



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JUL 31 2014

The Honorable John B. King, Jr.  
Commissioner of Education  
New York State Education Department  
89 Washington Avenue  
Albany, NY 12234

Dear Commissioner King:

This letter is in response to New York's February 28, 2014 request for a one-year extension of flexibility under the Elementary and Secondary Education Act of 1965, as amended (ESEA flexibility), so that New York may continue to implement ESEA flexibility through the end of the 2014–2015 school year.

Our team has reviewed New York's request and, pursuant to section 9401(d)(2) of the ESEA, I am pleased to extend New York's ESEA flexibility request for one year, through the end of the 2014–2015 school year. My decision to extend New York's ESEA flexibility request is based on my determination that ESEA flexibility has been effective in enabling New York to carry out important reforms to improve student achievement and that this extension is in the public interest. I have also determined that New York's monitoring next steps have been adequately addressed through submission of documentation and other information. This letter also provides my approval of those amendments that New York's proposed that align with the principles of ESEA flexibility. A summary of New York's approved amendments is enclosed with this letter, and New York's approved request will be posted on the U.S. Department of Education's (ED) website.

New York's progress in implementing its approved ESEA flexibility request during the 2014–2015 school year will inform ED's decision regarding renewal of New York's ESEA flexibility after the 2014–2015 school year. Additionally, if New York remains on track to fully implement teacher and principal evaluation and support systems that meet all the requirements of Principle 3 in the 2014–2015 school year, New York will be eligible for consideration for a longer renewal of ESEA flexibility in the Spring of 2015.

New York continues to have an affirmative responsibility to ensure that it and its districts are in compliance with Federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age in their implementation of ESEA flexibility. These laws include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, the Age Discrimination Act of 1975, and requirements under the Individuals with Disabilities Education Act.

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<http://www.ed.gov/>

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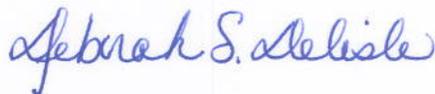
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I am confident that New York will continue to implement the reforms described in its approved ESEA flexibility request and advance its efforts to hold schools and school districts accountable for the achievement of all students.

If you need any additional assistance to implement your ESEA flexibility request, please do not hesitate to contact Victoria Hammer at: [victoria.hammer@ed.gov](mailto:victoria.hammer@ed.gov) or Erin Shackel at: [erin.shackel@ed.gov](mailto:erin.shackel@ed.gov).

Thank you for your commitment and continued focus on enhancing education for all of New York's students.

Sincerely,



Deborah S. Delisle  
Assistant Secretary

Enclosure

cc: Ira Schwartz, Assistance Commissioner, Office of Accountability

## Approved Amendments to New York's ESEA Flexibility Request

The following is a summary of amendments to New York's approved ESEA flexibility request. The U.S. Department of Education (ED) approves the following amendments because New York's ESEA flexibility request, as amended, continues to be aligned with the principles of ESEA flexibility. Please refer to ED's website (<http://www2.ed.gov/policy/elsec/guid/esea-flexibility/map/ny.html>) for New York's complete ESEA flexibility request.

- **Develop and Administer Annual, Statewide, Aligned, High-Quality Assessments That Measure Student Growth (Element 1.C)**

Revision: New York changed the way that it will meet the high-quality assessment requirement under ESEA flexibility by indicating that it has developed and begun annually administering Statewide aligned, high-quality assessments that measure student growth in reading/language arts (RLA) and in mathematics in at least grades 3-8 and at least once in high school in all local educational agencies (LEAs) rather than administer the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments in 2014–2015. Please note that approval of this amendment does not constitute approval of the assessments that New York intends to implement in 2014–2015. New York will need to submit the assessments for peer review when the new assessment peer-review process is available.

Revision: New York plans to develop and implement a Spanish version of its reading/language arts (RLA) assessment and administer it consistent with the ESEA § 1111(b)(3)(C)(x) (that allows for an English Learner to be assessed in that student's native language for three years and up to an additional two years). Please note that approval of this amendment does not constitute approval of such an assessment. New York would need to submit the assessment for peer review when the new assessment peer-review process is available.

- **Set Ambitious But Achievable Annual Measurable Objectives (Element 2.B)**

Revision: New York implemented new assessments in grades 3-8 in RLA and mathematics in the 2012–2013 school year and thus requested to reset the annual measurable objectives (AMOs) in its originally approved ESEA flexibility request. New York also changed its method of establishing AMOs from the method it used in its originally approved ESEA flexibility request. Specifically, New York originally set Statewide AMOs in annual equal increments toward a goal of reducing by half in six years the percentage of students in the “all students” group and in each ESEA subgroup who were not proficient. Under this amendment, New York set its AMOs in annual equal increments toward a goal of reducing by half in four years the distance between the percentage of students in the “all students” subgroup and each ESEA subgroup proficient at the 20th percentile, respectively, and the percentage of students proficient at the 90th percentile for the “all students” subgroup. Note that New York set its AMOs using an index that provides partial credit to students at one

level below proficient on New York’s four-level proficiency scale (schools do not receive credit for students at the lowest level).

The tables below display the reset AMOs:

**Table 1. NYSED’s Revised Grades 3-8 ELA AMOs**

<b>Subgroup</b>	<b>2012-13 Baseline</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
All Students	75	82	89	97	104	111
Students with Disabilities	23	35	48	60	73	85
American Indian/Alaska Native	50	60	69	79	89	99
Asian or Native Hawaiian/Other Pacific Islander	113	116	120	123	127	130
Black or African American	49	59	69	78	88	98
Hispanic or Latino	56	65	74	83	92	102
White	100	105	109	114	119	124
Limited English Proficient	27	39	51	63	75	87
Economically Disadvantaged	57	66	75	84	93	102
Mixed Race	76	83	90	97	104	112

**Table 2. NYSED’s Revised Grades 3-8 Math AMOs**

<b>Subgroup</b>	<b>2012-13 Baseline</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
All Students	71	79	86	94	101	109
Students with Disabilities	25	37	49	62	74	86
American Indian/Alaska Native	50	60	69	79	89	99
Asian or Native Hawaiian/Other Pacific Islander	132	134	135	137	138	140
Black or African American	40	51	61	72	83	94
Hispanic or Latino	53	62	72	81	91	100
White	94	99	105	110	115	121
Limited English	31	43	54	66	77	89

Subgroup	2012-13 Baseline	2012-13	2013-14	2014-15	2015-16	2016-17
Proficient						
Economically Disadvantaged	53	62	72	81	91	100
Mixed Race	64	72	81	89	97	106

- **Reward Schools (Element 2.C)**

Revision: New York clarified that, for the Reward Schools that it named for the 2013–2014 school year it: 1) provided them with a certificate and 2) publically posted their names on its website but did not provide a press release. Consistent with its approved ESEA flexibility request, for the Reward Schools that New York names for the 2014–2015 school year and beyond, New York will: 1) provide them with a certificate, 2) publically post their names on its website, and 3) implement a press release to indicate that that it has named these schools as Reward Schools.

- **Priority Schools (Element 2.D)**

Revision: New York added a component to the process that it requires its Priority Schools that do not receive school improvement grant funds to complete in order to ensure implementation of all turnaround principles. Specifically, New York will require the local educational agencies (LEAs) in which these Priority Schools reside to complete and submit a form to attest that they have reviewed the data on the selected principal’s performance to determine that that person has the skills necessary to ensure strong and effective leadership.

- **Priority and Focus Schools (Elements 2.D and 2.E)**

Revision: New York will require LEAs to use their Diagnostic Tool for School and District Effectiveness (DTSDE) scores to prioritize budgeting and expending of their required “set-aside” funds (as described in New York’s approved ESEA flexibility request). Specifically, LEAs will be required to use a portion of funds on allowable activities that have been mapped to the six tenets of the DTSDE, based on their performance on each tenet.

Revision: New York adjusted the exit criteria for its Priority Schools, Focus Schools, and Focus Districts. Specifically, New York originally required an increase of 10 index points over the cut point for identification for priority schools, focus schools, and focus districts, respectively. Under New York’s revised exit criteria, priority schools, focus schools, and focus districts will have to meet, as relevant, several “progress filters” (e.g., 10 percent gap reduction in the performance index or 10 percent gap reduction in graduation rate) and increase their index scores over the cut point for identification by any amount in order to be eligible to be removed from status as a priority school, focus school, or focus district.