

## **1. Amendment Regarding Testing Requirements for Students with Disabilities**

### Flexibility Element(s) Affected by the Amendment

1.C Develop and administer annual, statewide, aligned, high-quality assessments that measure student growth.

### Brief Description of the Element as Originally Approved

See pages 36 – 37. Originally, the State did not propose a waiver for the assessment of students with disabilities.

### Brief Description of the Requested Amendment

There is a group of students with significant cognitive disabilities who cannot demonstrate what they know and can do on the general grade level assessments, even with accommodations. These are students who are not eligible for the State's alternate assessment based on alternate academic achievement standards. This subgroup of students can make significant progress, but are not likely to reach grade-level achievement in the time frame covered by their individualized education programs (IEP).

NYSED is applying for a waiver to allow school districts to administer the general State assessments to these students with disabilities, but at their appropriate instructional grade levels, provided that (1) the State assessment administered to the student is not more than two grade levels below the student's chronological grade level; and (2) the student is assessed at a higher grade level for each subsequent year. The student's instructional grade level would be calculated annually and separately for English Language Arts (ELA) and math.

Allow the proficient and advanced scores of those students assessed in accordance with their instructional grade levels be used for accountability purposes, provided that the number of those scores at the LEA and at the State levels, separately, does not exceed the .93 percent of all students in the grades assessed in ELA and 2.37 percent of all students in grades 3-8 assessed in Math.

To ensure appropriate time for dissemination of guidance to Committees on Special Education who would make IEP recommendations for student participation in the instructional level State assessment, this waiver would go into effect during the 2014-15 school year.

### Rationale

Until the State can develop and implement adaptive assessments, NYSED requests to more appropriately assess, for instructional and State accountability purposes, the performance of students with significant cognitive disabilities who cannot, because of the severity of their disabilities, participate in chronological grade level instruction. These students, while they do not meet the State's definition of a student with a significant cognitive disability appropriate for the State's alternate assessment, may be

able to meet the State's learning standards over time. However, these students need to be provided with instruction with special education supports and services at a pace and level commensurate with their needs and abilities and their individual rates of learning. When students with disabilities are required to participate in an assessment at their chronological age significantly misaligned with content learned at their instructional level, the assessment may not provide as much instructionally actionable information on student performance or foster the most prudent instructional decisions. For these students, State assessments do not provide meaningful measures of growth for purposes of teacher and leader evaluations.

NYSED holds all schools and students to high expectations and believes this waiver will lead to more appropriate instruction and assessment of students, while ensuring that students with disabilities participate in the general curriculum and the same State assessments, but closer to their instructional levels in order to obtain instructionally relevant information from the assessments.

The State has calculated the percentage of students who have participated in the chronological age assessments and found that in school year 2012-13, .93 percent perform at chance level on the ELA exams and approximately 2.37 percent of students score at chance on the Math exams.

The State would establish criteria, based on objective and valid data, for demonstrating that the student's current level of performance is two or more years below his/her chronological grade level and demonstrating the student's progress (or lack of progress) over a sufficient period of time. The state would also create a profile of a student who, based on individual evaluation information identifies the student as having intellectual or cognitive deficits, such as autism, intellectual disability, traumatic brain injuries, neurodegenerative diseases or severe learning disabilities.

To provide further safeguards, the State would require:

- A determination by CSE that the student does not meet the State's definition of a student with disabilities who is eligible for the State's Alternate Assessment; and
- Documentation that shows that the student would need extensive modifications and accommodations to curriculum, instruction and assignments to access the curriculum and that even with such services, the CSE is reasonably certain that the student would fail to achieve chronological age-level proficiency; and
- Documentation of notices to the student's parent of the recommendation and the reasons for the recommendation; and
- Assurances that the student will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum and that the student will be provided instruction in in the general curriculum with his/her chronological age peers by a highly qualified teacher.

The waiver will support continued focus on ensuring students with disabilities graduate college- and career-ready by ensuring more meaningful State assessment results;

support efforts to improve all schools in the State; and support closing of achievement gaps between student subgroups by better identifying the subgroups of students with disabilities and their performance levels.

### Process for Consulting with Stakeholders and Summary of Comments on the Students with Disabilities Assessment Waiver Request

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external “Think Tank” was convened, and members were asked to be thought partners with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State’s approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Commissioner’s Advisory Panel for Special Education (of which the majority of members are parents of students with disabilities), representatives of each of the State’s 13 Special Education Parent Centers and federal Parent and Training Information Centers (PTIs), Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

Throughout this process, Department staff evolved the proposed waiver to address stakeholder concerns and recommendations, which were primarily to develop objective criteria to identify the subgroup of students with disabilities who would be eligible for this waiver and to ensure that students with disabilities would continue to have access to the general curriculum in the least restrictive environment. This waiver request has been strongly supported by both parent and advocacy organizations and school personnel throughout the State.

## **2. Amendment Regarding Alignment of DTSDE Rubric Ratings with DCIP/SCEP Allowable Expenses**

### Flexibility Element(s) Affected by the Amendment

2D.iii Describe the meaningful interventions aligned with the turnaround principles that the LEA with Priority Schools will implement.

2E.iii Describe the process and timeline the SEA will use to ensure that its LEAs with one or more Focus Schools will identify the specific needs of the SEA's Focus Schools and their students and provide examples of and justifications for the interventions Focus Schools still will be required to implement to improve the performance of students who are the furthest behind.

### Brief Description of the Element as Originally Approved

Districts with Priority and Focus Schools use the results of the DTSDE reviews to inform comprehensive educational planning and use the District Comprehensive Improvement Plan and the School Comprehensive Education Plans to outline how the district will use federal and state funding to positively impact student achievement across identified subgroups.

### Brief Description of the Requested Amendment

NYSED will create an explicit alignment between the six tenets of the DTSDE and the list of allowable activities that districts and schools can choose from when creating a District Comprehensive Improvement Plan (DCIP) and/or a School Comprehensive Education Plan (SCEP). The enhanced alignment will help Districts select and prioritize allowable activities to be funded by Title I, II and III that directly support their areas of need based on the results of DTSDE reviews. Districts with Priority and Focus Schools will be required to prioritize funds for implementation of initiatives such as systemic planning training, curriculum development and support, teacher practices and decisions, expanded learning time and/or community school programs, as a way to increase academic opportunities and student and family access to support services. Set-aside funds not expended during the course of the year will be added to the set-aside requirement for the ensuing year.

### Rationale

By requiring districts with Priority and Focus Schools to prioritize their funding to meet the needs identified by the DTSDE process and to implement programs that have been proven to positively impact student achievement, NYSED will ensure that districts are making progress towards serving students in the most effective manner possible.

### Process for Consulting with Stakeholders, Summary of Comments, and Changes made as a Result

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external "Think Tank" was convened, and members were asked to be thought partners

with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State's approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

### **3. Amendment Regarding Making A Technical Change to the Computation of Adequate Yearly Progress (AYP) for the “All Students” Group**

#### Flexibility Element(s) Affected by the Amendment

2B.i— Provide the new AMOs and an explanation of the method used to set these AMOs.

#### Brief Description of the Element as Originally Approved

See page 84. Originally, in order for the school or district to make AYP for the all students group, the all students group had to have a Performance Index that met or exceeded the Effective Annual Measurable Objective (EAMO) or safe harbor target even if the school or district had made AYP for all other subgroups for which the school or district was accountable on a performance measure.

#### Brief Description of the Requested Amendment

We propose to change this requirement so that if a school or district makes AYP for all subgroups for which the school or district is accountable on a performance measure, then the all student group will also be deemed to have made AYP for that measure.

#### Rationale

During the first year of implementation of the new AMOs (2011-12 school year results), New York noticed an anomaly where some schools made all the subgroup level AMOs within a measure, but did not make the “all student” group AMO or safe harbor. This is due to the relatively higher AMO set for the “all student” group. To remedy this situation, beginning with the 2012-13 school year results, New York is seeking permission to report, with proper annotation, the “all student” group in a district or school as having made AYP if all the accountable subgroups (for that measure) in the school or district respectively make AYP by meeting the AMO or safe harbor. These schools will have a green check mark (√) instead of the red mark (X) on the report card indicating that the all students group made AYP for the respective measure, with a further notation that AYP was made based on the performance of subgroups. In terms of accountability decisions, these schools will become eligible to be considered for Reward status, provided they also meet the other criteria required of Reward Schools. This change will have no effect on the identification of Priority, Focus, or Local Assistance Plan Schools.

#### Process for Consulting with Stakeholders, Summary of Comments, and Changes made as a Result

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external “Think Tank” was convened, and members were asked to be thought partners with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State’s approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank

has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

#### **4. Amendment Regarding Revising the AMOs for Grades 3-8 English language arts and Mathematics**

##### Flexibility Element(s) Affected by the Amendment

2B.i— Provide the new AMOs and an explanation of the method used to set these AMOs.

##### Brief Description of the Element as Originally Approved

See pages 75-78. Originally, the grades 3 – 8 ELA and Math AMOs were set on the baseline data of 2010-11.

##### Brief Description of the Requested Amendment

We propose to change the baseline year to 2012-13 due to the change in assessment to measure Common Core standards.

##### Rationale

The 2012-13 Grades 3-8 State assessments are the first for New York State students to measure the Common Core Learning Standards that were adopted by the State Board of Regents in 2010. The percentage of students deemed proficient is significantly lower than in prior years. This change in scores — which will effectively create a new baseline of student learning — is largely the result of the shift in the assessments to measure the Common Core Standards, which more accurately reflect students' progress toward college and career readiness.

##### Process for Consulting with Stakeholders, Summary of Comments, and Changes made as a Result

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external “Think Tank” was convened, and members were asked to be thought partners with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State’s approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

## **5. Amendment Regarding Testing for English language learners**

### Flexibility Element(s) Affected by the Amendment

1.C. Develop and administer annual, statewide, aligned, high-quality assessments that measure student growth.

### Brief Description of the Element as Originally Approved

See pages 36 – 37. Originally, the State did not propose a waiver for the assessment of English language learners.

### Brief Description of the Requested Amendment

NYSED is applying for a waiver to better capture and measure growth in Language Arts for English Language Learners. NYSED is not seeking a waiver from Math testing requirement for ELLs. The State currently relies exclusively on the English Language Arts assessments to make language arts accountability determinations for ELLs. The State is proposing a new approach that will exempt a subgroup of ELL students from taking the English Language Arts assessment, either because they are newly arrived or because they can demonstrate language arts knowledge and skills on a Native Language Arts assessment.

NYSED is applying for a waiver to:

1. Exempt newly arrived ELLs from participating in the ELA assessments for two years.
2. Create Spanish Language Arts assessments and allow districts to offer this assessment as a local option when it would best measure the progress of Spanish-speaking ELLs.

NYSED has historically allowed newly arrived ELLs to be exempt from ELA testing for their first year of instruction. In light of the new Common Core Learning Standards, NYSED seeks to extend this exemption to two years in order to afford ELLs the time needed to acquire a sufficient level of English such that they can demonstrate their knowledge and skills on the Common Core ELA assessments. This exemption will allow New York State to better measure the progress of ELLs by utilizing the New York State English as a Second Language Achievement Test (NYSESLAT) as a way of measuring ELL progress in the first two years of their instruction in the United States. By extending the exemption for one additional year, districts would be given sufficient time to work intensively with ELLs to develop their English language without being held accountable for results on an ELA assessment that will not sufficiently capture those instructional gains in developing the English language needed to meaningfully participate in the Common Core.

In addition to extending the exemption from the ELA assessments for newly arrived students, New York State has a sizable ELL population and a strong tradition of innovative native language arts educational initiatives. Yet, the State's accountability system has historically relied on ELL students taking assessments only in English, e.g.,

the NYSESLAT(a test of English proficiency) and (in most cases) the State's ELA Grade 3-8 and English Regents (high school) exams, to determine their progress in language arts.

Although NYSED does not foresee a change to the State's accountability system during the 2014-15 school year, NYSED has been extensively investigating with other states the possibility of developing a new Common Core native language arts assessment program that will initially be in Spanish beginning in the 2015-16 school year, and may extend to other language groups thereafter.

If NYSED and partner states are able to secure funding to develop a new Common Core native language arts assessment program<sup>1</sup>, NYSED will seek to incorporate the new assessment into the State's accountability plans beginning in the 2015-16 school year at the earliest. The State would offer this assessment as a local option to districts to allow Spanish-speaking ELLs who have attended school in the United States for less than three consecutive years to be tested in Spanish in lieu of the ELA assessment, and on a case by case basis for an additional two years in Spanish if such an assessment would better allow the student to demonstrate their knowledge of language arts.

Rationale:

ELLs, by virtue of the definition that identifies these students as developing in their understanding and use of English, have a limited ability to demonstrate what they know and can do on the English Language Arts assessments, even with accommodations. Unlike accommodations provided to ELLs on other content area assessments, such as math, translations of the ELA assessments are not provided to ELLs. Any progress in language development, therefore, is not captured by the ELA assessments, which require a high level of English language development in order to demonstrate knowledge and skills on the assessments. However, if given the opportunity to demonstrate their knowledge and skills of language arts in their native language, these students will make significant progress in language development, which will prepare them to be successful on the ELA exams.

The NYSESLAT exam is an appropriate exam for newly arrived ELLs to demonstrate progress because it is rigorous, aligned to the Common Core and highly correlated with ELA performance.

In 2012-13, the NYSESLAT exam was updated to be more closely aligned to the CCLS, and in 2014-15 school year, the NYSESLAT will be fully aligned to the Common Core. As such, the NYSESLAT will be the most appropriate tool to assess the language development of ELLs such that they can be successful on a Common Core ELA assessment. The performance of ELLs on the NYSESLAT will be a true indication of

---

<sup>1</sup> In order to develop a Native Language Arts assessment in Spanish, the State Education Department will need to receive additional State funding from the legislature. The Board of Regents has requested funding to support this initiative in its 2014-15 State School Aid Proposal, which can be found at <http://www.regents.nysed.gov/meetings/2013Meetings/December2013/1213saa11.pdf>

their progress towards developing the English language needed to demonstrate their knowledge and skills on the ELA assessment.

Historically, student performance on the NYSESLAT exam has been highly correlated to performance on the ELA assessments. That is, the NYSESLAT has served as a gate keeper such that once ELLs test out of the NYSESLAT they tend to outperform their non-ELL peer group on every measure, including ELA assessments. In fact, in some cases, the NYSESLAT exam is more difficult to pass than the ELA assessments and some ELLs demonstrate proficiency on the ELA exam, but do not demonstrate proficiency on the NYSESLAT. Thus, the NYSESLAT is a rigorous measure that can be used for two years until students have developed sufficient English language skills to demonstrate their knowledge and skills on the ELA assessments.

Exempting newly arrived ELLs from ELA assessments for two years will not lower expectations for Common Core ELA instruction for ELLs. NYSED holds all schools and students to high expectations and in doing so the State has launched a Bilingual Common Core Initiative. In Spring 2012, NYSED launched the Bilingual Common Core Initiative to develop new English as a Second Language and Native Language Arts Standards aligned to the Common Core. As a result of this process, NYSED is developing New Language Arts Progressions (NLAP) and Home Language Arts Progressions (HLAP) for every NYS Common Core Learning Standard in every grade. Beginning in 2014-15, all ELA and ESL/Bilingual teachers will be expected to provide Common Core instruction to ELLs aligned to the Progressions.

At the core of Bilingual Common Core Initiative is the idea that in addition to being a series of grammatical structures, language is also a social practice (Street, 1985; Pennycook, 2010). Therefore, language learning in an academic context is not solely about mastery over grammatical structures or isolated vocabulary, but also about the development of competency in the language specific to each academic discipline. In order for this development of competency to occur, students must participate in a language socialization process that includes both explicit and implicit guidance by mentors who are more proficient in the language of the academic discipline (Duffy, 2010) as well as an engagement with the ways of thinking in each academic discipline through exposure to content-specific texts (Snow, Griffin, and Burns, 2007). What this means is that in a history class students are treated as historians and in science class students are treated as scientists and are provided with both explicit and implicit guidance on the language structures and practices associated with the discourse of the content-area being taught (Walqui & Heritage, 2012).

Given the high demands of the Common Core, the appropriateness of the NYSESLAT to measure progress for newly arrived ELLs and the high expectations and rigor expected by the State for all ELLs, allowing for an additional year exemption will further the State's instructional goals and accurately measure student growth in language arts for newly arrived ELLs.

In addition to requesting a two year exemption for newly arrived ELLs, for a subgroup of ELLs who are Spanish-speakers and who can demonstrate their language arts knowledge and skills in Spanish, NYSED is proposing that beginning in 2015-16, districts be allowed to offer this assessment as a local option when it would best measure the progress of Spanish-speaking ELLs.

With the implementation of the Common Core, the development of new NYS Native Language Arts standards (the Home Language Arts Progressions) discussed in the State's original waiver, and the proposed development of a Spanish Language Arts assessment, the State will have developed the resources needed to support strong Common Core instruction and assessment in the home language. For schools offering Bilingual Education programs or strong home language supports aligned to the Common Core in Spanish, it is most appropriate to measure language arts proficiency for such students through a Spanish Language Arts assessment. In doing so, the State would allow such students to demonstrate mastery of grade-level-appropriate language arts standards in their home language, while they are acquiring English.

#### Process for Consulting with Stakeholders, Summary of Comments, and Changes made as a Result

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external "Think Tank" was convened, and members were asked to be thought partners with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State's approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

## **6. Amendment Regarding Developing a Performance Index for Newly Arrived English language learners**

### Flexibility Element(s) Affected by the Amendment

2.A. Differentiated recognition, accountability, and support system.

### Brief Description of the Element as Originally Approved

See pages 64 – 65. Originally, the State did not propose a differentiated accountability metrics for measuring progress of ELLs.

### Brief Description of the Requested Amendment

In order to accurately capture ELLs student growth in language arts, a combination of assessments must be used in order to make appropriate determinations of progress and growth towards proficiency. NYSED is applying for a waiver that would create a differentiated Performance Index for ELLs based on their level of language proficiency and the most appropriate measure of their language arts proficiency. NYS is implementing an aggressive agenda for ELLs which holds districts and schools accountable and sets high expectations for ELL student instruction.

As the State fully aligns the NYSESLAT exam to the Common Core Learning Standards and begins to develop additional assessment tools that can best capture growth towards proficiency for ELLs in language arts, the accountability system should be changed accordingly. A new accountability approach will allow students to demonstrate growth towards proficiency through appropriate measures and will hold schools and districts accountable to more appropriate measures of progress for ELLs as the test are specifically designed for this population

NYSED is applying for a waiver to:

1. Beginning in 2014-15, develop a Performance Index for newly arrived ELLs in their first two years in the United States. For these students, growth towards proficiency in language arts will be calculated based on rigorous expectations on the NYSESLAT assessment.
2. Beginning in the 2015-16 school year, develop a Performance Index for ELLs who have been in the United States for more than two years. For these students, growth towards proficiency in language arts will be calculated based on rigorous expectations on the ELA assessment that are differentiated based on their level of proficiency on the NYSESLAT exam and demographic factors such as the number of years a student has received ESL/Bilingual services and whether student has had interrupted formal education.
3. Beginning in 2015-16, develop a Performance Index for ELL students taking the Spanish Language Arts assessment. For these students, growth towards for proficiency in language arts will be measured based on rigorous expectations on the Spanish Language Arts assessment and performance on the NYSESLAT exam based on their level of language proficiency.

For ELLs in their first two years of instruction, the Performance Index would be modified only for language arts accountability purposes, the expectations and measures for math would not change. For such newly arrived students, the Performance Index would be based solely on their NYSESLAT performance.

For ELLs after two years of instruction, beginning in 2015-16, the Performance Index would also be modified only for language arts accountability purposes; the expectations and measures for math would not change. A Performance Index will be developed that creates rigorous expectations on the ELA assessment based on their level of English language proficiency, as determined by the NYSESLAT, and demographic factors that will impact growth and performance such as the number of years of ESL/Bilingual services and whether they are Students with Interrupted Formal Education.

NYSED will work with a team of ELL experts and statewide stakeholders to use performance data to determine appropriate outcomes for ELLs on the ELA assessments, based on their level of language proficiency and demographic factors that can be accurately identified through existing data collection systems. The Performance Index would then be adjusted such that schools and districts would be held accountable for making progress with ELLs based on new benchmarks on the ELA assessments according to their English Language proficiency level. As such, schools that are making significant progress with ELLs on the NYSESLAT and are demonstrating appropriate growth on the ELA assessment would not be penalized in the state's accountability system if their students are not yet proficient on the ELA assessment based on their level of English proficiency.

For ELLs who would be eligible to take the Spanish Language Arts assessment, beginning in 2015-16, the Performance Index would also be adjusted only for language arts accountability purposes; the expectations and measures for math would not change. A Performance Index will be developed that creates rigorous expectations for growth and performance on the Spanish Language Arts exam and the NYSESLAT exam. Thus, districts and schools would be held accountable for both progress in language arts in Spanish and English language development aligned to the Common Core Learning Standards.

Rationale:

ELLs, by virtue of the definition that identifies these students as developing English, have a limited ability to demonstrate what they know and can do on the English Language Arts assessments, even with accommodations. Unlike accommodations provided to ELLs on other content area assessments, such as math, translations of the ELA assessments are not provided to ELLs. The NYSESLAT has served a gate keeper such that once ELLs test out of the NYSESLAT they tend to outperform their non-ELL peer group on every measure, including ELA assessments. These students, however, can make significant progress in language development as determined on the NYSESLAT which will prepare them to be successful on the ELA exams. This progress in language development, however, is not captured by the ELA assessments which require a high level of English language development in order to demonstrate

knowledge and skills on the assessments. In addition, many ELLs can demonstrate Language Arts knowledge and skills in their home language. As such, an accountability system that determines growth for proficiency for ELLs in language arts based only on the ELA assessments is not appropriate.

Creating an accountability system that is differentiated to appropriately set high expectations for ELLs based on whether they are new arrivals, can demonstrate proficiency in their home language, or are at different levels of language development will create rigorous expectations for schools and districts and allow schools and districts making progress to be recognized for such growth.

Creating this differentiated accountability system will ensure that schools and districts making progress are not penalized in the accountability system because they have high numbers of ELLs not yet proficient on the ELA assessments. Without this provision, some schools and districts are being identified as Focus and Priority Schools in part because they have a high number of ELLs in their schools.

The NYSESLAT exam is an appropriate exam for newly arrived ELLs to demonstrate progress because it is rigorous, aligned to the Common Core and highly correlated with ELA performance. The NYSESLAT has served a gate keeper such that once ELLs achieve proficiency on the NYSESLAT, these students tend to outperform their non-ELL peer group on every measure, including ELA assessments. Thus using the NYSESLAT exam in the language arts accountability system is an appropriate measure that should be incorporated into the Performance Index.

#### Process for Consulting with Stakeholders, Summary of Comments, and Changes made as a Result

Stakeholders from across the State, representing teachers, administrators, parents, and community based organizations have assisted the Department in responding to the requirements of the Renewal application. During the first week of November, an external "Think Tank" was convened, and members were asked to be thought partners with the Department as it drafted its response to the renewal requirements. A large portion of the members of the ESEA Renewal Think Tank also participated in the original ESEA Waiver Think Tank that guided the creation of New York State's approved ESEA Waiver application. To date, The ESEA Waiver Renewal Think Tank has met five times since convening in November, with various related work groups meeting at least twice additionally during that time period.

In addition to the Think Tank, the Commissioner, Deputy Commissioner and Department staff have solicited feedback on the waiver through meetings with a wide variety of organizations, including the Title I Committee of Practitioners, the English Language Learners Leadership Group, the DTSDE Training Group, and the District Superintendents.

Please note that for proposals that will be more fully developed for 2015-16, NYSED will develop a similar consultation process with stakeholders.