



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 20, 2011

The Honorable Terry Holliday  
Commissioner  
Kentucky Department of Education  
500 Mero St., 6th Floor  
Frankfort, Kentucky 40601

Dear Commissioner Holliday:

Thank you for submitting Kentucky's request for ESEA flexibility. We appreciate the hard work required to transition to college- and career-ready standards and assessments; develop systems of differentiated recognition, accountability, and support; and evaluate and support teacher and leader effectiveness. The U.S. Department of Education (Department) is encouraged that Kentucky and ten other States are leading the way in designing plans to increase the quality of instruction and improve student academic achievement.

As you know, Kentucky's request was reviewed by a panel of seven peer reviewers during the week of December 5-9, 2011. During the review, the expert peers considered each component of Kentucky's request and provided comments in the form of Peer Panel Notes to inform the Secretary's decision whether to approve Kentucky's request. The Peer Panel Notes, a copy of which is enclosed with this letter, also provide feedback on the strengths of Kentucky's request and areas that would benefit from further development. Department staff also reviewed Kentucky's request, informed by the Peer Panel Notes, to determine consistency with the ESEA flexibility principles.

The peers noted, and we agree, that Kentucky's request was particularly strong in Principle 1 and many areas of Principles 2 and 3. Although Kentucky still has work to do regarding the inclusion of students with disabilities and English Learners in the transition to college- and career-ready standards, Kentucky's overall transition plan is strong and includes extensive involvement with institutions of higher education, schools, LEAs, and education organizations as well as capacity-building efforts at the regional and local level. Kentucky has also provided a comprehensive framework for a differentiated recognition, accountability, and support system that combines student achievement, program reviews, and teacher and principal effectiveness. Both the Department and the peers were impressed by Kentucky's commitment to identifying schools where subgroups are furthest behind, using diagnostic reviews and targeted State support to inform interventions, and strong LEA accountability. While Kentucky is still in the early stages of developing teacher and principal evaluation and support systems, it is clear that Kentucky has strong plans for a statewide model system and meaningful accountability for implementation.

At the same time, based on the peer reviewers' comments and our review of the materials Kentucky has provided to date, we have identified certain components of your request that need further clarification and may need additional development or revision. In particular, significant concerns were identified with respect to the following:

- Lack of attention given to improving graduation rates for all students in Kentucky's accountability system;
- Kentucky's expectations for how much growth a student needs to make each year; and
- Lack of attention given to the needs of students with disabilities and English Learners, particularly with respect to the transition to college- and career-ready standards and interventions and supports to improve their performance.

The enclosed list provides details regarding these concerns as well as all other issues raised during the review of Kentucky's request. We encourage Kentucky to consider the peers' comments and technical assistance suggestions in making revisions to its request.

Please keep in mind that, while the peers identified weaknesses in all of the requests submitted by States during this first round of review, this result should be viewed in the context of the difficult, trailblazing work that Kentucky and others are doing in the context of ESEA flexibility. You and your team deserve great credit for your efforts thus far, and we are confident that we will be able to work together to address outstanding concerns and provide Kentucky with the requested flexibility.

At the same time, it is our responsibility to ensure that, as we permit States to depart from the requirements of current law, they do so in a manner that continues to increase the quality of instruction and improve achievement for all students, but especially those most at risk of academic failure, including low-achieving students, English learners, and students with disabilities.

While the Peer Panel Notes for Kentucky provide information specific to your request, your State also may benefit from comments and technical assistance suggestions made by other peer panels regarding issues common to multiple States' requests. For this reason, we will soon send you a document that summarizes some of these technical assistance suggestions and other considerations that may be useful as you revise and refine your request.

We remain committed to working with Kentucky to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Kentucky as quickly as possible and will be in touch to set up a call as early as this week to discuss the timeline and process for providing revisions or materials. If you have any additional questions or want to request technical assistance, please do not hesitate to contact Sharon Hall, at 202-260-0998.

Sincerely,

Michael Yudin  
Acting Assistant Secretary

Enclosure

## SUMMARY OF ADDITIONAL INFORMATION REGARDING KENTUCKY'S ESEA FLEXIBILITY REQUEST

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### CONSULTATION

- Please provide more specific information on the steps Kentucky took to meaningfully engage diverse stakeholders and communities, especially organizations representing students with disabilities, English Learners, and other underserved groups, or describe how Kentucky will meaningfully engage such stakeholders and communities as it continues to develop and implement ESEA flexibility. *See Consultation Question 2.*

### PRINCIPLE 1: COLLEGE- AND CAREER-READY EXPECTATIONS FOR ALL STUDENTS

- Please address concern that Kentucky's plan to transition to college- and career-ready standards is not sufficient for students with disabilities, English Learners, and teachers of these students, including in the areas of professional development and standards development. *See 1.B, Principle 1 Overall Review.*

### PRINCIPLE 2: STATE-DEVELOPED DIFFERENTIATED RECOGNITION, ACCOUNTABILITY, AND SUPPORT

- Please address concerns regarding Kentucky's accountability index, including:
  - That graduation rate is a small portion of Kentucky's accountability index, and that early high school dropouts are not counted in other elements of the index (achievement, closing gaps, and student growth), which may lead to improved results on those measures due to lower-performing students dropping out. *See 2.A.i., 2.A.i.b.*
  - That a final determination has not been made on the AMO for Kentucky's index. *See Principal 2 Overall Review.*
  - That test participation rates are not included as a factor in Kentucky's index. *See 2.A.i.*
- Please address concern that Kentucky's target for student growth (the 40<sup>th</sup> percentile of growth) is too low. *See 2.A.i., 2.A.i.b.*
- Please address concern regarding a lack of interventions to improve the performance of English Learners and students with disabilities. *See 2.A.i.c.*
- Please address concerns regarding subgroup accountability, including:
  - By providing the percentage of students in the "all students" group that performed at the proficient level on Kentucky's most recent administration of each assessment (other than reading/language arts and mathematics) used in Kentucky's accountability system, for all grades assessed. *See 2.A.ii.*
  - By clarifying that Kentucky plans to calculate annual measurable objectives (AMOs) separately for both reading/language arts and mathematics for the "all students" group and all subgroups. *See 2.B.*
- Please address concerns regarding reward, priority, and focus schools, including:
  - By demonstrating that the schools Kentucky provided on its list of reward schools align with the definition of these schools provided in the document titled *ESEA Flexibility*. *See 2.C.i.*
  - Inadequate description of plans for addressing subgroup achievement and graduation rates for all students in priority schools, particularly plans for addressing the performance of English Learners and students with disabilities. *See 2.D.iii.b.*
  - Low graduation rate criteria for exiting priority and focus status. *See 2.D.v, 2.E.iv.*

- Please clarify how Kentucky will use AMOs, along with other measures, to provide incentives and supports to other Title I schools that are not making progress in improving student achievement and narrowing achievement gaps. *See 2.F.*
- Please address concern that schools in the “needs improvement” category (70 percent of schools) would be indistinguishable from each other. *See Principal 2 Overall Review.*

### **PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP**

- Please address concern that Kentucky’s plan to use summer 2012 for developing teacher and principal evaluation systems and conducting training may not give sufficient time to these activities. *See 3.B.*
- Please address concern that pilot and field testing phases of implementation do not explicitly describe how teachers of English Learners and students with disabilities will be included. *See 3.B.*
- Please clarify how and when Kentucky will determine a strategy to measure student growth, including in non-tested subjects. *See 3.B.*

### **ADDITIONAL CONCERN**

- Please note that Kentucky is not permitted to presumptively prohibit an LEA from using Title II-A funds for particular authorized activities, as currently described in its request. However, Kentucky may insist on reviewing LEA proposed uses of Title II-A funds to ensure, for example, that all LEA Title II-A-funded activities are based on a review of the research and are expected to improve student achievement. In doing so, it may decline an LEA’s request to use Title II-A funds for particular activities if the LEA has not provided a sufficient rationale to justify these activities. *See p.89-90 of Kentucky’s request.*