
ESEA Flexibility

Request for Window 3



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Paperwork Burden Statement

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INTRODUCTION

The U.S. Department of Education (Department) is offering each State educational agency (SEA) the opportunity to request flexibility on behalf of itself, its local educational agencies (LEAs), and its schools, in order to better focus on improving student learning and increasing the quality of instruction. This voluntary opportunity will provide educators and State and local leaders with flexibility regarding specific requirements of 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. This flexibility is intended to build on and support the significant State and local reform efforts already underway in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness.

The Department invites interested SEAs to request this flexibility pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), which allows the Secretary to waive, with certain exceptions, any statutory or regulatory requirement of the ESEA for an SEA that receives funds under a program authorized by the ESEA and requests a waiver. Under this flexibility, the Department would grant waivers through the 2014–2015 school year.

REVIEW AND EVALUATION OF REQUESTS

The Department will use a review process that will include both external peer reviewers and staff reviewers to evaluate SEA requests for this flexibility. This review process will help ensure that each request for this flexibility approved by the Department is consistent with the principles described in the document titled *ESEA Flexibility*, which are designed to support State efforts to improve student academic achievement and increase the quality of instruction, and is both educationally and technically sound. Reviewers will evaluate whether and how each request for this flexibility will support a comprehensive and coherent set of improvements in the areas of standards and assessments, accountability, and teacher and principal effectiveness that will lead to improved student outcomes. Each SEA will have an opportunity, if necessary, to clarify its plans for peer and staff reviewers and to answer any questions reviewers may have. The peer reviewers will then provide comments to the Department. Taking those comments into consideration, the Secretary will make a decision regarding each SEA's request for this flexibility. If an SEA's request for this flexibility is not granted, reviewers and the Department will provide feedback to the SEA about the components of the SEA's request that need additional development in order for the request to be approved.

GENERAL INSTRUCTIONS

An SEA seeking approval to implement this flexibility must submit a high-quality request that addresses all aspects of the principles and waivers and, in each place where a plan is required, includes a high-quality plan. Consistent with ESEA section 9401(d)(1), the Secretary intends to grant waivers that are included in this flexibility through the end of the 2014–2015 school year for SEAs that request the flexibility in “Window 3” (*i.e.*, the September 2012 submission window for peer review in October 2012). The Department is asking SEAs to submit requests that include plans through the 2014–2015 school year in order to provide a complete picture of the SEA’s reform efforts. The Department will not accept a request that meets only some of the principles of this flexibility.

This *ESEA Flexibility Request for Window 3* is intended for use by SEAs requesting ESEA flexibility in September 2012 for peer review in October 2012. The timelines incorporated into this request reflect the timelines for the waivers, key principles, and action items of ESEA flexibility for an SEA that is requesting flexibility in this third window.

High-Quality Request: A high-quality request for this flexibility is one that is comprehensive and coherent in its approach, and that clearly indicates how this flexibility will help an SEA and its LEAs improve student achievement and the quality of instruction for students.

A high-quality request will (1) if an SEA has already met a principle, provide a description of how it has done so, including evidence as required; and (2) if an SEA has not yet met a principle, describe how it will meet the principle on the required timelines, including any progress to date. For example, an SEA that has not adopted minimum guidelines for local teacher and principal evaluation and support systems consistent with Principle 3 by the time it submits its request for the flexibility will need to provide a plan demonstrating that it will do so by the end of the 2012–2013 school year. In each such case, an SEA’s plan must include, at a minimum, the following elements for each principle that the SEA has not yet met:

1. **Key milestones and activities:** Significant milestones to be achieved in order to meet a given principle, and essential activities to be accomplished in order to reach the key milestones. The SEA should also include any essential activities that have already been completed or key milestones that have already been reached so that reviewers can understand the context for and fully evaluate the SEA’s plan to meet a given principle.
2. **Detailed timeline:** A specific schedule setting forth the dates on which key activities will begin and be completed and milestones will be achieved so that the SEA can meet the principle by the required date.
3. **Party or parties responsible:** Identification of the SEA staff (*e.g.*, position, title, or office) and, as appropriate, others who will be responsible for ensuring that each key activity is accomplished.
4. **Evidence:** Where required, documentation to support the plan and demonstrate the SEA’s progress in implementing the plan. This *ESEA Flexibility Request for Window 3* indicates the specific evidence that the SEA must either include in its request or provide at a future reporting date.

5. **Resources:** Resources necessary to complete the key activities, including staff time and additional funding.
6. **Significant obstacles:** Any major obstacles that may hinder completion of key milestones and activities (*e.g.*, State laws that need to be changed) and a plan to overcome them.

Included on page 19 of this document is an example of a format for a table that an SEA may use to submit a plan that is required for any principle of this flexibility that the SEA has not already met. An SEA that elects to use this format may also supplement the table with text that provides an overview of the plan.

An SEA should keep in mind the required timelines for meeting each principle and develop credible plans that allow for completion of the activities necessary to meet each principle. Although the plan for each principle will reflect that particular principle, as discussed above, an SEA should look across all plans to make sure that it puts forward a comprehensive and coherent request for this flexibility.

Preparing the Request: To prepare a high-quality request, it is extremely important that an SEA refer to all of the provided resources, including the document titled *ESEA Flexibility*, which includes the principles, definitions, and timelines; the document titled *ESEA Flexibility Review Guidance for Window 3*, which includes the criteria that will be used by the peer reviewers to determine if the request meets the principles of this flexibility; and the document titled *ESEA Flexibility Frequently Asked Questions*, which provides additional guidance for SEAs in preparing their requests.

As used in this request form, the following terms have the definitions 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) reward school, (6) standards that are common to a significant number of States, (7) State network of institutions of higher education, (8) student growth, and (9) turnaround principles.

Each request must include:

- A table of contents and a list of attachments, using the forms on pages 1 and 2.
- The cover sheet (p. 3), waivers requested (p. 4-6), and assurances (p. 7-8).
- A description of how the SEA has met the consultation requirements (p. 9).
- Evidence and plans to meet the principles (p. 10-18). An SEA will enter narrative text in the text boxes provided, complete the required tables, and provide other required evidence. An SEA may supplement the narrative text in a text box with attachments, which will be included in an appendix. Any supplemental attachments that are included in an appendix must be referenced in the related narrative text.

Requests should not include personally identifiable information.

Process for Submitting the Request: An SEA must submit a request to the Department to receive the flexibility. This request form and other pertinent documents are available on the Department's Web site at: <http://www.ed.gov/esea/flexibility>.

Electronic Submission: The Department strongly prefers to receive an SEA's request for the flexibility electronically. The SEA should submit it to the following address:
ESEAflexibility@ed.gov.

Paper Submission: In the alternative, an SEA may submit the original and two copies of its request for the flexibility to the following address:

Paul S. Brown, Acting Director
Student Achievement and School Accountability Programs
U.S. Department of Education
400 Maryland Avenue, SW, Room 3W320
Washington, DC 20202-6132

Due to potential delays in processing mail sent through the U.S. Postal Service, SEAs are encouraged to use alternate carriers for paper submissions.

REQUEST SUBMISSION DEADLINE

The submission due date for Window 3 is September 6, 2012.

TECHNICAL ASSISTANCE FOR SEAS

The Department has conducted a number of webinars to assist SEAs in preparing their requests and to respond to questions. Please visit the Department's Web site at: <http://www.ed.gov/esea/flexibility> for copies of previously conducted webinars and information on upcoming webinars.

FOR FURTHER INFORMATION

If you have any questions, please contact the Department by e-mail at ESEAflexibility@ed.gov.

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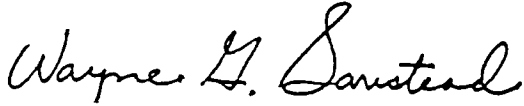
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For each attachment included in the *ESEA Flexibility Request for Window 3*, label the attachment with the corresponding number from the list of attachments below and indicate the page number where the attachment is located. If an attachment is not applicable to the SEA’s request, indicate “N/A” instead of a page number. Reference relevant attachments in the narrative portions of the request.

LABEL	LIST OF ATTACHMENTS (WEBSITE LINKS)	PAGE
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COVER SHEET FOR ESEA FLEXIBILITY REQUEST

Legal Name of Requester:	Requester's Mailing Addr
State Contact for the ESEA Flexibility Request Name Position and Office: Contact's Mailing Address Telephone Fax Email address	
Chief State Officer (Printed Name):	Telephone
Signature of Chief State Officer 	Date
The State, through its authorized representative, agrees to meet all principles of the ESEA Flexibility.	

WAIVERS

By submitting this flexibility request, the SEA requests flexibility through waivers of the ten ESEA requirements listed below and their associated regulatory, administrative, and reporting requirements 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 schoolwide 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.

If the SEA selects Option A in section 3.A of its request, indicating that it has not yet developed and adopted all the guidelines for teacher and principal evaluation and support systems, it must also assure that:

- 15. It will submit to the Department for peer review and approval a copy of the guidelines that it will adopt by the end of the 2012–2013 school year. (Principle 3)

CONSULTATION

An SEA must meaningfully engage and solicit input from diverse stakeholders and communities in the development of its request. To demonstrate that an SEA has done so, the SEA must provide an assurance that it has consulted with the State’s Committee of Practitioners regarding the information set forth in the request and provide the following:

1. A description of how the SEA meaningfully engaged and solicited input on its request from teachers and their representatives.

General Consultation Assurances

The North Dakota Department of Public Instruction (NDDPI), on behalf of the State of North Dakota, prepared this ESEA Flexibility Waiver request in a manner that engaged and solicited input from the state’s diverse stakeholders and education community representatives. The NDDPI asserts that it consulted with and incorporated the advice and recommendations of the state’s various advisory committees, including the state’s Title I Committee of Practitioners, regarding the general design and programmatic specifications of this Application.

ESEA Reauthorization Planning Committee

On September 30, 2011, following the September 28, 2011 release of the ESEA Flexibility Waiver Application by the U.S. Department of Education, the State Superintendent formed the North Dakota State Elementary and Secondary Education Act (ESEA) Reauthorization Planning Committee (hereafter, the ESEA Planning Committee) to provide general guidance to the State Superintendent regarding the overall design and operational plan for the state’s ESEA waiver application. The ESEA Planning Committee consists of approximately twenty different statewide education community representatives, which are inclusive of a wide variety of diverse stakeholders. The ESEA Planning Committee’s membership includes representatives from the following list of elected officials, agencies, educational organizations, statewide advisory committees, and national and regional technical assistance centers. The following list constitutes the membership of the ESEA Planning Committee:

- Office of the Governor;
- North Dakota State Senate;
- North Dakota House of Representatives;
- North Dakota Department of Public Instruction;
- North Dakota University System;
- North Dakota Department of Career and Technical Education;
- North Dakota Indian Affairs Commission;
- North Dakota School Boards Association;
- North Dakota Education Association;
- North Dakota Council of Educational Leaders;
- North Dakota Education Standards and Practices Board;
- Pathfinders Parent Center
- North Dakota Individuals with Disabilities Education Act (IDEA) Advisory Committee;
- North Dakota Title I Committee of Practitioners;
- North Dakota Curriculum Initiative;

- North Dakota English Language Learners;
- North Dakota Education Technology Council;
- North Dakota Regional Education Associations;
- North Dakota Small Organized Schools;
- North Dakota Indian Education Advisory Council;
- North Dakota School Study Council;
- North Dakota Child Protection Services;
- North Dakota Chamber of Commerce;
- At-large Education Leaders;
- North Central Comprehensive Center;
- Mid-continent Research for Education and Learning;
- National Comprehensive Center for Teacher Quality

Refer to Attachment 2 for a complete listing of the agencies and representatives which constituted the ESEA Planning Committee's membership.

Each of these representative entities were invited to engage in discussions regarding the advisability of the state to apply for an ESEA flexibility request and to prepare the state's ESEA flexibility waiver application, in the event of a favorable recommendation, in a manner that would meet the overall educational goals and values of their respective memberships. These representative groups included those various teacher associations, teacher advisory committees, curricular development associations, educational leadership associations, and other educational special populations associations that have historically served the state in a wide variety of policy and program analysis activities.

The ESEA Planning Committee convened formally on the following dates to review the Department's flexibility guidance, to develop proposals to meet each of the flexibility request's assurances and principles, and to prepare a general recommendation to the State Superintendent whether the state should proceed with a formal flexibility waiver application.

- October 14, 2011;
- October 26, 2011;
- December 5, 2011;
- February 8, 2012;
- August 15, 2012.

The NDDPI established an official website for the posting of all ESEA Flexibility Request documents and events, including ESEA Planning Committee meeting materials. Refer to the following website: <http://www.dpi.state.nd.us/ESEA/waivers.shtm>. Among the materials included within this ESEA Flexibility Request website are the following:

- the agenda for all ESEA Planning Committee meetings;
- the membership roster for the ESEA Planning Committee, including contact information;
- working drafts of the state's ESEA flexibility request responses to the various assurances and principles;
- the membership roster of the ESEA Planning Committee's designated subcommittee on teacher and principal evaluations;
- the agenda for the various teacher and principal evaluation subcommittee's study meetings;

- the listing of various support research and materials referenced by the teacher and principal evaluation subcommittee;
- the listing of Department guidance and support materials, including various presentations, webinars, and documentation regarding the ESEA flexibility request;
- foundational Department guidance materials regarding the legal status of the ESEA flexibility request; and
- various external websites, which provide additional technical assistance regarding the ESEA flexibility request.

The NDDPI posted important ESEA flexibility request information and updates, via electronic memoranda, to local schools and school districts.

Teacher and Principal Evaluation and Support System Subcommittee

In the process of conducting its analysis regarding the advisability of the state to submit an ESEA flexibility request application, the ESEA Planning Committee identified Principle 3, regarding teacher and principal evaluation and support systems, as an especially challenging issue that would require the concentrated study of a subcommittee. During its October 26, 2011 committee meeting, the ESEA Planning Committee formed and constituted the Teacher and Principal Evaluation and Support System (TPESS) Subcommittee. The TPESS Subcommittee was formed to conduct a comprehensive review of current reputable research, recognized national models, statewide administrative practices, and local sentiments regarding the design and implementation of various teacher and principal evaluation efforts. The TPESS Subcommittee consisted of selected members of the ESEA Planning Committee, in addition to nominated statewide members who represented teachers, principals, superintendents, higher education representatives, and legislators. The NDDPI provided facilitation for the meetings. Representatives from the North Central Comprehensive Center and the National Comprehensive Center for Teacher Quality provided technical assistance to the TPESS Subcommittee.

The TPESS Subcommittee established a research-based approach to the analysis of teacher and principal evaluations and the support system that would be required to successfully ensure the deployment of a statewide system, if the state were to advance an ESEA flexibility request application or if the state elected not to advance any application but sought to independently pursue a statewide teacher and principal evaluation initiative. The TPESS Subcommittee formed internal work groups that concentrated on individual components of a statewide effort, including various research-based evaluation models, administrative practices, and support requirements, including professional development. The TPESS Subcommittee conducted its analysis and drafting responsibilities at the following formal meeting dates:

- November 22, 2011
- December 14, 2011
- February 21, 2012
- April 3, 2012
- May 8, 2012
- June 6, 2012
- July 25, 2012

The record of TPESS Subcommittee proceedings was posted on the NDDPI's ESEA Planning Committee website. Refer to the following website:

<http://www.dpi.state.nd.us/ESEA/waivers.shtm>. Among the materials included within this TPESS Subcommittee website are the following:

- the agenda for all TPESS Subcommittee meetings;
- the membership roster for the TPESS Subcommittee, including contact information;
- working drafts of prospective teacher and principal evaluation guidelines; and
- the listing of various support research and materials referenced by the TPESS Subcommittee.

At its February 8, 2012 meeting, the ESEA Planning Committee reached fundamental agreement with the various provisions within Principles 1 and 2 of the ESEA Flexibility Request Application. The ESEA Planning Committee also received a summary report of the progress of the TPESS Subcommittee regarding its work concerning Principle 3 and determined that sufficient progress had been made by the Subcommittee to continue its preparation of a proposal for a statewide teacher evaluation guideline document and a statewide principal evaluation guideline document. The State Superintendent received this recommendation and elected to delay any determination of the state to submit an ESEA flexibility request application until September 6, 2012, pending the final guideline drafts of the TPESS Subcommittee and the final review and recommendation of the ESEA Planning Committee. The TPESS Subcommittee subsequently continued its work through July 25, 2012, when the final drafts of the *North Dakota Teacher Evaluation Guidelines* and the *North Dakota Principal Evaluation Guidelines* were completed. Refer to Attachment 10 to review the *North Dakota Teacher Evaluation Guidelines* and the *North Dakota Principal Evaluation Guidelines*. The TPESS Subcommittee unanimously approved the contents and presentation of these evaluation guidelines documents and requested that the NDDPI and the representatives of the ESEA Planning Committee forward this recommendation to the full body of the ESEA Planning Committee for acceptance and further consideration regarding any state ESEA Flexibility Request Application.

Statewide Communications and Conference Presentations

The various ESEA Planning Committee members, who represented the wide variety of statewide education stakeholder groups, prepared and provided information and updates to their respective memberships on the progress of the ESEA Planning Committee's deliberations. This communication included newsletters, electronic memoranda, statewide conferences, and individual communications with constituent members. The NDDPI provided information and updates through monthly Title I and special education statewide newsletters, the statewide Title I teacher and administrator conference, scheduled statewide and regional administrators' conferences, and individualized technical assistance communications.

The ESEA Planning Committee accessed and readily referenced documents and recommendations forthcoming from the statewide North Dakota Curriculum Initiative (NDCI) regarding the adoption and implementation of the Common Core State Standards as the state's official content standards in English language arts and mathematics. The NDCI is a statewide collaborative of educators dedicated to standards-based curriculum, instruction, and assessment educational practices. The NDCI, with the assistance of the NDDPI, convened 70 statewide content and instructional specialists, including teachers, administrators, and higher education representatives, to develop curricular guidance and transitional strategies required for the successful implementation of the state's new Common Core State Standards.

The NDCI expanded its advisory structure to support the state's overall efforts to implement the Common Core State Standards by establishing five operational subcommittees whose memberships allow for specialized implementation strategies. These subcommittees include the following:

- Representatives from the state's eight Regional Education Associations, including support for the state's small organized schools;
- Representatives from the State Study Council, an association of the state's largest school districts;
- Representatives from the state's institutions of higher education;
- Representatives from career and technical education centers; and
- Representatives from certain education stakeholder associations.

The membership of the ESEA Planning Committee, including its teacher and principal evaluation subcommittee, and the structure of its meeting and communications outreach efforts are designed to provide for an effective and efficient means of addressing the various provisions of the ESEA Flexibility Request and to allow for the appropriate and timely communication of activities to the various stakeholder constituents.

ESEA Planning Committee's Final Recommendation Regarding the State's ESEA Flexibility Request Application

On August 15, 2012, the ESEA Planning Committee reviewed the recommendations of the TPESS Subcommittee and accepted the *North Dakota Teacher Evaluation Guidelines* and the *North Dakota Principal Evaluation Guidelines* as supporting documentation to the state's response to Principle 3 within the ESEA Flexibility Request Application. With the contents of each Principle of the ESEA Flexibility Request Application completed, the ESEA Planning Committee subsequently reviewed each individual Principle and the integrity of the state's composite Application for final consideration and recommendation to the State Superintendent.

Following the Committee's deliberations, members considered the motion to recommend to the State Superintendent that the NDDPI proceed with its submission of the state's ESEA Flexibility Request Application, following a designated final public comment period and necessary final editing. Each Committee member voted individually. The recorded tally of votes reported that a majority of ESEA Planning Committee members recommended the submission of the state's ESEA Flexibility Request Application. The NDDPI received this recommendation and proceeded to post the ESEA Planning Committee's ESEA Flexibility Request Application framework draft for public comment. The NDDPI proceeded to incorporate final edits to the ESEA Planning Committee's Application framework draft to reflect the intentions of the ESEA Planning Committee regarding content and to include and validate internal document references. Following the receipt of all public comments and any subsequent revisions, the final draft of the state's ESEA Flexibility Request Application was forwarded to the State Superintendent for final consideration and disposition.

Public Comment

Following the August 15, 2012 proceedings of the ESEA Planning Committee, the NDDPI posted the ESEA Planning Committee's framework draft of the state's ESEA Flexibility Request Application on the NDDPI website. A general public press release announced the posting of the Application and invited the submission of any and all comments regarding the Application's

contents and the state's submission of the Application. A memorandum announcing the posting of the Application and the invitation to submit public comments was also forwarded to all public schools and school districts statewide. Refer to Attachment 3 to review these public comment notifications. Following the receipt of all public comments received by September 1, 2012, the NDDPI posted all received comments on the NDDPI website and considered the contents of these comments for possible inclusion in the final draft of the state's ESEA Flexibility Request Application. Refer to Attachment 2 to review all public comments received through September 1, 2012.

2. A description of how the SEA meaningfully engaged and solicited input on its request from other diverse communities, such as students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities and English Learners, business organizations, and Indian tribes.

On September 30, 2011, following the September 28, 2011 release of the ESEA Flexibility Waiver Application by the U.S. Department of Education, the State Superintendent formed the North Dakota State Elementary and Secondary Education Act (ESEA) Reauthorization Planning Committee (hereafter, the ESEA Planning Committee) to provide general guidance to the State Superintendent regarding the overall design and operational plan for the state's ESEA waiver application. The ESEA Planning Committee consists of approximately twenty different statewide education community representatives, which are inclusive of a wide variety of diverse stakeholders. The ESEA Planning Committee's membership includes representatives from the following list of elected officials, agencies, educational organizations, statewide advisory committees, and national and regional technical assistance centers. Included within the balance of the Committee's representatives are associations that represent civic and business interests, civil rights interests, students with disabilities and English language learners, parents, and local school boards. Among the following list that constituted the membership of the ESEA Planning Committee are groups that represent and advocate on behalf of these divergent interests (bolded for emphasis):

- Office of the Governor;
- North Dakota State Senate;
- North Dakota House of Representatives;
- North Dakota Department of Public Instruction;
- North Dakota University System;
- North Dakota Department of Career and Technical Education;
- **North Dakota Indian Affairs Commission;**
- **North Dakota School Boards Association;**
- North Dakota Education Association;
- North Dakota Council of Educational Leaders;
- North Dakota Education Standards and Practices Board;
- **Pathfinders Parent Center**
- **North Dakota Individuals with Disabilities Education Act (IDEA) Advisory Committee;**
- North Dakota Title I Committee of Practitioners;
- North Dakota Curriculum Initiative;
- **North Dakota English Language Learners;**

- North Dakota Education Technology Council;
- North Dakota Regional Education Associations;
- North Dakota Small Organized Schools;
- **North Dakota Indian Education Advisory Council;**
- North Dakota School Study Council;
- **North Dakota Child Protection Services;**
- **North Dakota Chamber of Commerce;**
- At-large Education Leaders;
- North Central Comprehensive Center;
- Mid-continent Research for Education and Learning;
- National Comprehensive Center for Teacher Quality

Refer to Attachment 2 for a complete listing of the agencies and representatives which constituted the ESEA Planning Committee's membership.

Each of these representative entities were invited to engage in discussions regarding the advisability of the state to apply for an ESEA flexibility request and to prepare the state's ESEA flexibility waiver application, in the event of a favorable recommendation, in a manner that would meet the overall educational goals and values of their respective memberships.

Public Comment

Following the August 15, 2012 proceedings of the ESEA Planning Committee, the NDDPI posted the ESEA Planning Committee's framework draft of the state's ESEA Flexibility Request Application on the NDDPI website. A general public press release announced the posting of the Application and invited the submission of any and all comments regarding the Application's contents and the state's submission of the Application. A memorandum announcing the posting of the Application and the invitation to submit public comments was also forwarded to all public schools and school districts statewide. Refer to Attachment 3 to review these public comment notifications. Following the receipt of all public comments received by September 1, 2012, the NDDPI posted all received comments on the NDDPI website and considered the contents of these comments for possible inclusion in the final draft of the state's ESEA Flexibility Request Application. Refer to Attachment 2 to review all public comments received through September 1, 2012.

EVALUATION

The Department encourages an SEA that receives approval to implement the flexibility to collaborate with the Department to evaluate at least one program, practice, or strategy the SEA or its LEAs implement under principle 1, 2, or 3. Upon receipt of approval of the flexibility, an interested SEA will need to nominate for evaluation a program, practice, or strategy the SEA or its LEAs will implement under principles 1, 2, or 3. The Department will work with the SEA to determine the feasibility and design of the evaluation and, if it is determined to be feasible and appropriate, will fund and conduct the evaluation in partnership with the SEA, ensuring that the implementation of the chosen program, practice, or strategy is consistent with the evaluation design.

Check here if you are interested in collaborating with the Department in this evaluation, if your request for the flexibility is approved.

OVERVIEW OF SEA'S REQUEST FOR THE ESEA FLEXIBILITY

Provide an overview (about 500 words) of the SEA's request for the flexibility that:

1. explains the SEA's comprehensive approach to implement the waivers and principles and describes the SEA's strategy to ensure this approach is coherent within and across the principles; and
2. describes how the implementation of the waivers and principles will enhance the SEA's and its LEAs' ability to increase the quality of instruction for students and improve student achievement.

The North Dakota Department of Public Instruction (NDDPI) submits this Elementary and Secondary Education Act (ESEA) Flexibility Request Application for Window 3 (henceforth titled Application) in accordance with the associated regulatory, administrative, and reporting requirements specified within official guidance issued by the Secretary, as authorized under section 9401 of the No Child Left Behind Act. This Application is submitted under the approval of Dr. Wayne G. Sanstead, North Dakota State Superintendent of Public Instruction, the state's statutory authority, on behalf of the state, its local educational agencies, and its schools. The NDDPI provides assurances that this Application is complete, specifies the flexibility waivers sought by the state, and stipulates to the assurances and the state's proposals required as a condition to any consideration and subsequent approval. The NDDPI respectfully requests that the U.S. Department of Education (ED) review and consider the flexibility provisions specified within this Application and proceed under the terms of the ESEA Flexibility Request for Window 3 to approve this Application.

The Context for this Flexibility Application

The NDDPI submits this Application within the context of certain political, economic, and educational realities that underscore the necessity to implement meaningful flexibilities at this time. Since the enactment of the NCLB, the Nation has moved steadily to adopt and implement state content and achievement standards, valid and reliable standards-based assessments, accountability reporting that provides the public with an array of achievement measures, adequate yearly progress and program improvement designations for schools and districts, increased highly qualified teacher requirements, certain educational improvement support services for designated subgroups of students, dedicated programming for specified issues, among other initiatives. Congress has authorized and allocated funding to meet evolving priorities, which have been punctuated and impacted by military conflict, national threats to security, economic stressors and recession, and a growing national debt. These conditions have forced certain funding restrictions in social programs nationwide, including education.

A decade has passed since the enactment of NCLB. As dictated by the mathematical realities inherent within the accountability provisions of NCLB, an ever-increasing number of schools and districts, have been identified under the provisions of adequate yearly progress and program improvement. The requisite remediation actions required under these increased

identifications have been impeded by funding limitations, effectively creating impasses in improvement activities and frustrations among educators. During this time, Congress has not reauthorized ESEA; the ESEA, which has been traditionally reauthorized every five years, remains unaltered a decade later. The burdens of an unattended law compounded by funding limitations have strained the capacity of states and schools to achieve the law's desired aims. The good will and faith of educators and communities have been compromised.

The ESEA Flexibility Request issued by ED provides a means to seek certain flexibilities from the more stringent provisions of NCLB, as a means of mitigating these contextual challenges. As such, the ESEA Flexibility Request offers remedies within the constraints of the law. The NDDPI is mindful of the purpose and potential of this Flexibility Request and seeks to benefit from its design and effect. The NDDPI is also mindful that the Congress will eventually reauthorize the ESEA, at a time and in a manner yet unknown. When it is eventually reauthorized, the ESEA will emerge with a renewed attention to perceived national priorities, which may or may not align with the outlined provisions of the Flexibility Request.

In the presence of these swirling uncertainties, the NDDPI and its committees of statewide education stakeholders have charted a carefully balanced course of action: a course that proposes meaningful yet carefully structured educational reforms that advance the state's longer term best interests without introducing accountability provisions that might encounter conflict with a future reauthorized ESEA. These proposals seek to optimize reform benefits, properly balance a respect for local control, and remove the prospects of introducing harm to the schools and communities of the state.

The NDDPI submits this Application to receive flexibility for certain provisions of the No Child Left Behind Act (NCLB), as specified by the waiver guidance issued by the Secretary. The NDDPI seeks flexibility from the provisions specified herein in exchange for rigorous and comprehensive state-developed plans to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. In recent years, the state has advanced certain educational reforms that have arisen from statewide discussions among teachers, administrators, policymakers, various education associations, and the public. These recent statewide reform efforts, when combined with the flexibility sought by this Application, provide the state with a meaningful means of advancing three core policy initiatives:

- establishing credible college- and career-ready standards and assessments to ensure that all students succeed in life;
- developing systems of differentiated recognition, accountability, and support to ensure that all students are provided high-quality educational opportunities within all schools; and
- supporting effective instruction and leadership to ensure that every student benefits from qualified and effective teachers and leaders.

The flexibility proposals presented in this Application are the result of the extensive collaboration of a statewide network of education stakeholders. This collaborative effort among representatives of agencies, school districts, education associations, and other interests underscores the degree of commitment to advance meaningful education reforms that represent the state's deeply held values and aspirations. On behalf of this statewide

collaborative, the NDDPI provides assurances that the state will administer the provisions of this Application to achieve the outcomes sought in each of its three stated aims.

Establishing credible college- and career-ready standards.

This Application stipulates within Principle 1 that the state has adopted new content standards in English language arts and mathematics that are based on the Common Core State Standards, nationally developed and recognized, rigorous college- and career-readiness standards. The state has developed content alignment studies, or gap analysis studies, that provide a direct aid to local schools in their effort to understand the evolution of content expectations between the state's older and newly adopted content standards. The state has similarly developed, through the contributions of committees of statewide content specialists, curriculum template supplementary support materials that are aligned to the Common Core State Standards and that provide guidance to local school districts as they adopt new curricula that are fully aligned to the state's new standards.

This Application presents a series of proactive measures designed to assist local schools and educators to transition into and fully implement the state's new content standards based on the Common Core State Standards. This collection of systemic transition and implementation measures includes, among others, the development of a statewide collaborative partners network, under the aegis of the North Dakota Curriculum Initiative, which participates in the planning, development, and delivery of professional development activities and curriculum and assessment development materials; the development of curriculum support materials directed to students with disabilities and English language learners; the provision of special outreach grants and support services for at-risk American Indian students and their communities; the offering of personal, academic, and career counseling to all high school students to advance their prospects of a successful transition into college or their stated career; the statewide administration of interim assessments to students across grade spans and the upgrading of the alignment of these interim assessments to the Common Core State Standards; the statewide administration of the ACT or the WorkKeys assessments to all eleventh graders to prepare students for their successful transition into college or their stated career and to raise understanding of college and career expectations; the coordination of activities among the state's Regional Education Associations to assist local school districts in the development of their local curricula and the provision of professional development; the deployment of a series of statewide higher education initiatives that are designed to improve success of students entering into, moving through, and graduating from college within the state; and the implementation of a series of legislatively mandated education reforms designed to assist schools in developing their locally determined education initiatives.

The NDDPI provides assurances that these related activities provide for an integrated approach to implement meaningful college- and career-readiness among all students statewide. The NDDPI provides further assurance that these initiatives carry a strong probability of succeeding in light of the efforts of the state's various stakeholders to develop these initiatives.

Developing systems of differentiated recognition, accountability, and support

This Application presents within Principle 2 a new differentiated recognition, accountability, and support system that is designed to improve student achievement and school performance, close achievement gaps, and increase the quality of instruction for all students. The design of this system is to identify low-performing schools and provide intensive support as consistent

with the intent of ESEA Title I law. This proposal specifies the manner in which Priority, Focus, and Reward schools are identified and provided appropriate supports, based on their designation. Within this plan, the NDDPI will prepare and publish annual measureable objective (AMO) reports for each public school in the aggregate and by certain subgroup designations. AMOs are generated based on (1) student achievement in reading and mathematics on the state's annual assessments; (2) student attendance rates in elementary and middle schools, and (3) student graduation rates in high school. Determinations incorporate established reliability rules and will be made independently for each public school in the state. The ESEA Planning Committee elected to set realistic AMOs in annual equal increments toward a goal of reducing by 25% the number of students in the "all students" group and in each subgroup who are not proficient within six years. The Application presents detailed rubrics for the determination of Priority, Focus, and Reward schools. Additionally, the proposal presents the manner in which the state will provide direct technical assistance and school improvement supports regarding established turnaround principles to identified schools to enhance the prospects of their overall improvement in student achievement levels.

The NDDPI provides assurances that these related activities provide for an integrated approach to identify and support the differentiated standing of lower- and higher-performing schools in order to raise overall student achievement statewide. The NDDPI provides further assurance that these initiatives carry a strong probability of succeeding in light of the efforts of the state's various stakeholders to develop these initiatives.

Evaluating and supporting teacher and principal effectiveness.

This Application stipulates within Principle 3 that the state will continue its current development of teacher and principal evaluation guidelines through the 2012-13 academic year, that this process will involve teachers and principals, and that the NDDPI will submit to the ED copies of the guidelines at the completion of the development process. This Application provides detailed narrative regarding the efforts of the state to develop teacher and principal evaluation guidelines and a plan to complete the development process during 2012-13. The Application affixes the substantive body of the state's teacher and principal evaluation guidelines documents, less certain specified support materials which will be developed during 2012-13. These two evaluation guideline documents clearly outline the professional teacher and principal standards upon which evaluations are to be aligned; the manner in which local school districts might adopt certain approved models of evaluation; the administrative protocols that guide local administrators in the conduct of evaluations; the various multiple measures, including consideration of specified student achievement assessments and other measures, to be considered in the process of evaluating teachers and principals; the differentiated levels of performance and the recording of these results; and various considerations regarding the validity, reliability, and transparency of any evaluation programs, including ongoing research regarding the integrity of the evaluation system.

The NDDPI provides assurances that these related activities provide for an integrated approach to the implementation of a valid and reliable statewide teacher and principal evaluations system. The NDDPI provides further assurance that these initiatives carry a strong probability of succeeding in light of the efforts of the state's various stakeholders to develop these initiatives.

The NDDPI, on behalf of its statewide collaborative of education stakeholders, submits this Application with confidence that its provisions reflect well, within the bounds of the Flexibility Request's parameters, the values and best interests of the state to provide to its students an

