



# UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

JAN 8 2009

The Honorable Richard P. Mills  
Commissioner  
New York State Education Department  
111 Education Building  
Albany, New York 12234

Dear Commissioner Mills:

As we approach our seventh year of implementing *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *No Child Left Behind Act of 2001* (NCLB), I want to take a moment to thank you and your colleagues for all your hard work to help realize the goals of NCLB, which has led to real and meaningful improvements in student achievement. These outcomes are due, in no small part, to the efforts of the dedicated educators in your state. We have seen an increased attention to high expectations for every child, an improvement in student performance across the board, and a decrease in achievement gaps.

As Secretary Spellings is fond of saying, "what gets measured, gets done." With that in mind, I want to take this opportunity to update you on the status of some NCLB cornerstones with respect to New York. Detailed information on specific components of your state's assessment and accountability system is contained in an attachment to this letter.

- Assessment system: An assessment system that produces valid and reliable results is fundamental to an accountability system that holds all public schools and districts accountable for educating all students. Please accept my congratulations on New York's standards and assessment system meeting all statutory and regulatory provisions required for reading/language arts, mathematics, and science as of 2007-08.
- Accountability components: The Department's new Title I regulations provide for greater scrutiny of states' accountability systems, including establishing a uniform and more accurate measure of calculating high school graduation rate that is comparable across states and requiring that states ensure that statistical measures maximize the inclusion of students and student subgroups in accountability determinations. Hence, the regulations also require that all states submit portions of their Accountability Workbook for peer review. In the attachment to this letter you will find information on New York's minimum group size, annual measurable objectives, confidence interval, full academic year definition, performance index, and graduation rate.
- Departmental flexibilities: Over the past several years, the Secretary has offered several flexibilities to states, such as growth model and differentiated accountability pilots, assessing students with disabilities and recently arrived limited English proficient students, and discretionary grant programs, such as the Teacher Incentive Fund, Enhanced Assessment Grants, and State Longitudinal Data System Grants. I am pleased to note that New York is participating in several of these endeavors.
  - Teacher Incentive Fund Grant: Center for Educational Innovation (10 New York City charter schools) – Total Amount: \$4,286,666 (Year 1: \$1,647,819 and Year 2: \$2,638,847).
  - Two percent transition flexibility: New York was approved in 2007–08 to include a proxy calculation for any school or district that did not make AYP due to the students with disabilities subgroup in grades 3–8. New York is eligible for this flexibility because the SEA is developing

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an alternate assessment based on modified academic achievement standards for students with certain disabilities.

- Differentiated Accountability: New York is approved to implement its differentiated accountability model as part of its system of interventions beginning in the 2009–10 school year through the 2013–14 school year. Through this pilot, New York has also been approved to flip the order of services that schools in their first year of improvement are required to offer students, providing supplemental educational services before public school choice.
- Finally, I'd like to take this opportunity to remind you of a recent concern that we raised. New York was several days late with AYP determinations in 2008. Providing timely notification to local educational agencies (LEAs) and the public is a vital component of a meaningful accountability system and ensures parents have full knowledge of their options as soon as possible regarding public school choice and supplemental educational services. Please note that the recently issued Title I regulations require an LEA to notify parents of their choice options sufficiently in advance of, but no later than 14 calendar days before, the start of school. To meet this requirement, an LEA must have timely notice from the state of whether its schools have made AYP.

In addition, for your information, I am enclosing a file that provides information across all states on the current assessment status, participation in flexibilities offered by the Department, AYP information, and discretionary grants. I wish you continued success in raising the achievement in New York. NCLB has focused our attention on closing achievement gaps and increasing the awareness of those students who have often been left behind: economically disadvantaged students, students from racial and ethnic minorities, limited English proficient students, and students with disabilities. I hope you will keep in mind the item I mentioned above as you continue to improve your educational system and provide the best possible education for all students in your state. I have enjoyed the opportunity to work with you and all your colleagues across the country on such important issues.

Sincerely,



Kerri L. Briggs, Ph.D.

Enclosures

cc: Governor David Paterson  
David Abrams  
Ira Schwartz

## Assessment System

Your assessment system met the requirements to be considered *Fully Approved*. This means that New York's assessment system includes assessments in grades 3-8 and high school in reading/language arts and mathematics and assessments in three grade spans (grades 3-5, 6-9, and 10-12) in science. For additional detail, please see the enclosed fact sheet.

## Accountability System

- Minimum group size (the state-defined minimum number of students necessary to have valid and reliable AYP determinations): New York's minimum group size is 30 students. (The average across all states is approximately 30 students.)
- Annual measurable objectives (AMO) (the yearly target for the percentage of students required to be proficient or above for a school to make AYP):
  - 2008–09: New York's AMO for this year is 119 points on the state's performance index (with 200 points indicating all students are proficient) in grades 3-8 and 166 points in high school in mathematics; 144 points in grades 3-8 and 171 points in high school in reading/language arts.
  - AMO type: New York set its AMOs consistent with the statutory requirements, using a mixed method. This means that New York's AMOs increased in stair steps every two years until 2008, at which point they increase annually.
- Confidence interval: New York applies a confidence interval of 90 percent.
- Full academic year definition (for purposes of determining whether a student's score must be included in AYP determinations): In New York, a student must be enrolled in the same school on the first Wednesday of October until the spring test administration in order to be included in AYP determinations for the school.
- Graduation rate:
  - Currently, New York is using a graduation rate that can be described as a longitudinal cohort rate, which means that New York tracks the same students across time from 9th through 12th grade. This is similar to the graduation rate all states will be required to implement in 2011-12.
  - As required by the recently issued Title I regulations, states must report graduation rate data, in the aggregate and disaggregated by subgroup, using the four-year adjusted cohort graduation rate beginning with report cards providing assessment results for the 2010-11 school year.
  - The graduation rate target New York requires for a district or school to make AYP is 65 percent.
  - According to the National Governor's Association, New York has been reporting the NGA Compact Rate since 2004.
- New York uses a performance index when calculating AYP, which provides half credit to schools and districts for any student scoring at level 2 (Basic) and full credit for students scoring at Levels 3 and 4. New York's AMOs were set based on this performance index.