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# ESEA Flexibility

## Renewal Form

### For Windows 1 and 2 States

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August 29, 2013

In accordance with the Paperwork Reduction Act of 1995, this form is considered DRAFT only. Please note that the U.S Department of Education is seeking Office of Management and Budget (OMB) approval under an emergency Information Collection Request. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 16 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to retain the benefits of ESEA flexibility, offered to State educational agencies under section 9401 of the Elementary and Secondary Education Act of 1965, as amended, and voluntary. Send

comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20210-4537 or email [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) and reference the OMB Control Number 1810-0581. Note: Please do not return the completed ESEA Flexibility Renewal Request Form to this address.

## RENEWAL FORM

**SECTION I: WAIVERS AND CONSULTATION****WAIVERS**

By submitting this updated flexibility request, the SEA renews its request for flexibility through waivers of the ten ESEA requirements listed below and their associated regulatory, administrative, and reporting requirements, and makes a request for an additional waiver, by checking each of the boxes below. The provisions below represent the general areas of flexibility requested; a chart appended to the document titled *ESEA Flexibility Frequently Asked Questions* enumerates each specific provision of which the SEA requests a waiver, which the SEA incorporates into its request by reference.

1. The requirements in ESEA section 1111(b)(2)(E)-(H) that prescribe how an SEA must establish annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) to ensure that all students meet or exceed the State's proficient level of academic achievement on the State's assessments in reading/language arts and mathematics no later than the end of the 2013-2014 school year. The SEA requests this waiver to develop new ambitious but achievable AMOs in reading/language arts and mathematics in order to provide meaningful goals that are used to guide support and improvement efforts for the State, LEAs, schools, and student subgroups.
2. The requirements in ESEA section 1116(b) for an LEA to identify for improvement, corrective action, or restructuring, as appropriate, a Title I school that fails, for two consecutive years or more, to make AYP, and for a school so identified and its LEA to take certain improvement actions. The SEA requests this waiver so that an LEA and its Title I schools need not comply with these requirements.
3. The requirements in ESEA section 1116(c) for an SEA to identify for improvement or corrective action, as appropriate, an LEA that, for two consecutive years or more, fails to make AYP, and for an LEA so identified and its SEA to take certain improvement actions. The SEA requests this waiver so that it need not comply with these requirements with respect to its LEAs.
4. The requirements in ESEA sections 6213(b) and 6224(e) that limit participation in, and use of funds under the Small, Rural School Achievement (SRSA) and Rural and Low-Income School (RLIS) programs based on whether

an LEA has made AYP and is complying with the requirements in ESEA section 1116. The SEA requests this waiver so that an LEA that receives SRSA or RLIS funds may use those funds for any authorized purpose regardless of whether the LEA makes AYP.

5. The requirement in ESEA section 1114(a)(1) that a school have a poverty percentage of 40 percent or more in order to operate a school-wide program. The SEA requests this waiver so that an LEA may implement interventions consistent with the turnaround principles or interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school in any of its priority and focus schools that meet the definitions of "priority schools" and "focus schools," respectively, set forth in the document titled *ESEA Flexibility*, as appropriate, even if those schools do not have a poverty percentage of 40 percent or more.

6. The requirement in ESEA section 1003(a) for an SEA to distribute funds reserved under that section only to LEAs with schools identified for improvement, corrective action, or restructuring. The SEA requests this waiver so that it may allocate section 1003(a) funds to its LEAs in order to serve any of the State's priority and focus schools that meet the definitions of "priority schools" and "focus schools," respectively, set forth in the document titled *ESEA Flexibility*.

7. The provision in ESEA section 1117(c)(2)(A) that authorizes an SEA to reserve Title I, Part A funds to reward a Title I school that (1) significantly closed the achievement gap between subgroups in the school; or (2) has exceeded AYP for two or more consecutive years. The SEA requests this waiver so that it may use funds reserved under ESEA section 1117(c)(2)(A) for any of the State's reward schools that meet the definition of "reward schools" set forth in the document titled *ESEA Flexibility*.

8. The requirements in ESEA section 2141(a), (b), and (c) for an LEA and SEA to comply with certain requirements for improvement plans regarding highly qualified teachers. The SEA requests this waiver to allow the SEA and its LEAs to focus on developing and implementing more meaningful evaluation and support systems.

9. The limitations in ESEA section 6123 that limit the amount of funds an SEA or LEA may transfer from certain ESEA programs to other ESEA programs. The SEA requests this waiver so that it and its LEAs may transfer up to 100 percent of the funds it receives under the authorized programs among those programs and into Title I, Part A.

10. The requirements in ESEA section 1003(g)(4) and the definition of a Tier I school in Section I.A.3 of the School Improvement Grants (SIG) final

requirements. The SEA requests this waiver so that it may award SIG funds to an LEA to implement one of the four SIG models in any of the State's priority schools that meet the definition of "priority schools" set forth in the document titled *ESEA Flexibility*.

Optional Flexibilities:

If an SEA chooses to request waivers of any of the following requirements, it should check the corresponding box(es) below:

11. The requirements in ESEA sections 4201(b)(1)(A) and 4204(b)(2)(A) that restrict the activities provided by a community learning center under the Twenty-First Century Community Learning Centers (21st CCLC) program to activities provided only during non-school hours or periods when school is not in session (*i.e.*, before and after school or during summer recess). The SEA requests this waiver so that 21st CCLC funds may be used to support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session.

12. The requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) that require LEAs and SEAs to make determinations of adequate yearly progress (AYP) for schools and LEAs, respectively. The SEA requests this waiver because continuing to determine whether an LEA and its schools make AYP is inconsistent with the SEA's State-developed differentiated recognition, accountability, and support system included in its ESEA flexibility request. The SEA and its LEAs must report on their report cards performance against the AMOs for all subgroups identified in ESEA section 1111(b)(2)(C)(v), and use performance against the AMOs to support continuous improvement in Title I schools.

13. The requirements in ESEA section 1113(a)(3)-(4) and (c)(1) that require an LEA to serve eligible schools under Title I in rank order of poverty and to allocate Title I, Part A funds based on that rank ordering. The SEA requests this waiver in order to permit its LEAs 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 does not otherwise rank sufficiently high to be served under ESEA section 1113.

## Assurances

By submitting this request, the SEA assures that:

- 1. It requests waivers of the above-referenced requirements based on its agreement to meet Principles 1 through 4 of the flexibility, as described throughout the remainder of this request.
- 2. It will adopt English language proficiency (ELP) standards that correspond to the State's college- and career-ready standards, consistent with the requirement in ESEA section 3113(b)(2), and that reflect the academic language skills necessary to access and meet the new college- and career-ready standards, no later than the 2013-2014 school year. (Principle 1)
- 3. It will develop and administer no later than the 2014-2015 school year 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 that are consistent with 34 C.F.R. § 200.6(a)(2) and are aligned with the State's college- and career-ready standards. (Principle 1)
- 4. It will develop and administer ELP assessments aligned with the State's ELP standards, consistent with the requirements in ESEA sections 1111(b)(7), 3113(b)(2), and 3122(a)(3)(A)(ii). (Principle 1)
- 5. It will report annually to the public on college-going and college credit-accumulation rates for all students and subgroups of students in each LEA and each public high school in the State. (Principle 1)
- 6. If the SEA includes student achievement on assessments in addition to reading/language arts and mathematics in its differentiated recognition, accountability, and support system and uses achievement on those assessments to identify priority and focus schools, it has technical documentation, which can be made available to the Department upon request, demonstrating that the assessments are administered statewide; include all students, including by providing appropriate accommodations for English Learners and students with disabilities, as well as 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 are valid and reliable for use in the SEA's differentiated recognition, accountability, and support system. (Principle 2)
- 7. It will report to the public its lists of reward schools, priority schools, and focus schools at the time the SEA is approved to implement the

flexibility, and annually thereafter, it will publicly recognize its reward schools as well as make public its lists of priority and focus schools if it chooses to update those lists. (Principle 2)

8. Prior to submitting this request, it provided student growth data on their current students and the students they taught in the previous year to, at a minimum, all teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects in a manner that is timely and informs instructional programs, or it will do so no later than the deadline required under the State Fiscal Stabilization Fund. (Principle 3)

9. It will evaluate and, based on that evaluation, revise its own administrative requirements to reduce duplication and unnecessary burden on LEAs and schools. (Principle 4)

10. It has consulted with its Committee of Practitioners regarding the information set forth in its request.

11. Prior to submitting this request, it provided all LEAs with notice and a reasonable opportunity to comment on the request and has attached a copy of that notice (Attachment 1) as well as copies of any comments it received from LEAs (Attachment 2).

12. Prior to submitting this request, it provided notice and information regarding the request to the public in the manner in which the State customarily provides such notice and information to the public (*e.g.*, by publishing a notice in the newspaper; by posting information on its website) and has attached a copy of, or link to, that notice (Attachment 3).

13. It will provide to the Department, in a timely manner, all required reports, data, and evidence regarding its progress in implementing the plans contained throughout this request.

14. It will report annually on its State report card, and will ensure that its LEAs annually report on their local report cards, for the "all students" group and for each subgroup described in ESEA section 1111(b)(2)(C)(v)(II): information on student achievement at each proficiency level; data comparing actual achievement levels to the State's annual measurable objectives; the percentage of students not tested; performance on the other academic indicator for elementary and middle schools; and graduation rates for high schools. It will also annually report, and will ensure that its LEAs annually report, all other information and data required by ESEA section 1111(h)(1)(C) and 1111(h)(2)(B), respectively.

15. It remains committed to ensuring the full implementation of college-

and career-ready standards statewide and, toward that end, has taken steps to ensure that college- and career-ready standards are being fully implemented statewide in at least reading/language arts and mathematics for all students and schools in the 2013-2014 school year, and will ensure that such standards will continue to be implemented.

16. It will submit a comprehensive equity plan that meets the requirements of sections 1111(b)(8)(C) and 1112(c)(1)(L) using effectiveness data from teacher and principal evaluation and support systems by October 2015.

**If applicable:**

17. It is participating in one of the two State consortia that received a grant under the Race to the Top Assessment competition.



## CONSULTATION

An SEA must meaningfully engage and solicit input from diverse stakeholders and communities on its request for renewal of ESEA flexibility. To demonstrate that an SEA has done so, the SEA must provide the following:

1. A description of how the SEA meaningfully engaged and solicited input, across LEAs throughout the State, on the implementation of ESEA flexibility, as well as on changes to its request made in order to seek ESEA flexibility renewal, from LEAs, teachers, their representatives, administrators students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities and English Learners, business organizations, and Indian tribes. Evidence may include, but is not limited to:
  - a. Draft renewal submission published in the State register;
  - b. A list of all education stakeholder organizations and entities in the State and a description of which stakeholders were engaged in the renewal submission and how;
  - c. Copies of parent-friendly information regarding the renewal submission, including accessible formats and translated as necessary;
  - d. Documentation of any feedback received from stakeholders; and
  - e. Identification of specific changes made to the renewal submission as a result of stakeholder input.

[Click here to enter text.](#)

## SECTION II: CONTINUED COMMITMENT TO AND PROGRESS TOWARDS ESEA FLEXIBILITY PRINCIPLES

An SEA must provide a narrative response and, where appropriate and not already provided to the Department during ESEA flexibility monitoring, related evidence for each of the following (likely location of edits in the ESEA flexibility request is noted in italics, but the SEA should make edits across the request as appropriate, and identify all pages in the redlined request where relevant changes have been made in the text boxes below):

1. An updated description of the SEA's current process for ensuring that all LEAs are fully implementing the State's college- and career-ready standards, including for English Learners, students with disabilities, and low-achieving students, and evidence of implementation of this

process (1.B.). Evidence may include, but is not limited to (note that none of these items in and of themselves would be sufficient to establish implementation across LEAs, but the Department will review the totality of what the SEA submits to ensure a comprehensive delivery system):

- a. Educator and stakeholder engagement activities, including surveys of teachers, students and parents, to support full implementation of standards;
- b. Evidence of increasing capacity by assessing educator need to drive delivery of professional development and processes for gathering feedback for continuous improvement;
- c. Dissemination of resources and tools;
- d. SEA's monitoring schedule, school quality reviews, or other tools for oversight; and
- e. Audits of school capacity, curricular audits, or other alignment exercises.
- f. Examples of actions taken when the SEA has found that an LEA has not implemented college- and career-ready standards with fidelity.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

2. A description of how the SEA is leveraging existing processes, and/or developing new processes or modifying old processes as needed, in a systematic way to ensure that:
  - a. Each LEA's use of Title II, Part A funds is aligned with the findings of the local needs assessment and derived from sources of student and educator data such as educator surveys and evaluation results, classroom observations, student mastery of standards, professional learning communities and performance tasks; and
  - b. When an LEA is using ESEA Title II, Part A funds for professional development , (1) the professional development for teachers and principals of all students is deepening their knowledge of college- and career-ready standards and the instructional practices, curricula, and high-quality assessments tied to those standards; (2) such professional development is evidence-based and is intended to have a substantial, measurable, and positive impact on educators' subject-matter knowledge and instructional practices and student academic achievement, including for students with disabilities, English learners, and low-achieving students; and (3) an LEA's teachers and principals have collaborated in preparing the local professional development

plan and that their ongoing input and feedback are used to monitor and improve that plan.

Further, the SEA and its LEAs must ensure that educators and parents have easy access to information about how each LEA's Title II, Part A funds are used (1.B.).

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

3. An updated narrative description of the SEA's status in adopting English language proficiency standards by the end of the 2013-2014 school year (1.B.).

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

4. If the SEA did not check assurance 17, an update of the SEA's plan to develop and administer, no later than the 2014-2015 school year, statewide, aligned high-quality assessments, and evidence that the SEA has met all requirements to administer statewide aligned, high-quality assessments beginning no later than the 2014-2015 school year (1.C.) (If the SEA did check assurance 17, it need not provide this plan.)

In addition, each SEA, including those that checked assurance 17, must describe a process for ensuring that each of its LEAs is able to implement college- and career-ready assessments for all students in the 2014-2015 school year, including an assessment of infrastructure needs and a plan for addressing those needs.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

5. An updated narrative description of the SEA's progress in meeting its assurance that it will develop and administer no later than the 2014-2015 school year 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 that are consistent with 34 C.F.R. § 200.6(a)(2) and are aligned with the State's college- and career-ready standards (1.B.).

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

6. For SEAs that had previously been approved to implement alternate assessments based on modified academic achievement standards, but committed to no longer administer those assessments beginning no later than the 2014-2015 school year, evidence that the SEA has phased out these alternate assessments, or that it has a process to phase out these assessments by 2014-2015, and to ensure that students with disabilities who previously were assessed using these assessments are prepared to take the general assessment, with appropriate accommodations (1.B.). Evidence may include, but is not limited to:
- Notice to LEAs;
  - Removal of alternate assessment based on modified academic achievement standards from SEA-level documents;
  - Professional development to teachers of students with disabilities regarding the phase-out; and
  - Revised guidelines for individualized education program (IEP) teams.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

7. If not already provided through ESEA flexibility monitoring, public reporting as evidenced by SEA and LEA report cards that comply with the February 2013 Report Card Guidance (2.A.)

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

8. A high-quality plan for implementation of interventions aligned with the turnaround principles in priority schools in 2014-2015 and 2015-2016 school years, including how the SEA will identify future cohorts of priority schools and how the SEA will increase the rigor of interventions and supports in those previously-identified priority schools that have not yet met the SEA's exit criteria after three years of implementing interventions aligned with the turnaround principles (2.D.). The SEA must also provide an updated timeline for implementation in all its priority schools, including as an attachment, a list of the priority schools that began full implementation in each of the 2012-2013 and 2013-2014 school years, and that will begin full implementation 2014-2015 school year.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

9. An updated timeline for implementation of interventions in focus schools (2.E.), including a plan for implementation in the 2014-2015 and 2015-2016 school years that describes how the SEA will identify future cohorts of focus schools and how the SEA will increase the rigor of interventions and supports in those previously-identified focus schools that have not met the SEA's exit criteria after implementing interventions that are based on the needs of students and designed to improve the performance of low-performing students and reduce achievement gaps among subgroups (2.E.).

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

10. A demonstration that the SEA's system of differentiated recognition, accountability, and support ensures continuous improvement in other Title I schools, including a clear and rigorous process for providing interventions and supports to low-achieving students when one or more subgroups miss AMOs or graduation rate targets over a number of years (2.F.). Such a process should include:
  - a. A process for providing clear, timely, and reliable subgroup performance data to other Title I schools on an annual basis; and
  - b. A process that clearly differentiates among schools based on the pervasiveness or persistence of achievement gaps or low performance or graduation rate by subgroups.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

11. A demonstration that the SEA's system of differentiated recognition, accountability, and support builds SEA, LEA, and school capacity to improve student learning in all schools, including a clear and rigorous process to hold LEAs accountable for improving school and student performance (2.G.). Such a process should include:
  - a. A process for determining LEAs' progress in improving school and student performance; and
  - b. A process for using the information gathered to provide differentiated recognition, interventions, and support for LEAs based on need.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

12. A demonstration that the SEA is on track for full implementation of its teacher and principal evaluation systems in 2014-2015 (3.A.), including:

- a. a process for collecting and incorporating data and feedback on implementation in all of its LEAs, including collecting and incorporating data on measures of growth for tested and non-tested grades and subjects to ensure that growth is included as a significant factor; and
- b. a detailed timeline of the SEA’s plan for implementation of teacher and principal evaluation and support systems, including when data from the systems will be collected, publicly reported, and incorporated into ratings, when ratings will be given to teachers and principals, when ratings will be used to guide professional development, and when ratings will be used to make personnel decisions.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

13. Consistent with the requirements in ESEA sections 1111(b)(8)(C) and 1112(c)(1)(L) to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, each SEA must commit to ensuring that poor and minority students are not taught at higher rates than other children by ineffective teachers. Each SEA must describe the process for how it and its LEAs will transition to using effectiveness data from teacher and principal evaluation and support systems that meet the requirements of ESEA flexibility to fulfill sections 1111(b)(8)(C) and 1112(c)(1)(L), respectively. This description must include:
  - a. A detailed timeline setting forth the dates on which key activities will begin and be completed and milestones will be achieved to enable the SEA to submit a comprehensive equity plan, as described in guidance, by October 2015; and
  - b. The SEA’s current strategies for meeting the requirements of sections 1111(b)(8)(C), and for ensuring LEAs meet the requirements of 1112(c)(1)(L), including the data the SEA and LEAs are using to measure progress towards meeting those requirements.

Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.

### **SECTION III: RESOLUTION OF STATE-SPECIFIC IMPLEMENTATION ISSUES**

In its redlined request, an SEA must provide a narrative response and related evidence responsive to all issues identified by the Department as needing to

be addressed, and identify the page numbers where edits have been made and new attachments have been added below. As applicable and as raised in the State-specific implementation letter, the SEA may also be required to make changes to its system of differentiated accountability, recognition, and support to address the misidentification or under-identification of low-performing schools and subgroups. In addition, the Department will be reviewing the status of SEA actions to resolve any outstanding issues relating to the implementation of ESEA flexibility. These issues may include outstanding findings of non-compliance, conditions placed on approval, next steps identified in ESEA flexibility and related program monitoring reports, and other areas of concern raised during the initial approval process. An SEA must resolve any such issues in order to be approved for a renewal of ESEA flexibility.

[Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.](#)

## **SECTION IV: ADDITIONAL AMENDMENTS (OPTIONAL)**

If an SEA wishes to make any additional amendments to its currently approved flexibility request to clarify or revise how the SEA and its LEAs will close achievement gaps, improve student achievement, and increase the quality of instruction, the SEA must include those amendments in its redlined request and identify on the renewal request form the page numbers where edits have been made below. An SEA need not make any amendments beyond those discussed in Sections I-III above in order to receive renewal of ESEA flexibility. For any additional amendments the SEA makes to its currently approved flexibility request consistent with this Section, an SEA must provide a rationale for the proposed change, either in the text of the ESEA flexibility request or below on this ESEA flexibility renewal form. Amendments that conflict with the principles of ESEA flexibility, any ESEA flexibility guidance, or the renewal requirements above, will not be approved.

[Click here to enter page numbers where edits have been made and where new attachments have been added. Do not insert new text here – insert new text in redline into the revised request.](#)