and closing achievement gaps; and
- Student growth data was not required as an element of the Principle 3 teacher and principal evaluations.

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

Furthermore, as described in the document titled ESEA Flexibility Frequently Asked Questions, in deciding whether to approve a State educational agency's (SEA) 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 LEAs implementing the turnaround model, funded by the School Improvement Grant (SIG), may not be implementing strategies that increase learning time. We will discuss this concern with you more fully as we continue to review Nevada's request for ESEA flexibility.

Additionally, Nevada has requested the following additional waivers in its ESEA flexibility request that are not among the waivers that comprise ESEA flexibility: 1) flexibility to include former English Learners and former students with disabilities in subgroup calculations for the remainder of their K-12 career; and 2) flexibility to allow LEAs to rank Title I and Title I-eligible schools above 40 percent poverty based on academic need. Please note that, although those additional waiver requests are not addressed in this letter, we will follow up with your staff in the coming days about the process for consideration of those requests.

Although the Peer Panel Notes for Nevada provide information specific to your request, Nevada also may benefit from comments and technical assistance suggestions made by other peer panels regarding issues common to multiple SEAs' requests. For this reason, Department staff will reach out to Nevada 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 Nevada to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Nevada 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. However, given the number and level of concerns raised by the peer reviewers, Nevada may wish to take additional time to revise its request and submit revisions later than this date. 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 Nola Cromer, at 202-205-4158.

Sincerely,

A handwritten signature in dark ink, appearing to read 'm. yudin', with a long horizontal stroke extending to the right.

Michael Yudin
Acting Assistant Secretary

Enclosure

SUMMARY OF ADDITIONAL INFORMATION REGARDING NEVADA'S ESEA FLEXIBILITY REQUEST

CONSULTATION

- Please provide more specific information on the steps Nevada took to meaningfully engage teachers and their representatives or describe how Nevada will meaningfully engage teachers and their representatives as it continues to develop and implement ESEA flexibility. *See Consultation Question 1.*
- Please provide more specific information on the steps Nevada took to meaningfully engage diverse stakeholders and communities, especially organizations representing students with disabilities and English Learners and Indian tribes or describe how Nevada will meaningfully engage these stakeholders as the SEA continues to develop and implement ESEA flexibility. *See Consultation Question 2.*

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

- Please address the concern that Nevada will not meet the timeline for full implementation of the college- and career-ready standards in mathematics by SY 2013–2014, including by providing a rationale or additional information as to why Nevada designed the transition to new standards in this manner. *See 1.B, Part A.*
- Please demonstrate that the plan to transition to college- and career-ready standards includes all of the elements of a high-quality plan, including key milestones or activities, a detailed timeline, party or parties responsible, evidence, resources, and significant obstacles. *See 1.B, Part A.*
- Please provide more specific information as to how Nevada will support schools and LEAs to implement college- and career-ready standards in ways that will ensure access for English Learners, students with disabilities, and low-achieving students. *See 1.B, Part B.*
- Please address concern that there is a lack of an integrated professional development approach to ensure that all teachers are well equipped to teach content aligned to the college- and career-ready standards to all students and that all principals are well equipped to provide strong, supportive instructional leadership. *See 1.B, Part B.*
- Please provide additional information on the following activities related to the transition to college- and career-ready standards or an explanation of why one or more of the activities was not included:
 - Developing and disseminating high-quality instructional materials that are aligned with the new standards and are designed to support the teaching and learning of all students, including interim assessments and formative tools. *See 1.B, Part A.*
 - Analyzing the linguistic demands of the college- and career-ready standards to inform the development of English language proficiency (ELP) standards corresponding to the college- and career-ready standards and clarifying when those standards will be implemented. *See 1.B, Part B.*
 - Expanding access to college-level courses, dual enrollment courses, or accelerated learning opportunities. *See 1.B, Part A.*

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

- Please address concerns regarding the accountability system:
 - Address the concern that Nevada’s proposed method for calculating points in the index compares one school to other schools rather than an absolute achievement standard making it difficult for the public to gain a clearer understanding of whether students are making progress towards proficiency. *See 2.A.i and 2.A.i.a.*
 - Provide a rationale for not including all ESEA subgroups in the gap comparison component of the index. *See 2.A.i and 2.A.i.a.*
 - Address the concern that subgroup gap weighting in the index could underemphasize subgroup gaps. *See 2.A.i.a.*
 - Describe criteria for approving the “other indicator” component of the proposed index to ensure that it does not mask school underperformance. *See 2.A.i.a.*
 - Provide a rationale for weighting 11th grade cumulative proficiency twice as heavily as 10th grade proficiency. *See 2.A.i.a.*
 - Please address the concern that test participation is considered separately from the achievement portion of the index score and might lead to unintended consequences such as schools not testing certain students. *See 2.A.i.a.*
 - Address the concern that schools, educators, and parents may have difficulty understanding the complex accountability system, including steps Nevada might take to help educators understand what steps are necessary to move between categories of schools. *See Principal 2 Overall.*
- Please describe how Nevada’s proposed system of differentiated recognition, accountability, and support considers graduation rates for all subgroups. *See 2.A.i.a.*
- Please address concerns regarding a lack of accountability for individual ESEA subgroups, particularly that the use of a new combined subgroup could mask the performance of ESEA subgroups, by providing additional safeguards for ESEA subgroups. *See 2.B.*
- Please provide AMOs for the State, LEAs, and schools that are ambitious but achievable, set separately for reading/language arts and mathematics, and applied to each ESEA subgroup. *See 2.B.*
- Please demonstrate that Nevada has identified the required number of priority, focus, and reward schools that meet the respective definitions of those groups of schools in ESEA flexibility, including by providing lists of these schools. Refer to the document titled *Demonstrating that an SEA’s Lists of Schools meet ESEA Flexibility Definitions.*
- Please address concerns regarding reward schools:
 - Describe the methodology for identifying High Status middle and high schools in the reward school category. *See 2.C.i.*
 - Clarify whether subgroup achievement gaps are considered for High Status schools. *See 2.C.i.*
- Please address concerns regarding priority schools:
 - Provide additional information to demonstrate that the interventions proposed in priority schools fully meet the turnaround principles, especially in the areas of providing strong leadership; ensuring teachers are effective and able to improve instruction; redesigning the school day, week, or year; using data to inform instruction and for continuous improvement;

- establishing a school environment that improves school safety and discipline and addresses other non-academic factors that impact student achievement; and providing ongoing mechanisms for family and community engagement. *See 2.D.iii.a.*
- Clearly describe, for each turnaround principle, what Nevada will require districts and individual schools to implement and how it will ensure that districts and schools will implement turnaround principles in a coherent and thoughtful manner. *See 2.D.iii.a.*
 - Provide information as to how Nevada will ensure that students with disabilities and English Learners are clearly recognized in turnaround strategies that are appropriate to their language and learning needs. *See 2.D.iii.b.*
 - Clarify whether pre-intervention activities will occur in the first year that schools are identified as priority schools, and provide a timeline as to when interventions will occur in all priority schools. *See 2.D.iv.*
 - Demonstrate that Nevada’s proposed exit criteria for priority schools are rigorous and will result in significant progress in improving student achievement and narrowing achievement gaps, including by addressing the concern that graduation rate criteria is low. *See 2.D.v.*
- Please address concerns regarding focus schools:
 - Provide evidence that the methods used to select focus schools will not dilute or mask the performance of individual ESEA subgroups. *See 2.E.i.b.*
 - Clarify how the proposed interventions in focus schools will be aligned with the demonstrated needs in specific schools and classrooms. *See 2.E.iii.*
 - Demonstrate Nevada’s ability to ensure that all LEAs with one or more focus schools will implement meaningful interventions in each focus school at the beginning of the 2012–2013 school year. *See 2.E.iii.*
 - Provide specificity as to what the professional development provided to focus schools will include and how it will ensure that all educators have the knowledge and skills needed to successfully meet varied subgroup needs. *See 2.E.iii.*
 - Demonstrate that Nevada’s proposed exit criteria for focus schools are rigorous and will result in significant progress in improving student achievement and narrowing achievement gaps for the subgroup(s) of students for which the school was identified. *See 2.E.iv.*
 - Please address concerns regarding the system of supports and incentives for other Title I schools:
 - Demonstrate that Nevada’s new AMOs, along with other measures, are used to identify other Title I schools that are not making progress in improving student achievement and closing achievement gaps, and to provide incentives and supports for those schools. *See 2.F.i.*
 - Clarify how Nevada intends to implement the “Competency-based Funding Model” described in the request for chronically underperforming schools. *See 2.F.i.*
 - Provide more detail regarding the instructional practices that will be employed to address the needs of English Learners and students with disabilities in other Title I schools. *See 2.F.ii.*
 - Please address concerns regarding SEA, LEA, and school capacity to improve student learning:
 - Describe how Nevada will monitor LEA and school progress. *See 2.G.*
 - Describe how Nevada will hold LEAs, not just schools, accountable for improving school and student performance. *See 2.G.ii.*
 - Please describe whether Nevada will leverage funds that LEAs were previously required to reserve under ESEA section 1116(b)(10) to support the implementation of interventions in

priority schools, focus schools, and other Title I schools identified under Nevada's differentiated recognition, accountability, and support system. *See 2.G.ii.*

- Describe Nevada's process for the rigorous review and approval of external providers used by the SEA and its LEAs to support the implementation of interventions in priority and focus schools. *See 2.G.*

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- Please address concerns regarding the likelihood of Nevada's guidelines leading to evaluation systems:
 - Demonstrate that the plan to develop interim guidelines includes all of the elements of a high-quality plan, including key milestones or activities, a detailed timeline, party or parties responsible, evidence, resources, and significant obstacles. *See 3.A.i.*
 - Clarify whether Nevada will finalize its guidelines and submit them to ED by the end of SY 2011–2012 as required. Address the concern that Nevada's Teacher and Leader Council (TLC) is not scheduled to establish performance criteria until after the deadline for submitting guidelines to the Department. *See 3.A.i and 3.B.*
 - Please explain how Nevada'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.*
- Please ensure that continuous feedback is sought directly from teachers and principals as guidelines for local teacher and principal evaluation and support systems are developed and implemented (*e.g.*, through surveys, focus groups, listening sessions, and participation on the Governor's Council for Educator Effectiveness, etc.). *See 3.A.i. Option A.ii.*
- Please address concerns regarding Nevada's process for ensuring each LEA develops, adopts, pilots, and implements evaluation and support systems consistent with the guidelines:
 - Describe how Nevada will monitor compliance and ensure that LEAs are appropriately developing and implementing evaluation systems that meet the requirements of both State statute and ESEA flexibility, including ensuring that LEAs create 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.*
 - Address the concern that Nevada's timeline would ensure that LEAs implement educator evaluation and support systems by school year 2014–2015, but does not include a pilot year in school year 2013–2014. *See 3.B.*
 - Provide information about how Nevada will ensure that the teacher and principal evaluation system includes and appropriately attributes learning data for students with disabilities and English Learners. *See 3.B.*
 - Please explain how Nevada plans to work with teachers and administrators, or as appropriate, their designated representatives, in order to ensure each LEA develops, adopts, pilots, and implements evaluation and support systems. *See 3.B.*