



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MEMORANDUM

DATE:

AUG 28 2013


TO:

Sharon Mar
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH:

Tomakie Washington
Privacy, Information and Records Management Services
U.S. Department of Education

FROM:

Alexander Goniprov 
Deputy Assistant Secretary for Management and Planning

SUBJECT: Emergency Clearance of Information Collection Requests for ESEA Flexibility
Renewal

In 2011, the U.S. Department of Education (ED), through waivers under section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), invited each State educational agency (SEA) to request flexibility on behalf of itself, its local educational agencies (LEAs), and schools, in order to better focus on improving student academic achievement and increasing the quality of instruction (ESEA flexibility). The opportunity for SEAs to request ESEA flexibility also included activities covered by the Paperwork Reduction Act (PRA). Those information collection activities consisted of the information an SEA was required to develop and submit to ED to request this flexibility, information that an SEA provided in an Accountability Addendum, and the information an SEA that receives ESEA flexibility must annually report to ED (reporting) and are now part of collection 1810-0581 (approved through July 2015).

Approvals of SEA ESEA flexibility requests occurred in several iterations: Window 1, for which SEAs submitted requests in November 2011; Window 2, for which SEAs submitted requests in February 2012; Window 3, for which SEAs submitted requests in September 2012; and Window 4, for which SEAs submitted requests in spring 2013. Generally, ED approved the requests of SEAs that requested flexibility in Windows 1 and 2 through the end of the 2013–2014 school year. ED is now inviting the 35 Window 1 and Window 2 SEAs to request a two-year extension of the waivers granted through ESEA flexibility, through the end of the 2015–2016 school year. An SEA that requests an extension of ESEA flexibility must submit an updated ESEA flexibility request describing how it will continue to meet the requirements of ESEA flexibility.

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The purpose of this submission is to obtain emergency approval for the resubmission activities covered by the PRA to add them to collection 1810-0581 (approved through July 2015). ED is requesting that the Office of Management and Budget (OMB) clear this information request on an emergency basis. (ED also will follow the regular clearance process so that the ESEA flexibility renewal activities are added to the collection for more than six months.)

To avoid harm to the public ED needs emergency clearance in order to act now so that Window 1 and Window 2 SEAs may smoothly plan to continue implementing their ambitious reform plans after the current waivers expire. Following normal clearance timelines would delay ED's approval of ESEA flexibility renewals into summer 2014, which would be considerably past the time that SEAs and LEAs begin planning for the 2014–2015 school year and therefore very disruptive to this planning. To avoid this disruption, SEAs and LEAs need to know as soon as possible whether they will operate under ESEA flexibility or NCLB requirements in the 2014–2015 school year. Moreover, ED needed a full year of ESEA flexibility implementation in order to plan effectively for a meaningful renewal process. Therefore, it was not possible to begin the renewal process sooner because it would not have been as well informed by the first year of ESEA flexibility implementation as it is under the current timeline.

Overview of the Flexibility Renewal Activities

Activities include an SEA's addressing each of the required items described in the ESEA flexibility renewal guidance, providing narrative responses within its currently approved ESEA flexibility request and attaching any new documentation or evidence where appropriate, and submitting the amended request to ED. In addition, an SEA must submit a completed ESEA flexibility renewal form indicating where changes have been made in its ESEA flexibility request. The SEA may also choose, but is not required, to amend its request to make changes necessary to improve implementation going forward or to reflect more accurately implementation activities that have already occurred.

Emergency Request

We are requesting that OMB clear this information request on an emergency basis by October 1, 2013. This approval will enable Window 1 and Window 2 SEAs to request renewals of ESEA flexibility in a timely manner in order to have the opportunity to receive the continued relief they need from NCLB and plan with certainty for the 2014–2015 school year.

Thank you for your prompt consideration of this request. If you have questions, please contact Todd Stephenson of my staff at (202) 205-1645 or Todd.Stephenson@ed.gov.