



**TO:** Full Board of Regents

**FROM:** Ken Slentz

**SUBJECT:** Update on New York State's Next Generation Accountability System - Approval of Recommended Revisions to the Elementary and Secondary Education Act (ESEA) Flexibility Request

**DATE:** February 13, 2012

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Decision**

Should the Board of Regents direct the Commissioner of Education and State Education Department (SED or "the Department") staff to incorporate revisions (including comments received from the public, as appropriate), in accordance with the approved guiding principles, into the ESEA Flexibility Request?

Should the Board of Regents direct the Commissioner of Education and SED staff to complete the ESEA Flexibility Request in accordance with the principles described (in the draft posted for public comment) and to submit such request to the United States Department of Education (USDE) by February 28, 2012?

#### **Proposed Handling**

This item will come before the full Board of Regents for decision at its February 2012 meeting.

#### **Background Information**

In September 2011, President Obama announced an ESEA regulatory flexibility initiative, based upon the Secretary of Education's authority to issue waivers. The flexibility is intended to reward states that are "showing the courage" to raise expectations in their academic standards. This opportunity for flexibility is not a pass on

accountability. In fact, many components of the ESEA will remain in place and are not subject to this waiver, such as the core requirements for assessment, accountability and supports for schools and districts.

In anticipation that Secretary Duncan would offer the ESEA flexibility, in August 2011 the Department established the School and District Accountability Think Tank (“Think Tank”). The Think Tank was formed to allow key stakeholders the opportunity to consult with staff 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. The Think Tank consisted of representatives from 26 external organizations, in addition to technical experts and SED staff.

In October 2011, the Board of Regents directed the Commissioner to submit an ESEA Flexibility Request to the USDE during the second round of submissions in mid-February 2012, and designated five members of the Board to help lead the work. The Regents designated to lead this work by the Chancellor were **Chancellor Emeritus Robert Bennett, Regent James Dawson, Regent Betty Rosa, Regent James Jackson, and Regent Harry Phillips** [During the development of New York’s ESEA Flexibility Waiver Request, the Regents’ ESEA Workgroup has guided staff work on the ESEA waiver. The workgroup has met regularly by phone with the Commissioner, Deputy Commissioner and key Department staff to provide guidance at each stage in the development of the request.

In November 2011, the Board of Regents approved the *Guiding Principles* to be used as the basis for the development of New York’s ESEA Flexibility Request.

In December 2011, the Regents were presented with specific proposed changes to New York’s current accountability system, which were based on the *Guiding Principles*. Those changes, which were subsequently approved by the Board of Regents and are now included in the ESEA Flexibility Request, included:

1. Revising the Annual Measurable Objective (AMO) goals that outline the timeframe by which schools and districts are expected to ensure that all students are proficient in English language arts (ELA) and mathematics, and to make the goals more realistic and attainable.
2. Developing standards that are better aligned to college- and career- readiness, and using these standards to hold schools and districts accountable for high school performance in ELA and mathematics.
3. Discontinuing the identification of schools for improvement, corrective action and restructuring; and instead identifying Priority and Focus Schools. The Department will ensure that Priority Schools adopt a rigorous whole school reform model supported by partner organizations.
4. Identifying Focus Districts as a means to ensure that districts take dramatic actions in support of schools where performance of disaggregated groups of students is among the lowest in the State. Since district policies often contribute

to why schools have low performance for specific groups of students, districts must play a lead role in helping schools to address this issue. Using mathematical methodologies prescribed by the Commissioner, as approved by the Board of Regents,, districts will be required to identify Focus Schools. Districts will be required to concentrate their support and interventions on these schools.

5. Discontinuing the identification of schools as high performing/rapidly improving; and instead identifying Reward Schools. The Department will make the Reward School designation more rigorous and meaningful.
6. Using both proficiency and growth towards proficiency to make accountability determinations, and use normative growth measures as filters in the process of making accountability determinations.
7. Creating a single diagnostic tool (“The Diagnostic Tool for School and District Effectiveness”) to be used throughout the school and district improvement continuum to drive supports and interventions. The Department will place more emphasis on conducting district level diagnostic reviews that include a school sampling method.
8. Reframing the existing set-asides in ESEA. Instead of narrowly focusing funding on supplemental education services (SES), set-asides can support enhanced implementation of the Regents’ Reform Agenda in Priority and Focus Schools, expanded learning time opportunities for students and increased parental involvement and engagement in low-performing schools. In addition, the Department will revise its grant approval processes to ensure greater alignment in how ESEA Title funds (Title I, Title IIA, and Title III) are used to support implementation of the Regents’ Reform Agenda.

### **School and Accountability Stakeholder Consultation**

Prior to and during the development of the initial draft, staff consulted regularly with members of a School and District Accountability Think Tank, which was comprised of organizations representing key stakeholders. The Department incorporated feedback and suggestions from the group into the waiver proposal as it evolved from the *Guiding Principles* to the final version.

In addition, from September 2011 to February 2012, the Commissioner and other senior managers conducted many meetings with key stakeholder organizations to update them on New York State’s ESEA Waiver Flexibility Request. These meetings provided multiple opportunities for stakeholders to comment, put forward recommendations, and/or endorse the waiver request. The organizations represented widely diverse communities including students, parents, community-based organizations, civil rights organizations, organizations representing English language learners and students with disabilities, and business organizations. Specifically, the Department conducted regular meetings attended by the following organizations: New York State United Teachers (NYSUT), New York State Council of School Superintendents (NYSCOSS), School Administrators Association of New York State (SAANYS), Conference of Big 5 School Districts, and the New York State School

Boards Association (NYSSBA). Meetings focused on the ESEA waiver were held with the Title I Committee of Practitioners (COP), the Bilingual COP, and the Commissioner's Advisory Panel (CAP) for Special Education Services. Each organization was provided the opportunity to review and comment upon the draft waiver request. In January 2012, NYSED conducted individual meetings with NYSUT and the United Federation of Teachers (UFT) to present the proposed ESEA Waiver for discussion and feedback.

## **Public Comment**

At the January 9-10, 2012 meeting of the Board of Regents, Department staff received approval to issue the preliminary draft of New York's ESEA Flexibility Request. Subsequently, the preliminary draft ESEA Waiver Request was released for public comment on January 20, 2012. The information was released on the Department's website, at: <http://www.p12.nysed.gov/esea-waiver/>. Key public stakeholders participated in the public comment process. The period for public comment on the draft ESEA Waiver Request officially closed on January 30, 2012. By February 1, 2012, the Department had received over 450 public comments, which came via e-mail and regular mail.

In addition, on January 25, 2012, Assistant Commissioner for Accountability Ira Schwartz conducted a statewide webinar for the general public and the field to explain the waiver proposal and the plans for New York State's next generation accountability system.

A summary of the feedback received during the public comment period and the Department's responses can be found in Attachment A.

## **Update on ESEA Flexibility**

A summary of the current accountability system and the proposed revised system can be found in Attachment B. The Department is also seeking approval from the Board of Regents to incorporate into the draft any technical and/or editorial changes necessary to prepare the final version for submission. Key changes to the initial draft of the document would include:

- **Identification of Schools as Persistently Lowest Achieving/School Under Registration Review During the 2011-12 School Year:** Using the flexibility granted by the USDE, the Department proposes that the Commissioner not identify a new list of PLA schools during the 2011-2012 school year. Instead, consistent with the USDE School Improvement Grant (SIG) guidance, the Commissioner will allow only previously identified PLA schools that have not been funded for SIG the opportunity to apply for FY 2011 SIG funding. This is to ensure a smooth transition from the current accountability system to the one that will result from the Regents' successful submission of an ESEA waiver request to USDE. As Department staff informed the Regents in the January Regents item on ESEA flexibility, all schools that are implementing a School Improvement

Grant or that are identified as PLA in 2011-12 will be included in the list of Priority Schools.

- **Definition of College- and Career- Readiness:** Based on a number of comments, additional clarification regarding career readiness standards was provided in the application. Consistent with the position of The Association for Career and Technical Education (ACTE), which states that "career-ready core academics and college-ready core academics are essentially the same, thus creating overlap in the preparation students need to be ready for postsecondary education and careers" the request clarifies that the academic standards that apply to college readiness are equally appropriate for measuring the academic skill level a student should have to pursue a career upon graduation. In addition in order to be identified as a reward school, schools must now demonstrate that either their percentage of students graduating with a Regents diploma with advanced designation or their percentage of student graduating with a Regents diploma with CTE endorsement exceeds the State average.
- **Annual Measurable Objectives:** The numeric Annual Measurable Objectives for Grades 3-8 and high school ELA and math and Grades 4 and 8 science have been specified in the request along with a justification for why they are ambitious, but achievable. See Attachment C.
- **Growth Models:** A detailed technical appendix has been added to the request explaining how the use of student growth is computed and incorporated into New York's system for categorization of school and district performance.
- **Methodologies for Identification of Reward, Focus and Priority Schools and Focus Districts:** Based on modeling of data and public comment, revisions to these methodologies have been made. The revised methodologies can be found in Attachment B.
- **Special Act School Districts and Transfer High Schools:** The request clarifies that a school in a Special Act School District will not be identified as a Priority School, unless the school meets the requirement for being a Priority School and has been identified by the Commissioner for Registration Review as a poor learning environment, as per Section 100.2(p) of Commissioner's Regulations. The request also clarifies that before identifying a transfer high school as a priority school the Commissioner will review the performance of the school on a case-by-case basis, giving careful consideration to the mission of a particular school, student performance, and the intent of the priority school requirements. In particular for these schools, the Commissioner will take into account when reviewing graduation cohort data the age and number of credits that members of the cohort had upon admission to the school and the success of the school in graduating students up to the age of 21.
- **Expanded Learning Time and 21<sup>st</sup> Century Community Learning Center Grants:** Based on comments from a number of organizations, including The New York State Afterschool Network; The Children's Aid Society; The After-School Corporation; Building Educators for Life (BELL); Greater Rochester After-School Alliance; New York City Department of Education; Sports and Arts in

Schools Foundation; Stanley Isaacs Neighborhood Community Center; and The New York State Alliance of Boys and Girls Clubs, Inc., the request has been amended to provide greater clarity on how the optional flexibility that allows these funds to support expanded learning time during the school day will be incorporated into the next 21<sup>st</sup> Century Community Learning Center grant competition. The request also provides additional information on the requirement that Priority Schools must offer expanded learning time to students.

- **District Comprehensive Improvement Plans and Local Assistance Plans:** The request has been revised to clarify that a district that has both Priority and/or Focus Schools and schools that require a Local Assistance Plan will use its District Comprehensive Improvement Plan to meet the Local Assistance Plan requirement, and will develop one plan -- not two plans.
- **Menu of Allowable Programs and Services:** The menu of allowable programs and services that a Focus District may use to meet the newly required set-aside requirements has been expanded to include costs associated with training/certifying teacher evaluators, instructional coaches, teacher leaders, etc. in conducting evidence-based observations using the District's teacher practice rubric; training in coaching and feedback on instructional practice; and developing/assessing student learning objectives as part of the teacher evaluation system.
- **Equitable Participation Requirements for Nonpublic schools:** Based on comments received from organizations representing nonpublic schools, the request has been amended to explicitly state that consistent with USDE's ESEA Flexibility guidelines, no statutory or regulatory requirements related to the equitable participation of private school students and teachers in Title I programs may be waived. Accordingly, nothing in the Department's ESEA waiver request will affect any applicable obligations governing the equitable participation of students enrolled in private elementary and/or secondary schools in the State's Title I program.

In addition to the above, the request now provides a more extensive overview of the state's current accountability system; more details on such elements of the plan as Integrated Intervention Teams and the Diagnostic Tool for School and District Effectiveness; and more information on strategies to address the needs of students with disabilities and English language learners. Upon its completion and submission to USDE, the final waiver request will be made available on the Department's website no later than February 29, 2012.

On February 9, USDE announced that it had approved ESEA waiver submissions for ten of the eleven states that submitted applications on November 14, 2011. On February 10, USDE informed states that the deadline for submission of Round 2 waiver requests had been moved from February 21, 2012 to February 28, 2012. On February 10, USDE also issued updated guidance for Round 2 submission that included many minor clarifications and also several more substantive changes noted below:

- Inclusion of an optional waiver of the requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) that LEAs and SEAs make determinations of adequate yearly progress (AYP) for schools and LEAs, respectively. The waiver would permit SEAs and LEAs not to have to make AYP determinations. Additional guidance has also been provided regarding how AYP for subgroups is to be computed.
- Inclusion of an optional waiver of ESEA sections 1113(a)(3)-(4) and 1113(c)(1), which would permit an LEA to serve a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if that school has a lower poverty rate than other Title I-participating schools in the LEA.
- Addition of an assurance relating to the annual report card requirements for SEAs and LEAs.
- Clarification that SEA must demonstrate that the lists of schools provided with its request include the requisite number of schools that meet the ESEA flexibility definitions for priority and focus schools.

The Department is currently reviewing this new information to determine whether technical changes to the application, consistent with Regents guiding principles, should be made.

With USDE approval of the ESEA Flexibility Request, New York State will need to submit to the USDE pertinent revisions to the Accountability Workbook, which will include the flexibility received. Once the workbook has been amended, the Department will need to conform the regulations to the Accountability Workbook, in order to implement the changes.

### Recommendation

It is recommended that the Board of Regents take the following action:

Voted: That the Commissioner of Education and the State Education Department incorporate the proposed revisions (including comments received from the public, as appropriate) with the approved guiding principles and any additional technical and/or editorial changes necessary to prepare the final version for submission.

Voted: That the Board of Regents directs the Commissioner of Education and State Education Department staff to complete the ESEA Flexibility Request in accordance with the principles described (in the draft posted for public comment) and to submit such request to USDE by February 28, 2012.

### Timetable for Implementation

With the approval of the Regents, staff will submit the final draft of the ESEA Flexibility Request to USDE no later than February 28, 2012.

Attachments

## ATTACHMENT A

### ASSESSMENT OF PUBLIC COMMENT

From January 20, 2012 to January 30, 2012, the New York State Education Department solicited public comment on a draft of the waiver request for regulatory flexibility from provisions of the Elementary and Secondary Education Act (ESEA). Over 450 public comments were received via e-mail and regular mail. Many comments began with endorsements for the Regents' Reform Agenda and commended the Department's work overall. In addition, many comments that contained specific, and oftentimes numerous, recommended changes began with compliments for the waiver request plans overall. Some of the positive comments consist of:

- Compliments on a comprehensive and clear flexibility application.
- Support for the establishment of revised AMOs.
- Support for setting College- and Career- Ready Standards using a growth model in addition to student achievement.
- Support for not identifying schools if they are above median state growth percentile in ELA and Math grades 4-8.
- Support for giving full credit to any student who is or is on track to proficiency using growth measure.
- Support for the Reward school proposal and granting increased flexibility to Reward schools.
- Support for the creation of a single diagnostic tool for schools and district accountability.
- Support for the proposal for districts to develop a singular improvement plan.
- Support for the recommendation to no longer mandate that 20 percent set aside for SES as SES is currently executed.
- Support for many of the funding revisions including the transfer of various funding streams into Title I Part A, removing the 40 percent poverty school-wide program threshold, and the waiver of 21<sup>st</sup> Century Community Learning Centers funds.
- Support for eliminating mandatory set-asides and allowing transfer of funds.

The Department received comments from individuals, organizations (e.g., LEA, community organizations, and foundations), as well as from regions (i.e., Big 5, Long Island, NYC, Upstate, Westchester, etc.). Comments ranged across and touched on many areas of the ESEA Flexibility Request. Below is a general summary of comments by the topics with the greatest number of responses. These summaries are intended to provide an overview rather than a review of the comments in their entirety. Topics with the greatest number of responses, however, include:

- Supplemental Educational Services
- Annual Professional Performance Review (APPR)
- The Role of Testing
- 21<sup>st</sup> Century Community Learning Centers

## **1. Supplemental Education Services (SES) Comments:**

Numerous comments were received (many were form letters) from parents, students, service providers and advocacy organizations recommending the Department not change the current mandated set-aside of Title I funds for SES. One letter from the *Tutor Our Children New York Campaign Coalition* was submitted on behalf of 31 organizations. In addition, a letter was received from the New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus that also recommended that the existing set-aside provisions for SES remain in place. Although not part of the formal comment process, the Commissioner and other Department staff also received hundreds of post cards signed by students urging that SES tutoring services be continued.

A majority of comments were sent as part of a form letter that was adapted by each respondent. The form letter comments state concern about the disproportionate impact of the proposed SES measures on low-income students in underperforming schools with several saying that the proposed measure will exacerbate gaps between low-income and other students. These comments contend that the state should maintain the current number of students receiving SES, students who are predominately both low-income and persons of color. 87,400 low-income students are provided SES according to the comments. They further state that studies conducted by USED and Rand show that tutoring is effective.

Similarly, responses noted that districts that are already underperforming are unlikely to better serve students than if those students participated in SES programs. In addition, it is argued that having service providers reapply to the state will result in a service disruption for students in the upcoming school year.

Specifically, several comments indicated that if the Department proceeded with changes to SES requirements, numerous after-school programs and service providers would no longer be available to serve disadvantaged students. The comments outlined the potential impact on particular groups of students (i.e. low-income students). Some commented that the final Flexibility Waiver should continue to ensure that students in Priority Schools receive SES, as long as the school is not meeting specific academic targets. A number of comments suggested that the SES set-aside be reduced or modified but not eliminated completely.

It should also be noted that in meetings attended by representatives of school districts, almost all of these representatives expressed strong support for this provision of the waiver.

### **DEPARTMENT RESPONSE:**

The waiver does not seek to eliminate the provision of SES services to students. Rather, the Department is proposing to change the set-aside requirements. New York will not require districts to offer SES or set aside a portion of their Title I allocation to pay for SES. Alternatively, districts can choose to offer SES and pay for the services using

Title I funds. In order to support districts that choose to continue to provide SES, New York will require all SES providers to reapply for state approval. New York will evaluate whether the SES providers' programs are aligned with the Common Core standards. Districts that wish to offer SES will be allowed to determine the providers that parents in their district may select. The waiver will not eliminate the district's responsibility to provide interventions for students that need support services to increase student achievement. In addition, the Commissioner, as approved by the Board of Regents, shall establish a minimum amount of Expanded Learning Time that must be incorporated into the redesign of the school day, week and/or year for Priority Schools. Districts will be able to use funds from their Title I and Title II set-asides to implement these requirements. NYSED will assist districts by providing technical assistance to support development and implementation of this redesign, including assisting schools to redesign and expand their schedules in partnership with providers that have a demonstrated record of promoting student achievement.

## **2. Annual Professional Performance Review (APPR) Comments (Teacher and Principal Evaluations):**

Over 80 individual comments, in whole or in part, concerned APPR. These responses included multiple copies of two form letters. The first form letter, which appears to have been written by persons associated with Class Size Matters, had over 50 individual submissions. The second form letter had over 20 submissions including one letter that cited the signature of over 5,400 "concerned educators, parents, and citizens" for a separate but related petition. Both sets of form letters were generally modified slightly, if at all, by those commenting. Both form letters are summarized briefly below.

The first form letter asserts that the waiver would generate additional testing and children are already over-tested; that the emphasis on testing and accountability is harming education; and test-based accountability for teachers, schools, teacher education programs should be opposed. The writers urge disclosure of the cost of the waiver and incorporation of feedback from parents, students, and principals in an evaluation system.

The second form letter asserts that a previous letter signed by 1280 New York State principals and 4200 teachers, administrators, parents, superintendents, professors, and citizens were disregarded, as demonstrated by the draft ESEA Flexibility proposal. The writers assert that the proposal will perpetuate the flawed APPR system and request that stakeholders be engaged in this conversation.

In addition, the School Administrators Association of New York State (SAANYS) wrote, "The Department should be more forthcoming in depicting the effects of related litigation - stymieing collective bargaining by the court striking down much of SED's implementation regulations. The narrative in this section lays the blame for lack of implementation at the foot of school districts and bargaining units." The letter goes on to state that "It must be recognized that the successful implementation of the enhanced APPR procedures specified in Section 3012-c is unlikely for most, if not all districts in

2011-12. Therefore, with due respect, we recommend that New York seek a one-year extension of APPR phase-in, as has been requested and approved for Delaware.”

Other comments typical of those received are quoted below:

“We are assessing students for the wrong reasons and paying too much for it.”

“[The] Draft codifies flawed APPR linkage of student test scores and teacher evaluation, and it also expands the testing given to students. Tying student test scores to teacher evaluations is harmful to both teachers and students. Test scores are a reflection of many factors, factors over which classroom teachers have little or no control. Time should be taken to carefully reflect on these requirements and determine if they are actually beneficial to students or are simply politically expedient. Such a policy will ensure that teachers simply ‘teach to the test.’”

“APPR is poorly designed, poorly written, and ill prepared to meet the needs of public school educators and students . . .”

#### DEPARTMENT RESPONSE:

The waiver request does not establish any new policy or requirements in terms of teacher and principal evaluation. The waiver simply documents that actions that have been taken by the Governor and state legislature in enacting New York’s new Teacher and Principal evaluation system (3102-c of Education Law), the Board of Regents in adopting conforming regulations (Section 100.2 of Commissioner’s Regulations), and the Department in implementing the provisions of regulations. The actions outlined in the State’s proposal are consistent with the requirements of the waiver and must be met in order to receive the flexibility requested.

### **3. Testing Comments (Assessments and Other Academic Measures):**

Numerous comments pertaining to testing were received (several were form letters) that expressed opposition to the waiver request. The form letters, which also appear to be sent by persons associated with Class Size Matters, generally make the points that the waiver would generate additional testing and children are already over-tested; the emphasis on testing and accountability is harming education; the Department should not create additional ELA tests in grades 9 and 10; and should not have test-based accountability systems for teachers, schools, or teacher education programs.

Comments were submitted regarding the methodology for calculating AYP against the Performance Index, when used in the determination of what students in transfer schools have achieved while enrolled.

There were some comments regarding the extension of the length of the Graduation Rate Cohort beyond the four-year cohort for all schools. There was also mention of the inclusion of students who graduate within a “legal time period” as an accountability measure.

## DEPARTMENT RESPONSE:

The Department does not intend to impose new tests as a result of the waiver but will use the existing state assessment program to measure school and district performance. The Department believes that the aspirational goal of a score of 75 or above on the English Regents exam and a score of 80 or above on a Math Regents exam is a suitable proxy for college and career readiness. The Department acknowledges as new assessments are administered and/or as additional information is captured by our data system, other measures of college and career readiness may become available for consideration by the Regents.

The request has been amended to clarify that the academic standards that apply to college readiness are equally appropriate for measuring the academic skill level a student should have to pursue a career upon graduation. The application has also been amended to revise the way in which transfer high schools as well as special act schools will be held accountable for performance and the use of the five year cohort has been expanded in making accountability determinations.

### **4. 21<sup>st</sup> Century Community Learning Centers (CCLC) Comments:**

A number of comments were submitted from service providers and advocacy organizations regarding the implications of seeking a waiver that includes the 21<sup>st</sup> Century Community Learning Centers. A majority of comments spoke to the fear that schools districts would use funds, not for quality after school programming, but to fill gaps in a very limited and strained budget (i.e. replace lost positions). Many after-school providers, students, and families saw the waiver as a threat to 21<sup>st</sup> CCLC programs. Accordingly, those providing comments noted the strong track record of learning centers providing “high-quality, school-linked expanded learning opportunities.” Almost 150 submissions were offered from individuals connected with the Nepperhan Community Center – Gateway After School Academy at Yonkers Middle School while over 140 were received by those concerned with Stanley M. Isaacs Neighborhood Center in Yorkville and Easter Harlem in NYC; the tenor of both sets of comments were of angst regarding the future of the respective programs if the proposed waiver moved forward as planned.

Comments were made that suggest the waiver emphasize the importance of the addition of significantly more time to the traditional school day to facilitate well rounded curricula and more individual relationships with adult role models, including the integration of specialists during the school day. Several comments noted the research cited by New York City Commissioner Jeanne B. Mullgrav of the Department of Youth and Community Development, which argued that extended learning time during the school year and in the summer “can reinforce what students learn in school not only through explicit academic support, but also by giving them opportunities to use these basic skills in all their activities.”

Specifically, some comments noted:

- Applying for the optional waiver would permit expanded learning time and additional activities during the school day and non-school hours.
- The Request for Proposal process should take into consideration the range of models for expanded learning time (including before school, after school, summer learning programs, and/or expanded learning time programs), as long as the model includes research-based expanded learning opportunities that improve students academic, social, and emotional outcomes.
- The option for extending the school day in all schools, not just Priority Schools.
- Additional learning opportunities should be responsive to parents' needs and desires, and thereby the Department should further clarify what is meant by "state approved services and programs."

**DEPARTMENT RESPONSE:**

The Department understands the concerns expressed in the comments. The waiver request has been amended to provide greater clarity on how the Department proposes to incorporate into the next 21st CCLC grant competition the optional flexibility that allows these funds to support expanded learning time during the school day. The request also provides additional information on the requirements that Priority Schools offer expanded learning time to students.

**5. Students with Disabilities and English Language Learners Comments:**

Several advocacy organizations submitted comments regarding students with disabilities and English language learners subgroups. Some comments were supportive. There was also support for alternate pathways for students with disabilities to access a diploma and support for efforts to update English language learners standards and resources, align to Common Core, consult experts, develop new curricula, and provide professional development.

Specifically, comments noted concerns with the New York State English as a Second Language Achievement Test (NYSESLAT) needing to be revised and aligned to the standards, curricula and assessments. The comments sought to have more details in the final version about the specific needs of and tailored interventions geared toward the particular subgroups such as students with disabilities and English language learners. One advocacy group asked for more details regarding the supports that will be given to schools and districts, particularly for students with disabilities, English language learners and other at-risk students.

A number of comments recommended changes to the rules regarding when and how English language learners and students with disabilities are tested and how their results are incorporated into the accountability measures for schools and districts. A number of comments suggested that these groups of students be given more time to meet graduation requirements.

In addition, comments were made regarding the creation of safeguards in the processes for school choice, enrollment, transfer options and discharge policies to ensure inclusion of students with disabilities and English language learners.

**DEPARTMENT RESPONSE:**

Throughout the waiver request, the specific needs of and tailored interventions geared toward the students with disabilities and English language learner populations are addressed. The Department is on target to align the NYSESLAT to the Common Core Learning Standards by 2013. Also, the waiver seeks to continue efforts for consolidation and coordination of all generated funding, including those directed under Title IIA and Title III and build on work already underway to better align the ESEA and IDEA accountability systems.

**Comments from Selected Stakeholders:**

The New York City Department of Education (NYCDOE) provided comments on the ESEA Waiver Request, noting that the draft waiver is a significant improvement over the existing NYS accountability framework under NCLB. In particular, NYCDOE supports the following specific provisions of the request: use of growth metrics; the creation and use of the single Diagnostic Tool for School and District Effectiveness; targeting of resources to Priority and Focus schools; and the elimination of mandatory set-asides and allowing for the transfer of funds. The NYCDOE also put forward the following recommendations: evaluation methodologies should include peering or other controls for student demographics; alignment of school and educator accountability by adopting a single growth percentile methodology that incorporates demographic controls; expansion of measures of school quality to include additional measures of college readiness (such as AP, higher level Regents, and courses for college credit); and limiting set-aside amounts further, while maintaining rigorous accountability. The NYCDOE also recommended that the current levels for Priority and Focus schools be less restrictive; accountability for transfer high schools be based on performance of students once they arrive in comparison to other over-age, under-credited students; that the Title I Supplement applications and Title I Verification applications be consolidated; and that there be common training and norming controlled by the Department to consolidated review teams. Lastly, that the Department seek a waiver from regulations requiring districts to provide evidence of SES services rendered in order to carry over accruals.

The New York State United Teachers (NYSUT) submitted comments on behalf of its members. The comments included questions about the research behind the change in scores for the Regents exams in relation to the new proficiency levels. NYSUT opined that data from CUNY and anecdotal evidence from SUNY is not enough to justify a significant change in cut scores for accountability. NYSUT agrees with the use of a static list of Priority schools and Focus Districts and Local Assistance Plan schools. However, they question the proposed re-branding of SINI and DINI classifications. NYSUT also indicated that it is difficult for them to fully evaluate the advantage of the

waiver application without having specifics on how the modeling operates and which buildings/districts will be impacted. While NYSUT agrees that the waiver will likely provide districts and schools relief from some of the current burdensome elements, they encourage the Regents ensure that the waiver does not create additional unintended consequences.

The New York State Association for Bilingual Education recommends that we consolidate and coordinate “all ELL generated funding including Title I, II, III, Foundation Aid, Contract for Excellence, and local district funding” to ensure funding is spent on English language learners. In addition, they recommend that a system that will ensure transparency in use of English Language Learner generated funds be established. They caution that English Language Learners (“ELLs”) are not a monolith and require differentiated supports. Other concerns put forth include: use of native language assessments for monitoring and accountability, lack of appropriate assessments for newcomers preventing schools from accurate assessment, and appropriate participation in advanced placement. The organization recommends that ESL standards and Native Language Arts standards aligned to the common core be developed; that we request a waiver that eliminates testing in ELA from grades 3-8 for students who have been in school in the United States for one year and a day; that Growth to determine whether ELLs are on track to become college and career ready be used; that schools whose ELLs demonstrate progress through Growth be identified and rewarded; that flexibility in graduation time for ELLs with unique circumstances be offered; that AMOs should consider time ELLs need to develop literacy skills; that ELLs linguistic progress using a growth model that compares ELLs with other ELLs be used; and that training/PD for leaders working with ELLs be promoted.

The Asian American Legal Defense and Education Fund and Advocates for Children support efforts to update ELL standards and resources and align to Common Core, consult experts, develop new curricula, and provide professional development. They also urge that the waiver provide a framework for specific guidelines to allow and facilitate phasing in of newer alternative measures and assessments. Comments also express concern that neither the current NYSESLAT nor the standard ELA assessments are appropriate instruments of ELL accountability. It is recommended that the waiver include plans and guidelines to consult ELL instruction experts to contemplate an expanded role for the revised NYSESLAT in ELL accountability, provided that problems with current version are resolved. Additionally, they recommend that the current NYSESLAT not be used in the teacher and principal evaluation process. These organizations ask that the waiver include more details about the specific needs of and interventions tailored to ELLs and subgroups within ELLs.

Tutor Our Children New York Coalition, which states that 87,000 students receive tutoring to help them catch up with their peers, maintains that the Board of Regents should remain committed to low income students regardless of whether they are enrolled in Priority or Focus schools. They urge the Department to consider the academic interventions that are needed to ensure student growth. As previously stated, the organization cites studies from both USDE and Rand showing that SES is highly

effective. They state that SES programs are research based and do not lack oversight and accountability. With regard to the Department's plan to have SES providers re-certified, the organization states that asking providers to reapply will cause a disruption in services. They recommend that the Board of Regents preserve a minimum set-aside for SES for students in Priority and Focus Schools, as well as disadvantaged, underperforming students at all schools. And lastly, the organization recommends that school districts be allowed to choose within a range or a minimum set-aside amount appropriate for their population.

#### DEPARTMENT RESPONSE:

The Department notes that it is unlikely that USDE would accept the use of a peer school methodology that incorporates demographic controls in the identification of priority or focus schools. The Department agrees that additional measures of college readiness have the potential to improve accountability determinations at the high school level and has committed to provide the Regents with recommendations regarding additional measures of college readiness as Statewide data based on well-verified student level records becomes available. The Department has clarified that transfer schools will only be identified as priority schools after a case-by-case review of data has occurred and will work with NYCDOE and other districts with transfer high schools to establish predetermined transfer high school metrics to use for this review. The Department has accepted a NYCDOE recommendation that schools not be identified as priority schools if the majority of the subgroups in the schools have a Performance Index that exceeds the Statewide average for that group. Finally, under the waiver there will no longer be a requirement to provide evidence of SES services in order to carry over accruals.

The Department has previously sought unsuccessfully a waiver regarding the testing and accountability requirements for newly arrived English language learners, and the USDE has indicated that changes to those policies will not be considered under the ESEA flexibility initiative. The Department agrees that there is a need to collect and provide districts with more information about the characteristics of the English language learner population they serve, such as whether a student has had interrupted formal education or is a long-term ELL. The Department will be revising the home language questionnaire to collect more information on the ELL population. The Department further notes that it is committed to aligning Native language arts and English as a Second language standards with the Common Core Learning Standards and is in the process of creating a new NYSESLAT examination that will be aligned to the Common Core Learning Standards. The Department is currently working with its contractor, the American Institutes for Research, to determine whether the NYSESLAT can be used as a growth measure for teachers and principals. The Department is also currently developing a RFP that would provide districts with funding to disseminate and replicate models of success for ELL's. The Diagnostic Tool for School and District Effectiveness; the District Comprehensive Education Plan; and the revised Consolidated Application

for Title I, Title IIA, and Title III funding all are being designed to ensure that the needs of ELLs are integrated into each element of a district's educational program. Lastly, the mandated five to 15 percent set aside of funds when a school district has been identified for the performance of its ELLs subgroup will ensure that districts robustly support strategies to ensure that ELLs fully benefit from implementation of the Regents Reform agenda.

The Department responses regarding college and career readiness standards and SES services were provided in the prior section of this attachment. The Department's response regarding modeling is provided in the section on additional comments below.

### **Additional Comments:**

Sample Designation List – A few comments mentioned that the lists were not included. Others suggested that the Department change the methodology for creating the lists.

Non-Public Schools Equitable Participation – Several comments noted that previously, Public School Choice and SES were subject to Equitable Participation Provisions for private school students and teachers.

### **DEPARTMENT RESPONSE:**

The lists were intentionally omitted since it is not required to be submitted with the waiver, except in redacted form. The Department plans to inform individual districts regarding the status of the district and its schools under the waiver, but not to make the lists of schools and districts public until its waiver has been approved.

A detailed technical appendix has been added to the application explaining how the use of student growth is computed and incorporated into New York's system for categorization of school and district performance. Based on modeling of data and public comment, revisions to these methodologies have been made. The revised methodologies can be found in Attachment B.

Consistent with the USDE's ESEA Flexibility guidelines, no statutory or regulatory requirements related to the equitable participation of private school students and teachers in Title I programs may be waived. Accordingly, nothing in the Department's ESEA waiver request will affect any applicable obligations governing the equitable participation of students enrolled in private elementary and secondary schools in the State's Title I program.

**Attachment B: Key Proposed Changes to New York’s Differentiated Accountability System  
(Changes Made to Table Since January 2011 Regents Presentation are Noted in Bold)**

<b>Category</b>	<b>The Current System</b>	<b>New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval</b>
<p><b>1. Assessments and Other Academic Measures</b></p>	<p>New York (NY) uses the following assessments and measures to hold schools and districts accountable for student results:</p> <ul style="list-style-type: none"> <li>• Grades 3-8 English Language Arts (ELA)</li> <li>• Grades 3-8 Mathematics</li> <li>• High School ELA</li> <li>• High School Mathematics</li> <li>• Grades 4 and 8 Science</li> <li>• Four and Five Year Cohort Graduation Rates</li> </ul>	<p>New York will continue to use these same measures, although in somewhat different ways (e.g: introducing student growth measures), to hold schools and districts accountable for results.</p> <p>Over time, as new assessments are developed and the build out of the longitudinal data system allows for the collection of more complete information on certain measures of student achievement, the Regents may wish to consider including additional indicators that could include:</p> <ul style="list-style-type: none"> <li>▪ Value added growth models [as required by the Commissioner's Regulations 100.2(o)] when approved for existing or new State assessments.</li> <li>▪ New assessments in ELA in grades 9 and 10 and new middle level assessments in science and social studies (subject to fund availability).</li> <li>▪ New data elements or existing data elements, including: such measures as:               <ul style="list-style-type: none"> <li>○ college retention and credit accumulation</li> <li>○ performance on Advanced Placement (AP)</li> <li>○ International Baccalaureate (IB)</li> <li>○ SAT and American College Testing (ACT)</li> <li>○ Other measures of college readiness; Career and Technical Education (CTE)</li> <li>○ Program completion and industry certification and</li> <li>○ High school course credit earned in middle school and college credit earned in high school.</li> </ul> </li> </ul>

Category	The Current System	New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval
<p><b>2. Definition of Proficiency for Purposes of Determining Adequate Yearly Progress in English Language Arts, Mathematics, and Science</b></p>	<p><b>For Grades 3-8 ELA and math:</b> the proficiency standards established by the Regents in July 2010. These standards were based on a review of research that analyzed how the grades 3 through 8 state tests relate to the National Assessment of Educational Progress (NAEP) exam and Regents exams, how performance on the Regents exams relates to SAT scores; and how performance on the Regents exams relates to first-year performance in college.</p> <p><b>For Grades 4 and 8 Science Exams:</b> Level 3, passage of a Regents exam in Science or score of Level 3 on the NYSAA (for students with severe disabilities).</p> <p><b>For High School ELA:</b> Score of 65 on the Comprehensive Regents Examination in English, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</p> <p><b>For High School Math:</b> Score of 65 on a Regents examination in math, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</p>	<p>Same</p> <p>Same</p> <p>The definition of proficiency for purposes of determining Adequate Yearly Progress will be:</p> <ul style="list-style-type: none"> <li>• The score of 75 on the Comprehensive Regents Examination in English, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</li> <li>• The score of 80 on a Regents examination in math, a designated score on an approved alternative to the Regents, or a score of Level 3 on the NYSAA (for students with severe disabilities).</li> </ul> <p>In addition, the Department is working with USDE to determine if "partial" credit can be awarded to districts for students who score between 55 and 64 on Regents examinations in ELA or math or who pass Regents Competency Exams in Reading and Writing or math. <b>Depending on these discussions and further review of data, SED may seek to amend its application to incorporate this provision.</b></p>

Category	The Current System	New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval
<p><b>3. The Goals for Schools and Districts in Terms of the Assessments and Academic Measures (Annual Measurable Objectives)</b></p>	<p>Annual Measurable Objectives (AMO) have been established such that for Grades 3-8 ELA, Grades 3-8 math, High School ELA and High School Math, the AMO increases annually in equal increments until they reach in 2013-14 a Performance Index of 200, which requires 100 percent of students to be proficient.</p> <p>The same AMOs apply to the all student group and each subgroup.</p> <p>For grades 4 and 8 science the AMO is fixed at a Performance Index of 100.</p> <p>For Graduation Rate, the goal is 80 percent of students achieve a local or Regents diploma within five years of first entry into Grade 9.</p>	<p>The baseline for 2010-11 school year performance for grades 3-8 ELA and math will be reset to reflect the incorporation of student growth into the Performance Index.</p> <p>The baseline for 2010-11 school year performance for high school ELA and math will be reset to reflect the use of the higher aspirational goals on Regents examinations as the cut scores for proficiency.</p> <p>Once the revised baselines are calculated for grades 3-8 and high school ELA and math, New York will increase Annual Measurable Objectives (AMOs) for these measures and grades 4 and 8 Science in annual equal increments toward the goal of reducing by half, within six years, the gap between the Performance Index for the “all students” group and each subgroup in 2010-11 and a Performance Index of 200. <b>The AMO’s that result from this methodology are to be found in Attachment C.</b></p> <p>Same.</p>
<p><b>4. The Categorization of Schools and Districts Along a Continuum of Accountability</b></p>	<p>Schools are categorized as either in Good Standing, Improvement, Corrective Action, or Restructuring based upon whether they achieve Adequate Yearly Progress (AYP) on state assessments. Districts are similarly identified as in Good Standing, Improvement or Corrective Action based on their history of making AYP.</p> <ul style="list-style-type: none"> <li>Schools that fail to make AYP for two consecutive years in the same measure lose their status of Good Standing in that measure. Schools not in Good Standing must make AYP for two consecutive years in the same measure in which they failed to regain their status of Good Standing.</li> </ul>	<p>New York will identify, reward, and provide interventions, incentives and supports to Reward Schools, Priority Schools, and Focus Districts and Schools using a methodology that rank orders schools by a mathematical formula to be prescribed the Commissioner, as approved by the Board of Regents,.</p> <p>A Focus District will be required to identify the schools upon which it will focus its support and intervention efforts. Each Priority School may be further identified as a School Under Registration Review (SURR).</p> <p>Districts will be required to prepare Local Assistance Plans to support schools within the district that show a persistent pattern of failing to make AYP with a particular student population or which have large gaps in student achievement between one or more student subgroups, but which are not designated Priority or Focus Schools. The plans must be posted</p>

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	<ul style="list-style-type: none"> <li>Districts that fail to make AYP for two consecutive years for the same subject lose their status of Good Standing in that subject. Districts not in Good Standing must make AYP for two consecutive years in the same subject in which they failed to regain their status of Good Standing.</li> </ul>	<p>to the district's website. <b>Focus districts will incorporate their plan for these schools into their District Comprehensive Education Plan in lieu of doing a separate Local Assistance Plan.</b></p>
<p><b>5. The Determination and Role of Adequate Yearly Progress (AYP)</b></p>	<p>In order to make AYP, schools and districts are required to achieve their Effective Annual Measurable Objectives or make Safe Harbor, and demonstrate the required participation rate on state assessments for each disaggregated group on each measure for which the school is accountable.</p>	<p>New York will determine AYP in a similar manner as currently required under NCLB, with a focus on the academic achievement of the current NCLB subgroups. As in the past, in order to make AYP, schools will continue to be required to achieve their EAMO or make Safe Harbor, and demonstrate the required participation rate on state assessments for each sub group on each measure for which the school is accountable. However, New York is seeking to eliminate the requirement that in order to make Safe Harbor in grades 3-8 ELA or math an accountability group must also make AYP with that group in science, as well as the requirements that to make Safe Harbor for high school ELA or math, an accountability group must also make AYP with that group for graduation rate.</p> <p>New York will continue to report AYP results for all accountability groups at the school and district level. The use of AYP will be limited to being one of the indicators in determining Reward Schools and in determining whether specific schools that do not fall into the Focus or Priority groups must complete a Local Assistance Plan.</p>
<p><b>6. The Role of Growth Measures</b></p>	<p>Student growth is currently not used to determine school and district classifications.</p>	<p>New York State will incorporate growth into the Accountability system in two ways:</p> <ul style="list-style-type: none"> <li>For Grades 4-8 ELA and mathematics, schools and districts will be given credit in the computation of their Performance Index for each student who is on track towards meeting proficiency based on the student's academic growth between administrations of State assessments. Schools and districts will get "full credit" for any student who is proficient or is on track to become proficient within a</li> </ul>

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		<p>prescribed time period.</p> <ul style="list-style-type: none"> <li>• New York will use a normative growth measure as part of the process of determining the identification of schools and districts for Reward, Focus, and Priority status. If schools or districts that would otherwise be given Priority or Focus designation demonstrate median Student Growth Percentiles that above the State median in ELA and mathematics <b>combined</b> for the 2009-10 and 2010-11 school years combined they will not be so designated. Conversely, schools that otherwise would be categorized as Reward Schools, but that fail to demonstrate median Student Growth Percentiles at least equal to the State median in both ELA and mathematics for two consecutive years will not be so designated. <b>Detailed Information about the growth model can be found in a technical appendix to the ESEA waiver request.</b></li> </ul>
<p><b>7. The Identification of Priority Schools</b></p>	<p>Identification of Priority Schools is not a part of New York State’s accountability system.</p>	<p>New York State will identify Priority Schools in the following order:</p> <ul style="list-style-type: none"> <li>• Schools that are implementing a School Improvement Grant or were identified as PLA in the 2011-12 school year.</li> <li>• High schools that have had graduation rates below 60 percent for three consecutive years and do not have extenuating or extraordinary circumstances.</li> <li>• Schools that had previously been identified for improvement, corrective action or restructuring that have the lowest combined Performance Index in ELA and mathematics and whose median Student Growth Percentile in ELA and mathematics <b>combined</b> is not above the 50th percentile in the 2009-10 and <b>2010-11 school years combined</b> for elementary and middle schools, or whose Performance Index in ELA and mathematics has not shown specified <b>improvement</b> for high schools, will be identified, if they do not have extenuating or extraordinary circumstances. <b>In addition, a school will not be identified as a priority school if the majority of subgroups for which it is accountable have a combined SGP in ELA and mathematics that exceeds the state median for that subgroup.</b></li> </ul>

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		<p>At least 5 percent of the public schools in the State will be identified as Priority Schools. If necessary, additional schools will be identified to ensure that at least five percent of the Title I schools in the State are identified as priority schools.</p> <p><b>Schools in Special Acts School Districts will only be identified as priority schools if they have also been identified for Registration Review as a Poor Learning Environment.</b></p> <p><b>Before identifying a transfer high school as a priority school the Commissioner will review the performance of the school on a case-by-case basis, giving careful consideration to the mission of a particular school, student performance, and the intent of the priority school requirements</b></p>
<p><b>8. The Identification of Focus Schools</b></p>	<p>Identification of Focus Schools is not a part of New York State's accountability system.</p>	<p>New York will identify Focus Schools in a two stage process under which the Commissioner would first identify the districts with the lowest performing subgroups as Focus Districts and the districts in turn would, with the Commissioner's approval, identify Focus Schools within the district.</p> <p>New York will identify districts as a Focus District, if any of its student subgroups have a combined ELA and mathematics Performance Index that places the subgroup among the lowest <b>five</b> percent in the State for racial/ethnic subgroups, low-income students, students with disabilities, or English language learners. A district will not be identified for that subgroup's performance if that subgroup has a graduation rate above the State average on the four year graduation cohort <b>or</b> the group's <b>2009-10 and 2010-11 combined</b> median Student Growth Percentile in ELA and mathematics has been above the Statewide median for the group in 2009-10 and 2010-2011 school years combined. <b>A district will also be identified as a Focus District if any of its student subgroups have a combined four year graduation rate that places the subgroup among the lowest five percent in the State for racial/ethnic subgroups, low-income students, students with disabilities, or English language learners and the subgroup's five year graduation cohort rate does not exceed the State median or the subgroup has not made at least</b></p>

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		<p><b>a ten percentage point gain in graduation rate during the past three years</b> for the four year cohort.</p> <p>New York will identify at least ten percent of districts and ten percent of charter schools as Focus Districts and Focus Schools. For purposes of determination of a Focus District, each New York City Community School District will be analyzed individually.</p>
<p><b>9. The Identification of Reward Schools</b></p>	<p>New York identifies a school as high performing if the “all students” group achieves all applicable State standards, and the school makes AYP on applicable performance measures. A school can be identified as rapidly improving, if the school makes AYP on applicable performance measures and the school demonstrates a specified amount of improvement.</p> <p>There is currently no reward for these schools beyond their posting to SED’s website.</p>	<p>New York will identify Reward Schools in a significantly more rigorous way than previously done for high performing schools.</p> <p>At the elementary and middle level, New York will use the following criteria to designate a school as highest performing:</p> <ul style="list-style-type: none"> <li>• the school’s combined ELA and mathematics Performance Index for the past two years places it among the top <b>twenty</b> percent in the State;</li> <li>• the school has made AYP with all groups and all measures for which it is accountable;</li> <li>• the school’s student growth percentile for the past two years in ELA and mathematics equals or exceeds fifty percent;</li> <li>• the school’s student growth percentile for ELA and mathematics in the most recent year for its bottom quartile of students, <b>as measured by their student growth percentile in the previous year</b>, equals or exceeds fifty percent <b>in the current year</b>; and,</li> <li>• <b>the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</b></li> </ul> <p>At the high school level, a school will be considered highest performing, if all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>• the school’s combined ELA and mathematics Performance Index for the past two years places it among the top <b>twenty</b> percent in the State;</li> <li>• the school has made AYP with all groups on all measures for which it is accountable;</li> <li>• the percentage of students who graduated with a Regents diploma equals or exceeds 80 percent and the percentage of students who</li> </ul>

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		<p>have graduated with a Regents diploma with advanced designation or <b>CTE endorsement</b> exceeds the State average;</p> <ul style="list-style-type: none"> <li>• the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently graduated within four years of first entry in Grade 9 equaled or exceeded the State average for these students; and</li> <li>• <b>the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</b></li> </ul> <p>At the elementary and middle levels, a school will be considered a high progress school, if all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>• the school's combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains between the most recent assessment data and the data from three years previously;</li> <li>• the school has made AYP with all groups and all measures for which it is held accountable;</li> <li>• the school's student growth percentile for the past two years in ELA and mathematics equals or exceeds 50 percent;</li> <li>• the school's student growth percentile for ELA and mathematics in the most recent year for its bottom quartile of students, <b>as measured by their student growth percentile in the previous year</b>, equals or exceeds fifty percent <b>in the current year</b>; and,</li> <li>• <b>the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup.</b></li> </ul> <p>At the high school level, a school will be considered high progress if all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>○ the school's combined ELA and mathematics Performance Index places it among the top ten percent in the State in terms of gains</li> </ul>

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		<p>between the most recent assessment data and the data from three year's previously;</p> <ul style="list-style-type: none"> <li>○ the school has made AYP with all groups for which it is accountable;</li> <li>○ the percentage of students who graduated with a Regents diploma equals or exceeds 60 percent and the percentage of students who have graduated with a Regents diploma with advanced designation <b>or CTE endorsement</b> exceeds the State average;</li> <li>○ the percentage of the students who scored Level 1 or Level 2 on an ELA or mathematics exam in Grade 8 who subsequently graduated within four years of first entry in Grade 9 equaled or exceeded the State average for these students; and,</li> <li>○ <b>the school does not have a gap in performance larger in 2010-11 than it did three years prior for all subgroups of students and students who are not members of the subgroup</b></li> </ul> <p>Reward Schools will be:</p> <ul style="list-style-type: none"> <li>• identified annually and be publicly recognized with a press release and a posting of the list to the Department's website.</li> <li>• eligible to compete for a Commissioner's Schools Dissemination Grant of up to \$100,000, which is currently funded through the RTTT initiative.</li> <li>• a potential factor beginning in the 2012-13 school year in determining which districts receive District Performance Improvement Award Grants.</li> </ul> <p>After consultation with representatives of Reward Schools, a process will be recommended to the Regents by which Reward Schools may seek expedited variances from certain provisions of Commissioner's Regulations.</p>

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<p><b>10. The Diagnostic Reviews to be Conducted in Identified Schools and Districts</b></p>	<p>New York conducts a School Quality Review (SQR), Joint Intervention Team (JIT) or an External School Curriculum Audit (ESCA) site visit, based on the accountability status of a school or district. Each type of visit requires a different review protocol with a separate corresponding diagnostic tool.</p>	<p>New York will use a single diagnostic tool (<b>the Diagnostic Tool for School and District Effectiveness</b>) closely aligned to implementation of the key components of the Regents’ Reform Agenda, for use in all identified schools.</p> <ul style="list-style-type: none"> <li>• The single diagnostic tool will allow for focus-driven visits, repeated to see if benchmarks are achieved.</li> <li>• School Quality Review Teams will conduct diagnostic reviews in Focus Districts, which will include visits to a sample of Focus Schools within the district.</li> <li>• In districts that are required to develop a Local Assistance Plan for specified schools, the district will be expected to use the diagnostic tool to inform the development of its plans.</li> <li>• The intent is that Department staff and/or designated representatives will make regular visits using the single diagnostic tool to determine the progress that schools and districts are making in implementing their plans and improving educational results.</li> <li>• A key purpose of the diagnostic is to measure the degree to which there is a strong delivery chain from the State to the district to the school leadership to support the implementation of the key elements of the Regents’ Reform Agenda in the classroom. <b>The Diagnostic Tool will build upon steps the Department has already taken to align the Accountability Systems under NCLB (Title I AYP), Title III (Annual Measurement Achievement Objectives [AMAOs]), and the Individuals with Disabilities Education Act (IDEA). In particular the Department has worked to integrate the Special Education Quality Improvement Plan (QIP) process with SQR and JIT reviews when the performance of students with disabilities contributed to the identification of a school for improvement.</b></li> </ul>

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<p><b>11. The Required Plans for Identified Schools and Districts</b></p>	<p>New York State’s accountability system includes the following required plans for identified schools and districts:</p> <ul style="list-style-type: none"> <li>• Professional Development Plan</li> <li>• School Improvement Plan</li> <li>• Local Assistance Plan</li> <li>• Professional Performance Review</li> <li>• Corrective Action Plan</li> <li>• Restructuring Plan</li> <li>• District Improvement Plan</li> </ul> <p>(for non Title I districts)</p> <ul style="list-style-type: none"> <li>• Improvement Plan</li> <li>• Comprehensive Education Plan</li> </ul>	<p>New York will require schools and districts to develop the following plans:</p> <ul style="list-style-type: none"> <li>• Priority Schools will be required to develop a plan that either implements one of the four Federal SIG intervention models as part of a whole school reform model and in cooperation with partner organizations; or that implements all ESEA waiver Turnaround Principles as part of a whole school reform model in collaboration with partner organizations. The plan must be approved by the board of education and posted to the district’s website.</li> <li>• A district with one or more Focus Schools must develop a District <b>Comprehensive</b> Improvement Plan for these schools. This plan must be informed by the recommendations of the School Quality Review or Joint Intervention Team visit (<b>i.e. Integrated Intervention Team</b>) and must identify the programs and services that will be provided to schools from the list promulgated by the Commissioner. School leadership, staff, parents, and students, if appropriate, must have a meaningful opportunity to participate in the development of the plan and comment upon it before it is approved. The plan must be approved by the school board and posted to the district’s website. A Focus District will incorporate into its plan the actions it will take with any school that requires a Local Assistance Plan.</li> </ul> <p>A district that does not have any Priority or Focus Schools, but instead has schools that have persistently failed to make AYP with one or more subgroup(s) on an accountability measure or that have large gaps in student achievement among subgroups will be required to develop a Local Assistance Plan for these schools. The Local Assistance Plan shall specify:</p> <ul style="list-style-type: none"> <li>• the process, by which the plan was developed and how school leadership, staff, parents, and students, if appropriate, were given meaningful opportunities to participate in the development of the plan;</li> <li>• the additional resources and professional development that will be provided to Focus Schools to support implementation of the plan;</li> <li>• the timeline for implementation of the plan;</li> </ul> <p>The plan must be approved by the board of education of the district and posted to the district’s website.</p>

<b>Category</b>	<b>The Current System</b>	<b>New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval</b>
<b>12. The Requirements for Public School Choice</b>	Title I, Part A, Section 1116 (E) of the federal No Child Left Behind legislation requires an LEA with Title I schools identified in need of improvement (Year 2), corrective action or restructuring to provide all students enrolled in those schools with the option to transfer to another public school served by the LEA that has not been identified for school improvement.	New York will require districts to continue offering public school choice for students attending either Title I Priority or Focus Schools. New York will consider advancing legislation to expand choice options to include BOCES programs (offered by a consolidated group of districts).
<b>13. The Requirements for Districts that Offer Supplemental Educational Services (SES)</b>	New York currently supports Supplemental Educational Services (SES) as defined in the federal No Child Left Behind Act (NCLB). Under NCLB, districts are responsible for notifying parents of eligible students in Title I schools identified for improvement, corrective action or restructuring that their children are eligible for supplemental educational services (including tutoring) from a provider on the New York State's list of approved providers. Districts are required to pay for these SES services up to an amount equal to 20 percent of the District's basic Title I grant.	New York will not require districts to offer SES or set aside a portion of their Title I allocation to pay for SES. However, districts can choose to offer SES and pay for the services using Title I funds.  In order to support districts that choose to continue to provide SES, New York will require all SES providers to reapply for state approval. New York will evaluate whether the SES providers' programs are aligned with the common core standards. Districts that wish to offer SES will be allowed to determine the providers that parents in their district may select.

Category	The Current System	New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval
<p><b>14. The Changes to the Current Set-Aside Requirements Under ESEA</b></p>	<p>Districts are required to set aside a percentage of their Title I allocation for SES and Public School Choice (20 percent); professional development at identified schools (10 percent); and for parent involvement activities (1 percent).</p>	<p>New York will eliminate the previous rules for set-asides and replace them with new set-asides. The new rules include the following:</p> <ul style="list-style-type: none"> <li>• Districts will set aside between 5 percent and 15 percent of <b>an amount equal to their base</b> Title I; Title IIA; and Title III allocations, if identified for the performance of their English language learners based on student enrollment in Priority and Focus Schools to provide state approved programs and services in these schools.</li> <li>• Districts will set aside <b>an amount equal to</b> a percentage of their total Title I allocation, based on student enrollment in Priority and Focus Schools, for parent involvement and engagement activities. The plans for this set-aside must be made in collaboration with district parent organization leadership.</li> </ul>
<p><b>15. Logistics for Schools Under Registration Review (SURR) and Provisions of the Enhanced Accountability System</b></p>	<p>Currently, Education Law §211-b requires the assignment of School Quality Review and Joint Intervention Teams to schools in accountability status and the expansion of the Schools Under Registration Review process. The law also requires that District Improvement Plans be created under certain conditions and gives the Commissioner the authority in certain circumstances to appoint a Distinguished Educator to certain schools and districts.</p>	<p>New York's schools and districts will no longer be identified using the specific categories of improvement, corrective action, or restructuring. New York will use the following system to ensure compliance:</p> <ul style="list-style-type: none"> <li>• Schools Under Registration Review will be a subset of Priority Schools; School Quality Review Teams will be assigned to Focus Districts; and Joint Intervention Teams will conduct visits to Priority Schools using the new diagnostic tool.</li> <li>• Districts that have Focus Schools will submit a District Improvement Plan that proposes a district-based approach to supporting these schools.</li> </ul> <p>As appropriate, the Commissioner will assign Distinguished Educators to support Focus Districts or Priority Schools.</p>

Category	The Current System	New System After Incorporating Revisions to the ESEA Waiver Flexibility Request for Approval
<p><b>16. Applying for the optional Waiver Which Permits Expanded Learning Time , and Additional Activities During the School Day and Non-school Hours</b></p>	<p>Not applicable</p>	<p>New York will apply for this optional waiver and incorporate it into the next grant round for this program. The Request for Proposal developed for this next grant round should be informed by legislation under consideration by the United States Senate that calls for comprehensive school redesign. The Request for Proposal will allow additional hours of learning time as well as additional collaborative planning time and professional development for teachers and community partners who provide expanded learning in core academic subjects for 21<sup>st</sup> Century Community Learning Center program recipients. <b>The next 21st CCLC Request for Proposal will allow a range of models and approaches, provided that any specific model a school, community, or district considers for implementation embodies the research-based principles of exemplary expanded learning opportunities that improve students' academic, social, and emotional outcomes. Within that framework, the Request For Proposal will allow additional hours of learning time as well as additional collaborative planning time and professional development for teachers and community partners who provide expanded learning for 21st Century Community Learning Center program recipients.<sup>1</sup> Proposed program models will be directly related to the three tenets of 21<sup>st</sup> CCLC programming: academic enrichment, youth development and family literacy/engagement.</b></p>

**Attachment C:**

**Annual Measurable Objectives (AMO's) For Grade 3-8 and High School ELA and Mathematics and Grade 4 and 8 Science Based on Performance Index**

Grades 3 - 8 English Language Arts								
		Targets by Year						
Measure	Group	2010 - 2011 Baseline	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Subject and Grade Level	Accountable Group							
Grade 3-8 ELA	All Students	146	150	155	159	164	168	173
Grade 3-8 ELA	Students with Disabilities	92	101	110	119	128	137	146
Grade 3-8 ELA	American Indian/Native American	132	137	143	149	154	160	166
Grade 3-8 ELA	Asian or Pacific Islander	162	165	169	172	175	178	181
Grade 3-8 ELA	Black (not Hispanic)	124	130	136	143	149	155	162
Grade 3-8 ELA	Hispanic	126	132	138	144	151	157	163
Grade 3-8 ELA	White	160	164	167	170	174	177	180
Grade 3-8 ELA	English Language Learners	102	110	118	126	134	143	151
Grade 3-8 ELA	Economically Disadvantaged	128	134	140	146	152	158	164
Grade 3-8 ELA	Mixed Race	154	158	162	166	170	173	177

Grades 3 - 8 Math								
		Targets by Year						
Measure	Group	2010 - 2011 Baseline	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Subject and Grade Level	Accountable Group							
Grade 3-8 Math	All Students	160	164	167	170	174	177	180
Grade 3-8 Math	Students with Disabilities	115	122	129	136	143	150	157
Grade 3-8 Math	American Indian/Native American	148	152	156	161	165	169	174
Grade 3-8 Math	Asian or Pacific Islander	183	185	186	187	189	190	192
Grade 3-8 Math	Black (not Hispanic)	136	142	147	152	158	163	168
Grade 3-8 Math	Hispanic	145	150	154	159	163	168	173
Grade 3-8 Math	White	172	174	177	179	181	184	186
Grade 3-8 Math	English Language Learners	135	140	145	151	156	162	167
Grade 3-8 Math	Economically Disadvantaged	146	151	155	160	164	169	173
Grade 3-8 Math	Mixed Race	163	166	169	172	175	178	181

Grades 4 - 8 Science								
		<i>Targets by Year</i>						
Measure	Group	2010 - 2011 <i>Baseline</i>	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Subject and Grade Level	Accountable Group							
Grade 4 and 8 Science	All Students	178	179	181	183	185	187	189
Grade 4 and 8 Science	Students with Disabilities	150	154	158	162	166	171	175
Grade 4 and 8 Science	American Indian/Native American	172	174	176	179	181	183	186
Grade 4 and 8 Science	Asian or Pacific Islander	185	187	188	189	190	191	193
Grade 4 and 8 Science	Black (not Hispanic)	158	161	165	168	172	175	179
Grade 4 and 8 Science	Hispanic	162	165	169	172	175	178	181
Grade 4 and 8 Science	White	190	191	192	192	193	194	195
Grade 4 and 8 Science	English Language Learners	146	150	155	159	164	168	173
Grade 4 and 8 Science	Economically Disadvantaged	165	168	171	174	177	180	183
Grade 4 and 8 Science	Mixed Race	187	188	189	191	192	193	194

High School English Language Arts								
		<i>Targets by Year</i>						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
High School ELA	All Students	156	160	163	167	171	174	178
High School ELA	Students with Disabilities	95	104	112	121	130	139	147
High School ELA	American Indian/Native American	139	144	149	154	159	164	170
High School ELA	Asian or Pacific Islander	170	173	175	178	180	183	185
High School ELA	Black (not Hispanic)	129	135	141	147	153	159	164
High School ELA	Hispanic	133	138	144	149	155	161	166
High School ELA	White	172	174	177	179	181	184	186
High School ELA	English Language Learners	94	102	111	120	129	138	147
High School ELA	Economically Disadvantaged	137	142	147	153	158	163	168
High School ELA	Mixed Race	164	167	170	173	176	179	182

High School Math								
		Targets by Year						
Measure	Group	2010 - 2011 Baseline	2011 - 2012	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Subject and Grade Level	Accountable Group							
High School Math	All Students	132	138	143	149	155	160	166
High School Math	Students with Disabilities	84	93	103	113	122	132	142
High School Math	American Indian/Native American	109	117	124	132	140	147	155
High School Math	Asian or Pacific Islander	162	165	168	171	174	178	181
High School Math	Black (not Hispanic)	97	105	114	123	131	140	148
High School Math	Hispanic	102	110	119	127	135	143	151
High School Math	White	151	155	159	163	167	171	175
High School Math	English Language Learners	95	103	112	121	130	138	147
High School Math	Economically Disadvantaged	110	117	125	132	140	147	155
High School Math	Mixed Race	138	143	148	154	159	164	169