
ESEA Flexibility

Renewal

SOUTH DAKOTA

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INTRODUCTION

In September 2011, the U.S. Department of Education (Department) offered each State educational agency (SEA) the opportunity to request flexibility, on behalf of itself and its local educational agencies (LEAs) and schools, to help them move forward with State and local reforms designed to improve student learning and increase the quality of instruction for all students. This voluntary opportunity provides educators and State and local leaders with flexibility regarding specific requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction (ESEA flexibility). States have utilized this flexibility to put in place innovative, locally-tailored strategies to address their most pressing education challenges. The Department is now extending the option of this flexibility for all States continuing to implement their plans and committed to continuously reviewing and improving their work.

Through its core principles, ESEA flexibility builds on and supports significant State and local efforts to improve educational outcomes for all students. Each of the core principles is intended to complement each other so that the quality of teaching and learning is enhanced.

- Under Principle 1, each SEA is raising expectations so that all students graduate from high school ready for college and a career, by implementing State-developed college- and career-ready standards. In addition, each SEA has committed to implement high-quality assessments aligned to those standards to help educators improve instructional practice, to provide all students with the opportunity to demonstrate what they know and are able to do, and provide parents with useful information about student performance.
- Under Principle 2, each SEA is implementing differentiated accountability systems for schools and districts that incorporate a variety of measures, including rigorous performance and graduation rate targets, to identify under-performing schools and subgroups and more effectively target meaningful interventions based on need, and to identify high-performing or rapidly improving schools. This strategic approach creates purposeful differentiation, allowing States to take dramatic action in the lowest-performing schools, provide greater autonomy to high-performing schools, and target interventions and resources at a subgroup level in schools that may be performing well overall but in which a single subgroup may be lagging.
- Under Principle 3, each SEA has committed to implement teacher and principal evaluation and support systems based on multiple measures, including student growth as a significant factor, and other measures of professional practice such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys, that meaningfully differentiate performance, and that evaluate teachers and principals on a regular basis. These systems are designed to provide teachers and leaders with clear, timely, and useful feedback, as well as targeted supports, to continuously improve instructional and leadership practices so that every student has access to a high-quality education.
- Under Principle 4, each SEA is working to reduce duplication and unnecessary burden.

The Department invited SEAs to request this flexibility pursuant to section 9401 of the ESEA, which allows the Secretary to waive, with certain exceptions, statutory or regulatory requirements for an SEA that receives funds under a program authorized by the ESEA and requests a waiver.

Approvals of SEA requests have occurred in the following phases:

- 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;
- Window 4, for which SEAs submitted requests in spring 2013;
- Window 5, for which SEAs submitted requests in spring 2014.

The Department is now inviting all SEAs with requests that will expire at the end of the 2014-2015 school year to request a three-year renewal of ESEA flexibility, which would extend through the end of the 2017-2018 school year. In addition, any Window 1 or 2 SEA that is fully meeting its

commitments to the timelines and principles of ESEA flexibility is eligible to request a four-year renewal through the 2018–2019 school year. If Congress reauthorizes the ESEA during the period of the waivers, the Department will provide guidance on the transition to the new law.

The Department will review each SEA request for renewal of ESEA flexibility against the principles of ESEA flexibility, as well as the specific information requested in this document. As in the initial review process, this renewal process will ensure that each request approved by the Department is consistent with the principles of ESEA flexibility; is likely to close achievement gaps, improve student academic achievement, and increase the quality of instruction; and is both educationally and technically sound.

The Department has determined that this document is a “significant guidance document” under the Office of Management and Budget’s Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf. The purpose of this guidance is to invite each SEA with ESEA flexibility to request a three-year renewal of that flexibility and to provide assistance to each SEA in preparing its request for renewal. Therefore, this guidance provides considerable detail and information on how an SEA should prepare its renewal request. However, this guidance does not impose any requirements beyond those required under applicable law and regulations. It does not create or confer any rights for or on any person.

If you are interested in commenting on this guidance, or if you have further questions that are not answered here, please e-mail ESEAFlexibility@ed.gov using the subject “ESEA Flexibility Renewal Guidance” or write to us at the following address:

U.S. Department of Education
Office of Elementary and Secondary Education
Office of State Support
400 Maryland Avenue, SW
Washington, DC 20202

GENERAL INSTRUCTIONS

An SEA seeking renewal of ESEA flexibility must submit an updated ESEA flexibility request describing how it will continue to meet the ESEA flexibility principles, so that the Secretary can determine, consistent with ESEA section 9401(d), that the waivers have been effective in enabling the SEA to carry out the activities for which the waivers were requested, have contributed to improved student achievement, and their extension is in the public interest. As part of the SEA's updated ESEA flexibility request, the SEA must include in redline any changes made to its currently approved flexibility request and all narrative responses to the items described below (Sections I – II of this document). In addition, the SEA must submit a completed ESEA flexibility renewal form indicating where text in the redlined ESEA flexibility request is responsive to renewal requirements.

The request for renewal of ESEA flexibility also provides an opportunity for an SEA to amend its approved request as part of a continuous improvement process to address challenges and build on successes from current implementation. In addition, an SEA is encouraged to align its ESEA flexibility implementation efforts with other improvement efforts within the State to ensure consistency and coherence across its statewide systems. Therefore, an SEA may choose, but is not required, to amend its currently approved ESEA flexibility request to make any additional changes it deems necessary to improve implementation going forward and to reflect implementation activities that have already occurred (Section III). An SEA requesting to amend its currently approved request must complete the table contained in Section III on the ESEA flexibility renewal form.

In order to receive renewal of ESEA flexibility, each SEA must resolve outstanding issues relating to implementation of ESEA flexibility. These issues include outstanding findings of non-compliance, conditions placed on approval, high-risk status, next steps identified in ESEA flexibility monitoring reports, and specific issues identified during approval of the SEAs request for extension, and may include findings in related program monitoring reports or noncompliance with federal civil rights laws.

If an SEA's request for ESEA flexibility is not approved, the SEA and its LEAs will be required to resume complying with all ESEA requirements by the beginning of the 2015–2016 school year, including making adequate yearly progress (AYP) determinations; identifying schools and LEAs for improvement, corrective action, or restructuring, as applicable; and taking required improvement actions, as required by Title I of the ESEA, including offering and paying for supplemental educational services and transportation for public school choice.

Preparing the Request

To prepare a high-quality request for renewal of ESEA flexibility, an SEA must continue to adhere to the document titled [ESEA Flexibility](#), which contains the principles of ESEA flexibility. Additionally, the documents titled [ESEA Flexibility Frequently Asked Questions \(FAQ\)](#) and [FAQ Addendum](#) provide guidance that applies to all SEAs requesting renewal of ESEA flexibility. The Department intends to release additional FAQs specific to the renewal process in the coming weeks. In order to receive renewal, an SEA must meet all elements of the principles of ESEA flexibility.

As used in this guidance, the following terms have the meanings set forth in the document titled *ESEA Flexibility*: (1) college- and career-ready standards, (2) focus school, (3) high-quality assessment, (4) priority school, (5) student growth, and (6) turnaround principles.

