



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: New York State's Next Generation Accountability System
DATE: October 7, 2011
AUTHORIZATION(S):

SUMMARY

Issue for Decision

Should the Board of Regents direct the Commissioner and State Education Department (SED) staff to submit an Elementary and Secondary Education Act (ESEA) Flexibility Request to the United States Department of Education (USDE)? If so directed, in which round should the Commissioner submit the request? Should the Board of Regents designate two or more members to lead the work of the Think Tank?

Proposed Handling

These questions will come before the P-12 Education Committee for decision at its October 2011 meeting.

Background Information

The USDE is seeking to support State and local innovation aimed at increasing the quality of instruction and improving student achievement. On September 23rd, President Obama announced an ESEA regulatory flexibility initiative, which is based upon the Secretary of Education's authority to issue waivers. According to the USDE, "This flexibility rewards States that are showing the courage to raise their expectations in their academic standards." The USDE has stated that this process is "not a pass on accountability. There will be a high bar for states seeking flexibility within the law." States that do not apply for the waiver will have to comply with the current No Child Left Behind (NCLB) requirements. Many components of the ESEA will remain in place, such as the core requirements for assessment, accountability and supports for schools and districts, and are not subject to this waiver. For example, states must still:

- Annually assess every student in grades 3-8 in language arts/reading and mathematics and at least once in high school in language arts/reading, mathematics and science. Assessments of English language learners and students with disabilities and their use for accountability must be accordance with existing Federal requirements.
- Establish Annual Measurable Objectives (AMOs) in at least language arts/reading and mathematics for the State and all Local Educational Agencies (LEAs), public schools and subgroups of students
- Use AMOs to make Adequate Yearly Progress (AYP) determinations for every LEA and public school and include these determinations on State and local report cards.
- Provide support, intervention and recognition based on school performance, including academic achievement in at least language arts/reading, mathematics and graduation rates for all students and subgroups of students.
- Use the Federally approved cohort graduation rate and disaggregate that rate for reporting and determining AYP;
- Use an “n-size” that ensures that all student subgroups are included in accountability determinations;
- Issue report cards; and,
- Follow the elements of the State’s approved accountability workbook that remain in effect.

Additionally, in developing a flexibility request, the Board of Regents must appropriately take into account that Chapter 57 of the Laws of 2007 (Section 211 of Education Law) established in statute an enhanced State accountability system, which includes requirements that the Regents and the Department:

- Provide enhanced support and intervention in low performing schools and districts through the assignment of School Quality Review teams to schools identified for improvement, corrective action, and restructuring and Joint Intervention Teams (JIT) to schools in restructuring or schools under registration review (SURR) that have failed to make progress.
- Expand the scope and increase the effectiveness of the SURR process.
- Assign, at the Commissioner’s discretion, Distinguished Educators to schools or districts that have failed to make AYP for four or more years or as members of a JIT.
- Implement district improvement plans.
- Authorize the Commissioner to approve districts entering into contracts with Educational Partnership Organizations (EPOs) to manage SURRs and schools identified as persistently lowest achieving (PLA).
- Develop growth and value-added accountability models.

The Reform Agenda adopted by the Board of Regents has already addressed changes in many of these areas. The Board of Regents has raised academic standards for students, and specifically has defined graduation goal targets and Regents examination targets that reflect a focus on college- and career-ready expectations for all students. The Board of Regents has also put in place a new teacher and principal

evaluation system, which includes student growth data as a factor. This new evaluation system, outlined in Education Law 3012-c, provides districts with a powerful tool to support effective teaching and leadership.

Details of Flexibility Initiative

States may apply for flexibility for the 2012-13 and 2013-14 school years and, if certain conditions are met, flexibility may be extended to the 2014-15 school year. The USDE is offering regulatory flexibility, in the following areas:

(1) Flexibility Regarding the 2013–2014 Timeline for Determining AYP:

States have flexibility to develop new ambitious but achievable AMOs in reading/language arts and mathematics. Options include states setting goals that would reduce the percentage of students in all subgroups not achieving proficiency by half in six years, requiring all students to be proficient by 2019-20, or proposing their own methodology for establishing ambitious but achievable goals. These AMO's are used to make AYP determinations, which in turn are to inform the state's system of differentiated support for, intervention in and recognition of Title I schools.

(2) Flexibility in Implementation of School and District Improvement Requirements:

States no longer need to identify for improvement, corrective action, or restructuring, Title I schools that fail to make AYP, for two consecutive years or more, and neither the LEA nor its schools would be required to take currently required improvement actions. An LEA would also be exempt from all administrative and reporting requirements related to school improvement under current law. This means, for example, the LEAs would no longer need to spend an amount equal to 20% of its Title I, Part A allocation on providing Supplemental Educational Services (SES) and Public School Choice related transportation to eligible students in identified schools or to have schools identified for improvement reserve 10% of their Title I, Part A allocation for professional development.

(3) Flexibility for Rural LEAs:

An LEA that receives Small, Rural School Achievement Program funds or Rural and Low-Income School Program funds would have flexibility to use those funds for any authorized purpose regardless of the LEA's accountability status. Currently these funds must be used to support improvement plans if the LEA has been identified for improvement or corrective action.

(4) Flexibility for Schoolwide Programs:

An LEA would have flexibility to operate a schoolwide program in a Title I school that does not meet the 40 percent poverty threshold if the school is a **priority school** or a **focus school**, and the LEA is implementing interventions consistent with the **turnaround principles** or interventions that are based on the needs of the students and designed to enhance the entire educational program in the school. Currently a school must meet a 40% poverty threshold to operate a schoolwide program.

(5) Flexibility to Support School Improvement:

A state educational agency (SEA) would have flexibility to allocate 1003(a) School Improvement funds to an LEA in order to serve any priority or focus school rather than schools in improvement, corrective action or restructuring.

(6) Flexibility for Reward Schools:

An SEA would have flexibility to use certain Title I funds to provide financial rewards to any **reward school**.

(7) Flexibility Regarding Highly Qualified Teacher (HQT) Improvement Plans:

An LEA that does not meet its HQT targets would no longer have to develop an improvement plan. An SEA would be exempt from the requirements regarding its role in the implementation of these plans, including the requirement that it enter into agreements with LEAs on the uses of funds and the requirement that it provide technical assistance to LEAs on their plan. However, the requirement that teachers be highly qualified would remain and LEAs would still be required to equitably distribute staff. Over time, equitable distribution would be judged on whether teachers are effective rather than highly qualified.

(8) Flexibility to Transfer Certain Funds:

An SEA and its LEAs would have flexibility to transfer up to 100 percent of the funds received under ESEA section 6123 among those programs (Title II, Part A; Title II, Part D, Title IV Part A) and into Title I, Part A. Moreover, participating LEAs would not be required to notify the SEA prior to transferring funds.

(9) Flexibility to Use School Improvement Grant (SIG) Funds to Support Priority Schools:

An SEA would have flexibility to award SIG funds available under ESEA section 1003(g) to an LEA to implement one of the four SIG models in any priority school. Currently, these funds must first be used to support schools identified as persistently lowest achieving before they may be used for any other schools.

(10) Optional Flexibility to Support Expanded Learning Time under the Twenty-First Century Community Learning Centers program.

This option would allow these programs to support expanded learning time by such actions as extending the school day, week or year for all students or providing additional time for teacher collaboration and planning. Currently, activities are limited to non-school hours or periods when school is not in session.

The ESEA Flexibility Request process has two stages. First, states notify the USDE of their intent to request ESEA Flexibility in mid-October of 2011. Second, states will have three opportunities to submit requests for flexibility:

- Round 1 – to submit by November 14, 2011 for a December 2011 peer review.
- Round 2 – to submit by mid-February 2012 for a Spring 2012 review.
- Round 3 – to be held at the end of the school year.

To apply for this new ESEA flexibility, states must address four major areas regarding college- and career-ready reforms, with a significant emphasis on the use of growth to inform accountability determinations and teacher and principal evaluations, as described in the USDE's waiver package. The SEA must describe how it will fully implement reforms consistent with each of the following core principles (see definitions in Attachment A):

(1) College- and Career-Ready Standards and Assessments for All Students

(A) Adopt College- and Career-Ready Standards

States must show evidence of having adopted college- and career-ready standards in at least reading/language arts and mathematics, which the Board of Regents has done. These standards must reflect rigorous content knowledge and application of knowledge through advanced skills. This can include adoption of the Common Core State Standards (CCSS) or other college- and career-ready standards. States must also develop by 2013-14 English Language Proficiency (ELP) standards that correspond to college- and career-ready standards.

(B) Transition to College- and Career-Ready Standards

States must articulate a plan for transitioning to and implementing college- and career-ready standards by the 2013-14 school year. This must include an explanation of how all students, including English language learners (ELLs) and students with disabilities (SWD), will access learning content aligned to these standards. Additionally, the state must establish AMO's that substantially reduce the percentage of students who are not proficient in all student groups (e.g., reducing by 50% within six years the number of students not proficient), including students with disabilities and English language learners and, when incorporating growth into its system, ensure that all students are on a trajectory to achieve college and career level proficiency no later than by the time of graduation from college.

(C) Develop and Administer Annual, Statewide, Aligned, High-Quality Assessments that Measure Student Growth

States must establish high-quality assessments aligned with college- and career-ready standards that measure student knowledge and skills. States may meet this requirement through membership in either assessment consortia that received funding under the Race to the Top (RTTT) Assessment Competition—the Smarter Balance Assessment Consortium (SBAC) or the Partnership for Assessment of Readiness for College and Careers (PARCC), of which New York is a governing state. States must develop and administer assessments in at least grades 3-8 and once in high school. These assessments must be piloted by 2013-14 and implemented by 2014-15. States must also develop and administer ELP assessments by 2014-15.

(2) State-Developed, Differentiated Systems of Recognition, Accountability, and Support

(A) Develop and Implement a State-Based System of Differentiated Recognition, Accountability, and Support

States must design an accountability system that promotes college- and career-readiness based on multiple measures of student achievement for all schools and subgroups, including but not limited to high-quality assessments and accurate graduation rates. State accountability systems must (1) recognize student growth and school progress; (2) align accountability determinations with support and capacity-building efforts; and (3) provide for systemic, context-specific interventions that focus on the lowest-performing schools and those with the largest achievement gaps. States must provide a description of their accountability system and a plan for implementation by 2012-13, including which subjects will be included and a description of how assessments will be weighted. Additionally, states must annually report college-going and college credit-accumulation rates for all students and subgroups in each LEA and high school by 2014-15. New York is one of nine states that is currently approved to operate a Differentiated Accountability Pilot by the USDE. However, New York's approved system does not currently meet all of the requirements for the waiver flexibility.

(B) Set Ambitious but Achievable Annual Measurable Objectives

States have three options for setting new AMOs. They can choose to: (1) set AMOs in equal annual increments towards a goal of reducing the achievement gap within six years by 50% for each accountability group of students; (2) set AMOs that increase in annual equal increments with a result of 100% proficiency by 2020; or (3) propose another method for ambitious but achievable AMOs.

These AMOs are used to make AYP determinations, which in turn should be factors in how states differentiate supports, intervention, and rewards for schools.

States may also use the above options to create AMOs for individual schools.

(C) Reward Schools

States must define how they will identify and recognize the highest-performing and high-progress schools.

(D) Priority Schools

States must define how they will identify the lowest performing, "priority" schools (at least 5% of the state's Title I schools), implement turnaround principles, and exit schools from priority status. LEAs must begin implementing the turnaround principles in one or more priority schools in the 2012-13 school year and must implement the turnaround principles in all priority schools no later than the 2014-15 school year. (See Attachment A for an explanation of the turnaround principles.)

Focus Schools

States must define how they will identify “focus” schools with the largest achievement gaps, lowest-performing subgroups, or low graduation rates (at least 10% of the state's Title I schools), provide meaningful interventions based on diagnostic reviews, and exit schools from focus status. States must implement these interventions beginning in 2012-13.

States must submit their lists of priority and focus schools at the time of their application. This means that these lists must be based on 2010-11 school year data that is available at the time of the application’s submission.

(E) Provide Incentives and Supports for Other Title I Schools

States must explain how the state accountability system will provide incentives and support to ensure continuous improvement at all Title I schools that are not making progress in improving student achievement and narrowing achievement gaps. States must also explain how they will build state, district, and school capacity to improve student learning. States have wide flexibility in how they identify schools for support and the type of support that they provide.

(3) Supporting Effective Instruction and Leadership through Educator Evaluation

(A) Develop and Adopt Guidelines for Local Teacher and Principal Evaluation and Support Systems

States must develop teacher and leader evaluation and support systems that: (1) are used for continual improvement of instruction; (2) meaningfully differentiate performance using at least three performance levels; (3) use multiple valid measures, including a significant factor of student growth for all students and other measures of professional practice; (4) evaluate educators on a regular basis; (5) provide clear, timely, useful feedback to guide professional development; and (6) are used to inform personnel decisions. States must also provide growth data on current students, and on students taught the previous year by reading/language arts and math teachers in grades where there is a state assessment. States must adopt guidelines for evaluation systems in 2011-12. Subsequently, LEAs must design evaluation systems consistent with these guidelines by 2012-13, pilot systems by 2013-14, and implement systems statewide by 2014-15.¹

¹ Education Law §3012-c requires a new performance evaluation system for classroom teachers and building principals. The statute provides for a phase-in of the new evaluation system. In the 2011-2012 school year, the new evaluation system must include teachers of English Language Arts or mathematics in grades 4-8 (including common branch teachers who teach ELA or mathematics) and the building principals of the schools in which those teachers are employed. Beginning in the 2012-2013 school year, the evaluation system must include all classroom teachers and building principals. Education Law §3012-c further provides that any conflicting provisions of collective

(B) Ensure LEAs Implement Teacher and Principal Evaluation and Support Systems

States must explain their process for ensuring that each LEA develops and implements teacher and leader evaluation systems consistent with state guidelines.

The teacher and principal evaluation and support system recently adopted by the Board of Regents is well aligned with these requirements.

(4) Reducing Duplication and Unnecessary Burden

States must review and remove as necessary duplicative and burdensome reporting requirements for LEAs and schools. The Regents and Department staff have already taken a number of actions in this regard.

States must engage stakeholders and communities in the development of their flexibility requests and provide evidence of this engagement in the flexibility request. Finally, states are encouraged to collaborate with the USDE to evaluate at least one program, practice, or strategy implemented in response to this flexibility package. The USDE will fund and conduct the evaluation in partnership with the state.

The Secretary of Education will make decisions regarding each state's request for flexibility, based heavily on the recommendations of a peer review panel. If a state's request is denied, it will receive feedback on what components of the request need additional development in order to be approved.

Developing a Waiver Request

In anticipation that Secretary Duncan would offer ESEA flexibility, SED in August 2011 invited representatives of key stakeholder organizations, as well as experts in accountability systems, to participate in a "School and District Accountability Think Tank" ("the Think Tank"). The Think Tank currently includes representatives from 23 external organizations (see Attachment B) in addition to technical experts and SED staff.

Department staff recommend the Board of Regents designate two or more members to lead the work of the Think Tank. The expertise of the Think Tank members provides SED with an opportunity to review and rethink the key elements of New York's current Differentiated Accountability system. The role of the Think Tank is to advise SED on how to build upon best practices that exist within the current accountability system in a way that better supports the efforts of schools and districts to ensure that all students graduate high school, college- and career-ready. Staff recommend that NY take advantage of the ESEA flexibility opportunity to:

bargaining agreements in effect on July 1, 2010 are not abrogated and remain in effect until there is a successor agreement.

- Develop more nuanced achievement and growth measures for holding districts accountable for school performance.
- Create a more effective system of supports, rewards and interventions for schools.
- Allow districts and schools more flexibility to address their improvement needs.
- Allow districts more flexibility in the use of certain funds.
- Eliminate mandates that have not proven effective in promoting student achievement.

In order to ensure that there is sufficient time for the Regents to guide development of NY's request and engage stakeholders in the process, staff recommend that NY submit a Round 2 request in mid-February 2012. In contrast, a Round 1 submission (due November 14, 2011) would not allow for a deliberative process. And waiting until Round 3 would result in a summer 2012 submission, which would largely preclude implementation of the waiver in the 2012-13 school year.

Projected Timeline for the Flexibility Waiver Request

October 2011	Submit Intent Letter to USDE
November 2011	Submit to Board of Regents Draft Guiding Principles
December 2011	Submit to Board of Regents Options for the Flexibility Plan
January 2012	Submit to Board of Regents Draft Application for Discussion and Approval to Seek Public Comment
February 2012	Submit to Board of Regents Final Application for Approval Submit to USDE Flexibility Waiver Request

Recommendation

VOTED: That the Board of Regents directs the Commissioner of Education and State Education Department staff to prepare the ESEA Flexibility Request for submission by mid-February 2012.

Timetable for Implementation

The Regents action for approval of the ESEA Flexibility Request to be submitted by mid-February 2012.

Attachments

ATTACHMENT A

Definitions for ESEA Flexibility Waiver Initiative

1. **College- and Career-Ready Standards:** “College- and career-ready standards” are content standards for kindergarten through 12th grade that build towards college- and career-readiness by the time of high school graduation. A State’s college- and career-ready standards must be either (1) **standards that are common to a significant number of States**; or (2) standards that are approved by a **State network of institutions of higher education**, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.
2. **Focus School:** A “focus school” is a Title I school in the State that, based on the most recent data available, is contributing to the achievement gap in the State. The total number of focus schools in a State must equal at least 10 percent of the Title I schools in the State. A focus school is—
 - a school that has the largest within-school gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, has the largest within-school gaps in graduation rates; or
 - a school that has a subgroup or subgroups with low achievement or, at the high school level, low graduation rates.

A state educational agency (SEA) must also identify as a focus school a Title I high school with a graduation rate less than 60 percent over a number of years that is not identified as a priority school.

These determinations must be based on the achievement and lack of progress over a number of years of one or more subgroups of students identified under the Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(C)(v)(II) in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, or, at the high school level, graduation rates for one or more subgroups.

3. **High-Quality Assessment:** A “high-quality assessment” is an assessment or a system of assessments that is valid, reliable, and fair for its intended purposes; and measures student knowledge and skills against college- and career-ready standards in a way that -
 - covers the full range of those standards, including standards against which student achievement has traditionally been difficult to measure;
 - as appropriate, elicits complex student demonstrations or applications of knowledge and skills;
 - provides an accurate measure of student achievement across the full performance continuum, including for high- and low-achieving students;
 - provides an accurate measure of student growth over a full academic year or course;

- produces student achievement data and student growth data that can be used to determine whether individual students are college- and career ready or on track to being college- and career-ready;
 - assesses all students, including English Learners and students with disabilities;
 - provides for alternate assessments based on grade-level academic achievement standards or alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities, consistent with 34 C.F.R. § 200.6(a)(2); and
 - produces data, including student achievement data and student growth data, that can be used to inform: determinations of school effectiveness for purposes of accountability under Title I; determinations of individual principal and teacher effectiveness for purposes of evaluation; determinations of principal and teacher professional development and support needs; and teaching, learning, and program improvement.
4. **Priority School:** A “priority school” is a school that, based on the most recent data available, has been identified as among the lowest-performing schools in the State. The total number of priority schools in a State must be at least five percent of the Title I schools in the State. A priority school is—
- a school among the lowest five percent of Title I schools in the State based on the achievement of the “all students” group in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the “all students” group;
 - a Title I-participating or Title I-eligible high school with a graduation rate less than 60 percent over a number of years; or
 - a Tier I or Tier II school under the School Improvement Grant (SIG) program that is using SIG funds to implement a school intervention model.
5. **Reward School:** A “reward school” is a Title I school that, based on the most recent data available, is—
- a “**highest-performing school**,” which is a Title I school among the Title I schools in the State that have the highest absolute performance over a number of years for the “all students” group and for all subgroups, on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, and, at the high school level, is also among the Title I schools with the highest graduation rates. A highest-performing school must be making adequate yearly progress (AYP) for the “all students” group and all of its subgroups. A school may not be classified as a “highest-performing school” if there are significant achievement gaps across subgroups that are not closing in the school; or
 - a “**high-progress school**,” which is a Title I school among the ten percent of Title I schools in the State that are making the most progress in improving the performance of the “all students” group over a number of years on the statewide assessments that are part of the SEA’s differentiated recognition,

6. **Standards that are Common to a Significant Number of States:** “Standards that are common to a significant number of States” means standards that are substantially identical across all States in a consortium that includes a significant number of States. A State may supplement such standards with additional standards, provided that the additional standards do not exceed 15 percent of the State’s total standards for a content area.
7. **State Network of Institutions of Higher Education (IHEs):** A “State network of institutions of higher education” means a system of four-year public IHEs that, collectively, enroll at least 50 percent of the students in the State who attend the State’s four-year public IHEs.
8. **Student Growth:** “Student growth” is the change in student achievement for an individual student between two or more points in time. For the purpose of this definition, student achievement means—
- For grades and subjects in which assessments are required under ESEA section 1111(b)(3): (1) a student’s score on such assessments and may include (2) other measures of student learning, such as those described in the second bullet, provided they are rigorous and comparable across schools within an LEA.
 - For grades and subjects in which assessments are not required under ESEA section 1111(b)(3): alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.
9. **Turnaround Principles:** Meaningful interventions designed to improve the academic achievement of students in priority schools must be aligned with all of the following “turnaround principles” and selected with family and community input:
- providing strong leadership by: (1) reviewing the performance of the current principal; (2) either replacing the principal if such a change is necessary to ensure strong and effective leadership, or demonstrating to the SEA that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort; and (3) providing the principal with operational flexibility in the areas of scheduling, staff, curriculum, and budget;
 - ensuring that teachers are effective and able to improve instruction by: (1) reviewing the quality of all staff and retaining only those who are determined to be effective and have the ability to be successful in the turnaround effort; (2) preventing ineffective teachers from transferring to these schools; and (3)

- redesigning the school day, week, or year to include additional time for student learning and teacher collaboration;
- strengthening the school's instructional program based on student needs and ensuring that the instructional program is research-based, rigorous, and aligned with State academic content standards;
- using data to inform instruction and for continuous improvement, including by providing time for collaboration on the use of data;
- establishing a school environment that improves school safety and discipline and addressing other non-academic factors that impact student achievement, such as students' social, emotional, and health needs; and
- providing ongoing mechanisms for family and community engagement.

A priority school that implements one of the four SIG models is implementing an intervention that satisfies the turnaround principles. An SEA may also implement interventions aligned with the turnaround principles as part of a statewide school turnaround strategy that allows for State takeover of schools or for transferring operational control of the school to another entity such as a recovery school district or other management organization.

ATTACHMENT B

Think Tank External Organizations

1. Advocates for Children
2. Alliance for Quality Education
3. Asian American Legal Defense and Education Fund
4. Board of Cooperative Educational Services
5. City University of New York
6. Conference of Big 5 School Districts, *which includes*:
 - Buffalo City School District
 - Rochester City School District
 - Syracuse City School District
 - Yonkers Public Schools
7. Council of School Supervisors & Administrators
8. George Junior Republic, Special Act Schools Representative
9. Greece Central School District
10. New York Charter Schools Association
11. New York City Charter School Center
12. New York City Department of Education
13. New York Schools Data Analysis Technical Assistance Group (DATAG)
14. New York State Council of School Superintendents
15. New York State Parent Teacher Association
16. New York State School Boards Association
17. New York State United Teachers
18. School Administrators Association of New York State
19. Staff/Curriculum Development Network
20. State University of New York
21. The Business Council of New York State, Inc.
22. United Federation of Teachers
23. Webster Central School District