

## Waivers Requested

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 that are not reward schools, priority schools, or focus 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 rank sufficiently high to be served.

#### **ESEA Flexibility Requirements regarding Principle 3 – Teacher/Principal Evaluation Systems to Improve Student Achievement**

To receive this flexibility, an SEA and each LEA must commit to ***develop, adopt, pilot, and implement, with the involvement of teachers and principals, teacher and principal evaluation and support systems*** that:

- (1) will be used for continual improvement of instruction;
- (2) meaningfully differentiate performance using at least three performance levels;
- (3) use multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English Learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys);
- (4) evaluate teachers and principals on a regular basis;
- (5) provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and
- (6) will be used to inform personnel decisions.

An SEA must develop and adopt guidelines for these systems, and LEAs must develop and implement teacher and principal evaluation and support systems that are consistent with the SEA's guidelines. To ensure high-quality implementation, all teachers, principals, and evaluators should be trained on the evaluation system and their responsibilities in the evaluation system. As part of developing and implementing these evaluation and support systems, ***an SEA must also provide student growth data on current students and the students 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.** Once these evaluation and support systems are in place, an SEA may use data from these systems to meet the requirements of ESEA section 1111(b)(8)(C) that it ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.

**Definition**

**Student Growth:** "Student growth" is the change in student achievement for an individual student between two or more points in time. For the purpose of this definition, student achievement means—

- For grades and subjects in which assessments are required under ESEA section 1111(b)(3): (1) a student's score on such assessments and may include (2) other measures of student learning, such as those described in the second bullet, provided they are rigorous and comparable across schools within an LEA.
- For grades and subjects in which assessments are not required under ESEA section 1111(b)(3): alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

**Timeline for Evaluation Systems**

	Due at submission	2011-12	2012-13	2013-14	2014-15 Required under extension
Develop, adopt, and implement teacher and principal evaluation and support systems	Request includes a plan to develop guidelines for evaluation and support systems, process for ensuring LEA implementation, and assurance that SEA has provided student growth data to teachers or will do so by the deadline required under the State Fiscal Stabilization Fund	SEA adopts guidelines for teacher and principal evaluation and support systems  SEA provides student growth data to teachers	LEAs develop evaluation and support systems consistent with State guidelines	LEAs pilot implementation of evaluation and support systems (e.g., pilot in a few schools; implement in all schools but do not publicize results) or fully implement evaluation and support systems	LEAs fully implement evaluation and support systems

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.
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)

#### Approval letter from Sec. Duncan

Our decision to approve Kentucky's request for ESEA flexibility is based on our determination that the request meets the four principles articulated in the Department's September 23, 2011, document titled *ESEA Flexibility*. In particular, Kentucky has:

- (1) demonstrated that it has college- and career-ready expectations for all students;
- (2) developed, and has a high-quality plan to implement, a system of differentiated recognition, accountability, and support for all Title I districts and schools in the State;
- (3) committed to developing, adopting, piloting, and implementing teacher and principal evaluation and support systems that support student achievement; and
- (4) provided an assurance that it will evaluate and, based on that evaluation, revise its administrative requirements to reduce duplication and unnecessary burden on districts and schools.

Our decision is also based on Kentucky's assurance that it will meet these four principles by implementing the high-quality plans and other elements of its request as described in its request and in accordance with the required timelines. In approving Kentucky's request, we have taken into consideration the feedback we received from the panel of peer experts and Department staff who reviewed Kentucky's request, as well as Kentucky's revisions to its request in response to that feedback.

#### Race to the Top

- ***The participating school district shall use Race to the Top funds to assist in providing the support necessary to implement the use of the Educator Development Suite (EDS) of the Continuous Instructional Improvement Technology System (CIITS). This includes the professional development sections of the EDS. Support may include, but is not limited to professional development, technical assistance and other costs associated with the effective implementation of the module.***

As you can see by the section in **BOLD**, the first thing that requires them to connect to the Teacher effectiveness system is that they have agreed to use EDS, which is the reporting mechanism for the teacher effectiveness system.

In addition to these assurances, the participating school district agrees to develop an action plan including budget and sustainability plans for complying with the **performance measures** outlined

below. This action plan will specifically describe the strategies the participating school district will use to ensure each performance measure is met and how Race to the Top funds will be used support the action plan. The action plan will be reviewed to ensure it is aligned with the goals of Race to the Top.

There are three performance measures that specifically reference the "statewide evaluation system". In other words, they agreed to these performance measures which require them to rate teachers based on the statewide evaluation system.

(D)(5) Performance Measures	Actual Data: Baseline (Current school year or most recent)	End of SY 2012-2013	End of SY 2013-2014	End of SY 2014-2015
Percentage of teachers in participating LEAs who were evaluated as exemplary under the common statewide evaluation system.	N/A	<1%	10%	20%
Percentage of teachers in participating LEAs who were evaluated as accomplished or developing under the common statewide evaluation system.	N/A	<1%	75%	70%
Percentage of teachers in participating LEAs who were evaluated as ineffective under the common statewide evaluation system.	N/A	<1%	15%	10%

**Key Questions?**

What happens if state does not meet waiver guidelines and timelines?

What happens if LEA does not meet waiver guidelines and timelines?

Scenario 1 - Rollins Bill Passes

Scenario 2 - " " Does Not Pass

Regulatory requirements (begin process immediately)

Dec 2013 - All districts must submit plans

Scenario 3 - No legislation or regulation

state field test would serve as local field test

Dec 2013 - All districts must submit plans