



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2012

The Honorable Patricia I. Wright
Superintendent of Public Instruction
Virginia Department of Education
P.O. Box 2120
Richmond, Virginia 23218

Dear Superintendent Wright:

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

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

The peers noted, and we agree, that Virginia's request describes a particularly strong standards-development infrastructure used to enhance the quality of the State's standards and improve student achievement. Peers also noted that Virginia describes an accountability system based on the State accreditation system that has the potential to be effective and easily understood by parents, teachers, and the public.

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

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

- The lack of subgroup accountability beyond reporting;
- The lack of ambitious but achievable annual measurable objectives (AMO) that provide a meaningful incentive for schools to improve; and
- The lack of clarity regarding how Virginia will ensure that local educational agencies (LEAs) will develop, adopt, pilot, and implement teacher and principal evaluation and support systems that include as a significant factor data on student growth for all students in determining performance levels.

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

Additionally, Virginia has requested the following additional waivers in its ESEA flexibility request that are not among the waivers that comprise ESEA flexibility:

- A waiver of Title III, Part A requirements that would allow Virginia to hold the current progress and proficiency targets. *(page 48 of request)*
- A waiver of Title III, Part A requirements that would allow Virginia to exempt English Learners newly arrived to the country from testing for up to two full years. *(page 48 of request)*
- A waiver of highly qualified teacher requirements that would allow Virginia to discontinue collecting and reporting data on highly qualified teachers. *(page 71 of request)*

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 Virginia provide information specific to your request, Virginia 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 Virginia 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 Virginia to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Virginia 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.

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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 Pat Johnson, at 202-260-7813.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Yudin', with a long horizontal flourish extending to the right.

Michael Yudin
Acting Assistant Secretary

Enclosure

SUMMARY OF ADDITIONAL INFORMATION REGARDING VIRGINIA'S ESEA FLEXIBILITY REQUEST

CONSULTATION

- Please provide more specific information on the steps Virginia took to meaningfully engage teachers and diverse stakeholders and communities, including educators of English Learners and students with disabilities and organizations that advocate for those students, or describe how Virginia will meaningfully engage teachers and diverse communities as it continues to develop and implement ESEA flexibility. *See Consultation Questions 1 and 2.*

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

- Provide additional detail on transition planning for schools and teachers to ensure that the new standards improve instruction for low-performing students, including English Learners and students with disabilities. *See 1.B, Part A and Part B.*
- Please provide additional detail on Virginia's plan to transition students with disabilities currently assessed using alternate assessments based on modified academic achievement standards to the high-quality assessments in 2014-2015. *See 1.B.*

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

- Please address concerns regarding Virginia's accountability system:
 - Address concern that the accreditation system does not provide significant differentiation among schools. *See 2.A.i.*
 - Incorporate subgroup academic performance as a factor in the accreditation system to address the concern that there is a lack of accountability for closing achievement gaps for subgroups beyond public reporting. *See 2.A.i.b, 2.A.i, 2.F.ii, and Principle 2 Overall*
 - Address concern that the use of the Graduation and Completion Index (GCI) may weaken graduation rate accountability and modify the calculation of the GCI so that schools do not receive points for students not graduating but still in school or students earning certificates of program completion. *See 2.A.i.a.*
 - Describe how graduation rates for subgroups are included in Virginia's accountability system. *See 2.A.i, 2.A.i.a, 2.A.i.b, and Principle 2 Overall*
 - Clarify how test participation is used in Virginia's accountability system. *See 2.A.i.*
- Please address concerns regarding Virginia's use of combined subgroups:
 - Address concerns regarding a lack of accountability for individual ESEA subgroups, particularly the use of the proficiency gap groups that could mask the performance of ESEA subgroups, by providing additional safeguards for ESEA subgroups. *See 2.A.i.*
 - Revise Virginia's composition of the proficiency gap groups, so that gap group 2 and gap group 3 reflect the performance of all Black and Hispanic students, including those identified as English Learners, students with disabilities, and low-income students. *See 2.A.i.*
 - Address the concern that the proficiency gap dashboard does not provide clear information about subgroup performance and consider including information describing the composition of the combined subgroups and the size and duration of achievement gaps. *See 2.A.i.*
 - Provide additional detail on specific strategies for supporting English Learners and students

with disabilities in the general classroom and providing access to the regular curriculum. *See Principle 2 Overall.*

- Please address concerns regarding Virginia’s AMOs:
 - Provide AMO targets that increase over time and are similarly rigorous to Options A or B, as outlined in ESEA flexibility. *See 2.B.*
 - Clarify that ESEA subgroups that met or did not meet AMOs will be reported at the school level. *See 2.B.*
- Provide lists of priority, focus, and reward schools. *See Table 2.*
- Please address concerns regarding reward schools:
 - Provide additional detail on the criteria for determining high-progress schools. *See 2.C.i and 2.C.iii.*
 - Clarify the chart and numbers on the VIP system description in Attachment 15 of Virginia’s request. *See 2.C.i.*
 - Address the concern that because the VIP recognition system identifies a large number of schools it may not meaningfully recognize highest-performing and high-progress schools. *See 2.C.i.*
- Please address concerns regarding priority schools:
 - Please demonstrate that Virginia has identified the required number of priority schools that meet the definition in ESEA flexibility. Refer to the document titled *Demonstrating that an SEA’s Lists of Schools meet ESEA Flexibility Definitions.*
 - Provide additional detail and information about how the specific turnaround principles will be implemented in priority schools to increase the quality of instruction, improve the effectiveness of leadership, and improve student achievement and graduation rates for all students, including English Learners, students with disabilities, and the lowest-achieving students. *See 2.D.iii.a and 2.D.iii.b.*
 - Clarify and strengthen Virginia’s proposed exit criteria for priority schools to ensure that a school that exits priority status is demonstrating sustained improvement and significant progress in improving student achievement. *See 2.D.v.*
 - Describe the steps Virginia will take to ensure meaningful consequences for priority schools that do not make progress after full implementation of interventions. *See 2.D.iii.b.*
- Please address concerns regarding focus schools:
 - Address the concern that the focus school identification methodology may mask subgroup performance. *See 2.E.i.b.*
 - Demonstrate that the focus school intervention strategies target supports to meet the needs of the low-performing subgroup or subgroups that caused the school to be identified in the focus category. *See 2.E.iii.*
 - Provide clarification on how focus schools can exit based on “indicators of progress” and demonstrate that a school may not exit focus status without making 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.*
 - Describe the steps Virginia will take to ensure meaningful consequences for focus schools that do not make progress after full implementation of interventions. *See 2.E.iv.*
- Please address concerns regarding supports and incentives for other Title I schools:
 - Demonstrate that Virginia’s 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.*
- Describe specific supports for English Learners and students with disabilities in other Title I schools not identified as focus or priority schools. *See 2.F.ii.*
- Please address concerns regarding SEA, LEA, and school capacity:
 - Clarify what State and Federal funds will be made available to support the needs of identified schools, including priority and focus schools. *See 2.G.*
 - Describe Virginia's process for approving external providers. *2.G and 2.D.iii.b.*
 - Describe whether Virginia 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 Virginia's differentiated recognition, accountability, and support system. *See 2.G.ii.*

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- Please address concerns regarding the guidelines for teacher and principal evaluation and support systems:
 - Explain how Virginia's guidelines for teacher and principal evaluation and support systems include as a significant factor data on student growth for all students in determining performance levels, consistent with the definition for student growth in ESEA flexibility. *See Principle 3 Overall, 3.A.i, Option B.i, 3.A.ii.b, and 3.A.ii.c(i).*
 - Describe how Virginia will ensure that LEAs create teacher and principal evaluation and support systems that include as a significant factor data on student growth for all students in determining performance levels, consistent with the definition for student growth in ESEA flexibility. *See 3.B.*
 - Provide additional detail on how student growth will be determined for teachers of non-tested grades and subjects and for teachers of English Learners and students with disabilities. *See 3.A.ii.c(i) and Principle 3 Overall*
 - Provide additional detail regarding the multiple measures of student growth, including what assessments can be used, what criteria must be met, whether teacher-developed assessments are allowable, whether performance-based assessments are allowable, and the standard for validity that LEAs need to meet when using assessments for evaluative purposes. *See 3.A.ii.b.*
 - Provide additional detail about teacher observations, including timing of observations and feedback, standards for inter-rater reliability, and how raters will be trained. *See 3.A.ii.c(i).*
- Clarify which elements of the teacher and principal evaluation and support system are subject to LEA determinations and which are governed by SEA guidelines. *See 3.B.*
- Describe how teacher evaluations will result in differentiated professional development that meets the needs of teachers. *See 3.A.ii.e.*
- Provide additional detail regarding the role of teachers of students with disabilities or English Learners as Virginia implements its teacher and principal evaluation and support system. *See 3.A.i and 3.B*
- Please explain how Virginia 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.A.ii.a.*

ADDITIONAL CONCERNS

- Note that the number of schools that Virginia must identify as priority schools equals five percent of all Title I schools in the State, based on the number of schools participating in Title I in the 2010–2011 school year. Virginia may not allow the number of priority schools to fluctuate in future years based on a changing number of Title I schools in the State. *See page 51 of request.*