

## ESEA Waiver Request from New Jersey

November 14, 2011

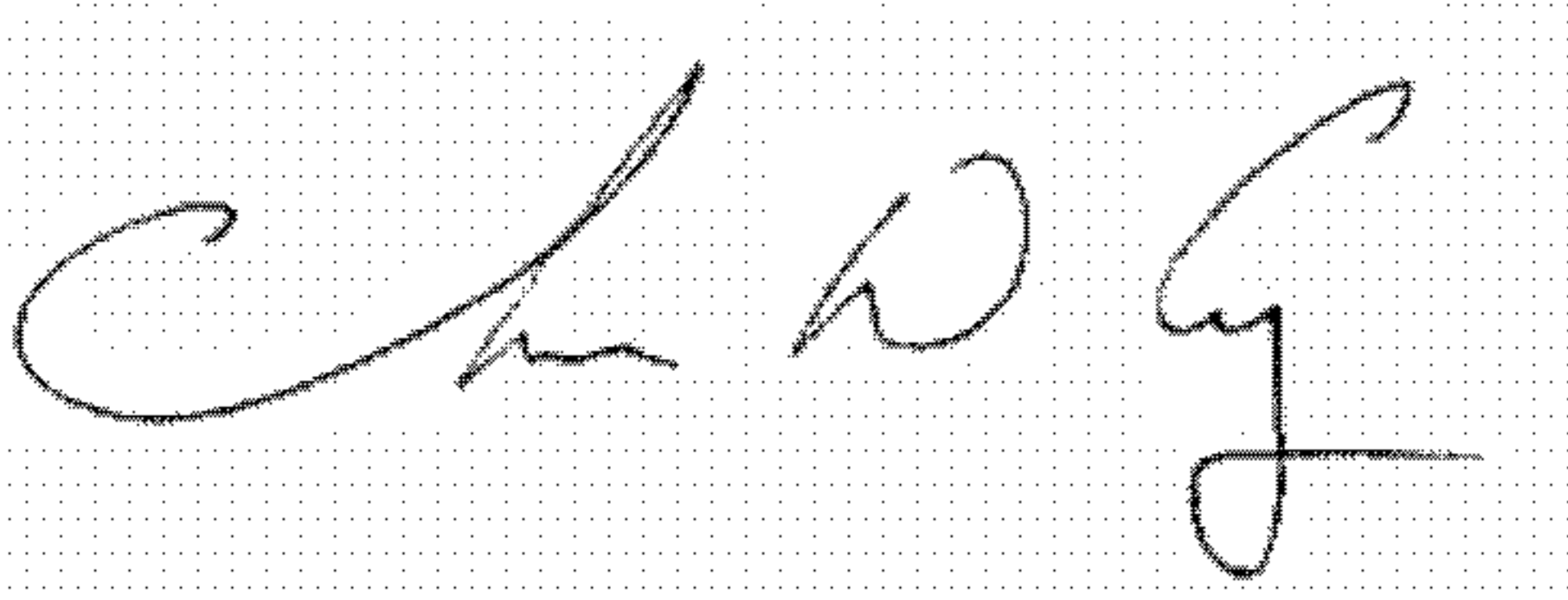
New Jersey Department of Education  
Trenton, NJ 08625

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**COVER SHEET FOR ESEA FLEXIBILITY REQUEST**

<p>Legal Name of Requester: Christopher D. Cerf Acting Commissioner New Jersey Department of Education</p>	<p>Requester's Mailing Address: 100 River View Plaza PO Box 500 Trenton, NJ 08625-0500</p>
<p>State Contact for the ESEA Flexibility Request</p> <p>Name: Christopher D. Cerf Position and Office: Acting Commissioner of Education</p> <p>Contact's Mailing Address: N.J. Department of Education 100 River View Plaza P.O. Box 500 Trenton, NJ 08625</p> <p>Telephone: (609) 292-1722</p> <p>Fax: (609) 777-4099</p> <p>Email address: Chris.Cerf@doe.state.nj.us</p>	
<p>Chief State School Officer (Printed Name): Christopher D. Cerf</p>	<p>Telephone: (609) 292-1722</p>
<p>Signature of the Chief State School Officer:</p>  <p>X _____</p>	<p>Date: November 14, 2011</p>
<p>The State, through its authorized representative, agrees to meet all principles of the ESEA Flexibility.</p>	

LABEL	LIST OF ATTACHMENTS	PAGE
1	Notice to LEAs	203
2	Comments on request received from LEAs (if applicable)	206
3	Notice and information provided to the public regarding the request	322
4	Evidence that the State has formally adopted college- and career-ready content standards consistent with the State's standards adoption process	327
5	Memorandum of understanding or letter from a State network of institutions of higher education (IHEs) certifying that meeting the State's standards corresponds to being college- and career-ready without the need for remedial coursework at the postsecondary level (if applicable)	n/a
6	State's Race to the Top Assessment Memorandum of Understanding (MOU) (if applicable)	329
7	Evidence that the SEA has submitted high-quality assessments and academic achievement standards to the Department for peer review, or a timeline of when the SEA will submit the assessments and academic achievement standards to the Department for peer review (if applicable)	n/a
8	A copy of the average Statewide proficiency based on assessments administered in the 20102011 school year in reading/language arts and mathematics for the "all students" group and all subgroups (if applicable).	n/a
9	Table 2: Reward, Priority, and Focus Schools	356
10	A copy of any guidelines that the SEA has already developed and adopted for local teacher and principal evaluation and support systems (if applicable).	n/a
11	Evidence that the SEA has adopted one or more guidelines of local teacher and principal evaluation and support systems	n/a

## 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 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, 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.
- 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.
- 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.

Optional Flexibility:

An SEA should check the box below only if it chooses to request a waiver of the following requirements:

- 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.



## ASSURANCES

By submitting this application, 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. (Principle 2)

- 8. It will report annually to the public and each LEA will annually report to its SEA and to the public, beginning no later than the 2014–2015 school year, on the aggregate distribution of teachers and principals by performance level, including the percentage of teachers and principals by performance level at the State, LEA, and school level, and by school poverty quartile within the State and LEA. (Principle 3)
  - 9. 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, 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 the deadline required under the State Fiscal Stabilization Fund. (Principle 3)
  - 10. 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)
  - 11. It has consulted with its Committee of Practitioners regarding the information set forth in its request.
  - 12. 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).
  - 13. 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).
  - 14. 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.
- If the SEA selects Option A or B in section 3.A of its request, indicating that it has not yet developed and adopted all 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 2011–2012 school year. (Principle 3)



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.

Although the New Jersey Department of Education (NJDOE) has had only a matter of weeks to solicit input from the public and other stakeholders on this specific waiver application, for more than two years, the Department has sought wide-ranging feedback on a variety of issues that are central to this request.

In June 2010, the New Jersey State Board of Education (NJSBOE) adopted the Common Core State Standards (CCSS). As part of the adoption process, the NJDOE and the NJSBOE held two public comment opportunities. In addition, the NJDOE solicited comment from educators across the state by email. After adoption, the NJDOE held over 300 meetings with educators and other district/school staff to discuss the new standards and provide support for their implementation.

In order to develop a new teacher evaluation system, the New Jersey Educator Effectiveness Task Force, a nine-member task force charged with studying and developing recommendations to guide the creation of a fair and transparent system of educator evaluations, met 12 times between November 2010 and March 2011 and solicited input from educators and experts from across the state. Once the Task Force issued its report in March 2011, Acting Commissioner Chris Cerf and the NJDOE staff met with educators across the state to discuss the findings.

Using the recommendations of this Task Force, this year, the NJDOE is conducting a voluntary pilot in 11 districts and School Improvement Grant (SIG) schools to help develop the teacher evaluation system before statewide rollout. Numerous feedback mechanisms have been put in place, including a statewide evaluation pilot advisory committee made up of a broad array of stakeholders, and local advisory committees in each of the districts and SIG schools. This input from educators will be crucial as we learn about the successes and challenges of implementing a new teacher evaluation system.

The NJDOE took an aggressive approach to engage and obtain input from teachers and their representatives to inform the development of this waiver application itself. Between October 11 and October 24, the NJDOE posted the guidance documents from the U.S. Department of Education on the NJDOE website and solicited feedback from teachers and the general public in each area of the application before developing the initial plan. In order to reach as many teachers as possible, we sent out links through the following channels:

1. Both the National Education Association (NEA) and the American Federation of Teachers (AFT) affiliates in New Jersey, asking for their assistance to pass the link to their members;

