



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 15 2015

The Honorable Melody Schopp
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, South Dakota 57501

Dear Secretary Schopp:

I am writing in response to your September 3, 2015 letter requesting timely reconsideration of the decision to place South Dakota on high-risk status pursuant to 2 C.F.R. §§ 200.207 and 3474.10.¹ Your letter was written in response to my August 21, 2015 letter granting South Dakota's request to renew approval of its request for flexibility under the Elementary and Secondary Education Act of 1965 (ESEA flexibility) through the end of the 2015–2016 school year, subject to two conditions with respect to its teacher and principal evaluation and support systems, and placing South Dakota on high-risk status.

After carefully considering your request for reconsideration of the decision to place South Dakota on high-risk status, I continue to believe that designation is warranted. Therefore, pursuant to 2 C.F.R. §§ 200.207 and 3474.10, I am placing South Dakota on high-risk status with respect to ESEA flexibility.

The decision to place South Dakota on high-risk status is based on the fact that South Dakota has not yet adopted a statewide approach to measuring student growth on State assessments for teachers of tested grades and subjects nor has it developed and prepared to implement a plan that will lead to the inclusion of student growth based on student performance data for 2016–2017 and each year thereafter as a significant factor in its principal evaluation and support systems for high school principals. In your request for reconsideration, you indicate that South Dakota submitted its revised plan for Principle 3 to the U.S. Department of Education (ED) on June 26, 2013. In response to that revised plan, ED sent a letter to South Dakota on February 7, 2014 outlining Principle 3 concerns that must be addressed before ED could approve South Dakota's guidelines for teacher and principal evaluation and support systems. The conditions articulated in my August 21, 2015 letter reflect the concerns that remain unresolved. Moreover, South Dakota's request for renewal of ESEA flexibility does not contain a commitment to resolving the concerns.

ED is committed to working with you and your staff over the next several months to resolve the conditions on South Dakota's ESEA flexibility request and thereby remove the high-risk status. I agree that, consistent with our guidance, a State educational agency (SEA) has discretion in determining a statewide approach to measuring student growth on State assessments for teachers of tested grades and subjects. Statewide approaches include, but are not limited to: student growth percentiles (SGPs), value-

¹ 34 C.F.R. § 80.12 has been removed following adoption by ED of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which are codified at 2 C.F.R. Part 200. 2 C.F.R. § 200.207 authorizes ED to impose specific conditions on a grantee and contains provisions that are substantially similar to those in 34 C.F.R. § 80.12. In adopting the Uniform Guidance, ED clarified that its authority under 2 C.F.R. § 200.207 also permits ED to designate grants and grantees as high risk as it did under 34 C.F.R. § 80.12. *See* 2 C.F.R. § 3474.10.

added measures (VAM), and statewide growth goals for students based on either a student's prior scale score or prior proficiency level (sometimes referred to as a value table). The statewide approach a State chooses, however, must provide a comparable method of determining how much a student has learned as demonstrated by changes in that student's test scores between two points in time, so that teachers and principals have a meaningful way of understanding their students' growth in the context of similar data for other students and educators across the State. The information that comes from a statewide approach to measuring student growth on the State assessment is also important because it can be used by principals and local district superintendents to guide professional development and instructional support opportunities, as well as to ensure that all students have equitable access to effective educators. South Dakota's guidelines include teacher- or principal-developed student learning objectives (SLOs). Although student performance on the statewide assessments informs the development of SLOs for teachers of tested grades and subjects, it is not included in a way that constitutes a statewide approach to measuring student growth. In addition, for high school principals, the guidelines do not require the inclusion of student growth in any form.

If South Dakota requests renewal of its ESEA flexibility request beyond the 2015–2016 school year, I would not be able to grant that request until the conditions specified in my August 21, 2015 letter are met. If those conditions cannot be resolved by January 15, 2016 South Dakota will not be able to continue implementing ESEA flexibility beyond the 2015–2016 school year and will be required to resume implementing the ESEA in the 2016-2017 school year. I do not anticipate any additional automatic consequences as a result of South Dakota's high-risk designation.

I appreciate our continued relationship with South Dakota and remain committed to working on your request for ESEA flexibility, which I hope will lead to removal of the conditions and its high-risk status. If you have any additional questions, please do not hesitate to contact Celeste McLaughlin or Stephanie Washington of my staff at: OSS.SouthDakota@ed.gov.

Sincerely,

/s/

Ann Whalen
Delegated the authority to perform the functions
and duties of Assistant Secretary for Elementary
and Secondary Education

cc: Mary Stadick Smith, Director of Operations and Information
Abby Javurek-Humig, Director of Assessment and Accountability
Laura K. Scheibe, Accreditation and Accountability Administrator