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Elementary and Secondary Education Act Flexibility Waiver Renewal for 2015-19

February 2015

History of the ESEA Waiver

September 2011: President Obama announced an ESEA regulatory flexibility initiative.

May 2012: The USDE approved New York State's Flexibility Waiver Request for the 2012-13 and 2013-14 school years.

September/November 2013: USDE offered states with approved ESEA Flexibility Waivers the opportunity to renew the waivers for the 2014-15 school year only.

July 2014: The USDE approved New York State's Flexibility Waiver Renewal Request for the 2014-15 school year.

November 2014: The USDE offered states with approved ESEA Flexibility Waivers the opportunity to renew the waivers for the 2015-16, 2016-17, and 2017-18 school years. A small number of states, including New York, that were judged by the USDE to be fully implementing the waiver's teacher and principal evaluation requirements were offered the opportunity to apply for a 4- year waiver, extending to the 2018-19 school year.

Summary of Current Provisions to Be Continued

The general architecture of New York's current accountability system is the basis for the 2015-19 ESEA Renewal Request. We recommend that the Regents approve a waiver that continues to:

- Use state ELA, math, and science assessments; graduation rates; and participation rates as the basis for school and district accountability determinations.
- Use a Performance Index (PI) to measure ELA, mathematics, and science results.
- Use "progress filters" as part of the process to determine whether particular schools or districts should be identified as Focus, Priority or Local Assistance Plan Schools or Focus Districts.
- Apply special rules to Special Act School Districts and NYC CSD 75 schools, and make case by case determinations about transfer high schools.
- Require Focus Districts and Focus and Priority Schools to make two years of progress and meet minimum performance standards to be removed from identification.
- Identify other low performing schools as Local Assistance Plan schools.

Summary of Current Provisions to Be Continued

- Identify high performing and rapidly improving schools as Reward Schools and make grants available to selected Title I Reward Schools.

- Require Focus Districts to participate in the Diagnostic Tool for School and District Effectiveness, District Comprehensive Improvement Plans (DCIP), and School Comprehensive Educational Plans (SCEP) processes.

- Require Focus Districts to offer Public School Choice to students attending Title I Priority and Focus Schools, set aside an amount equal to 5-15% of the district's Title I, IIA, and if applicable Title III funds to support Priority and Focus School improvement plans and 1% for parent engagement activities.

- Offer Priority Schools the opportunity to compete for 1003(g) School Improvement Grant funds or School Innovation Funds.

- Require Priority Schools to implement a whole school reform model, assess school leadership, and offer extended learning time.

ESEA Flexibility Waiver Principles

- **Principle 1 –** The State's plan for implementing state-developed college- and career-ready standards and high-quality assessments aligned to those standards.

- **Principle 2 –** The State's plan for implementing a differentiated accountability systems for schools and districts that incorporates a variety of measures, targets meaningful interventions based on need, and identifies high-performing or rapidly improving schools. Includes the State's plan to take dramatic action in the lowest-performing schools, provide greater autonomy to high-performing schools, and target interventions and resources at a subgroup level in schools that may be performing well overall but in which a single subgroup may be lagging.

ESEA Flexibility Waiver Principles

- **Principle 3 –** the State's plan to implement teacher and principal evaluation and support systems based on multiple measures that meaningfully differentiate performance, and are designed to provide teachers and leaders with clear, timely, and useful feedback, as well as targeted supports.

- **Principle 4 -** the State's plan to reduce duplication and unnecessary burden.

ESEA Renewal Request for 2015-19

The proposed revisions to the ESEA Waiver for the 2015-19 school year period fall into two primary categories:

1. Additions made to address new waiver requirements from USDE
2. Amendments to streamline existing school and district school improvement planning processes and accountability designation methodologies in order to support school and district improvement efforts.

Department staff does not recommend making any amendments to New York's current waiver pertaining to Principle 1: College- and Career-ready Expectations for all Students or Principle 3: Supporting Effective Instruction and Leadership.

ESEA Renewal: USDE Requirements

- ✓ States must include as part of their ESEA Renewal Waiver Request a description of interventions in the State's lowest-performing schools and schools with the largest achievement gaps.
- ✓ The description must address how the State will identify those Priority and Focus Schools that have not met targets and how the State will increase the rigor of interventions and supports in those schools.
- ✓ The Department must provide USDE with a list of Priority and Focus Schools by January 31, 2016. Included in this list will be re-identified Focus and Priority Schools.
- ✓ The state must continue to identify at least five percent of its Title I Schools as Priority and ten percent as Focus.

Current Waiver: Identified Schools and Districts

Schools

(based on 2012-13 State assessment data)

	Priority	Focus	Local Assistance Plan	Reward
State Total	178	446	311	354

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District Type	# of Districts
Focus Districts [1]	62
Good Standing	633

1 The New York City Department of Education (NYC DOE) has 31 of its 32 Community School Districts identified as Focus Districts. In this chart, the NYC DOE is counted as one central district.

ESEA Renewal: Re-Identified Focus Schools

Under the Draft ESEA Renewal Proposal:

- Re-identified Focus Schools must revise their SCEP to focus on the needs identified through their most recent Integrated Intervention Team (IIT), district-led, or School-led with district oversight DTSDE reviews.

- Districts must complete a school leader checklist for the re-identified Focus School, if the principal has been leader of the school for more than two full academic years, in order to determine whether the school leader should be provided additional professional development and/or mentoring or replaced.

- Re-identified Focus Schools must begin intensive implementation of at least one ESEA turnaround principle (e.g., redesign the school day, week, or year; modify the instructional program to ensure it is research-based, rigorous, and aligned with State academic content standards; provide time for collaboration on the use of data) starting no later than the 2016-17 school year.

ESEA Renewal: Re-Identified Priority Schools

Under the Draft ESEA Renewal Proposal:

- Pursuant to the provisions of Commissioner's Regulations Part 100.18, re-identified Priority Schools will be preliminarily identified for Registration Review, and districts will be given an opportunity to appeal that designation.

- After reviewing appeals, the Commissioner will determine which schools to place under Registration Review (SURR). If a school is identified as a SURR, an NYSED team will visit the school and make a recommendation to the Commissioner whether the school should:
  i. Continue to implement its current improvement plan, as modified by recommendations of the Integrated Intervention Team;
  ii. Implement a new school comprehensive education plan or "out of time" plan, which may contain a new whole school reform model; or
  iii. Be phased out or closed.

ESEA Renewal: Re-Identified Priority Schools

Under the Draft ESEA Renewal Proposal:

- If the district is allowed to either continue its current plan or implement a new plan, the district must:
  - ✓ Complete a school leader checklist (if the principal has been leader of school for more than two full academic years);
  - ✓ Ensure that the school has extended learning time; and
  - ✓ Ensure that the staff at the school participate in mandatory professional development in support of the current or new plan.

Schools Under Registration Review (SURR) must begin implementation of approved plans in the 2016-17 school year and must fully implement plans no later than the beginning of the 2017-18 school year.

ESEA Renewal: Re-Identified LAP Schools

LAP Schools have unacceptably large gaps in performance among groups of students; have failed for three consecutive years to make Adequate Yearly Progress (AYP) for a group of students on an accountability measure; or are performing at a level that would otherwise have caused the school to be identified as Focus, if the school were located in a Focus District.

Under proposed waiver:

- Beginning with 2015-16 school year, schools that have been identified as a LAP School for three consecutive years will be identified as a Focus School and must have a DTSDE review. The identification of the school may also result in the district becoming a Focus District. The results from the DTSDE review must be used as the basis for development of an SCEP that meets all requirements for a Focus School.

ESEA Renewal: Recommended Revisions

Based on the first years of waiver implementation, the Department recommends changes to refine, simplify, and standardize the following:

- School and District Improvement Set-Asides
- Priority School Identification
- Focus School Identification
- Performance Index (PI)
- Double Testing
- Annual Measureable Objectives
- LAP School Identification and Support
- Progress Filters
- Focus School Removal and Replacement
- Graduation Rate for Removal
- Sunset of Supplemental Education Services (SES) List of Providers

ESEA Renewal: Recommended Revisions

Revisions to Required District Set-Asides

Original approved ESEA Waiver –
Districts were required to set aside an amount equal to between 5 and 15 percent of their Title I, IIA, and III (if applicable) funds to support Focus and Priority School activities and services from an NYSED approved list.

Proposed ESEA Renewal Waiver –
Require districts to first utilize 1003(a) School Improvement funds to pay for activities connected to:

- Implementation of the DTSDE process, DCIP and SCEP;
- Review of the principals' qualifications;
- Evaluation of plan implementation; and
- Any costs associated with providing SED data on leading and lagging indicators in Priority and Focus Schools.

ESEA Renewal: Recommended Revisions

Revisions to Required District Set-Asides

- In addition, districts will be required to use their 5-15 percent set-aside to fund Public School Choice and offer 200 hours of extended learning time to students in Priority Schools.

- If the cost of meeting those obligations goes beyond the district's set-aside, the district must utilize other funds to meet these obligations.

- If funds earmarked for the set-aside remain after these obligations have been fulfilled, which will be the case for most Focus Districts, the funds are to be used to support implementation of turnaround principles or whole school reform models, address recommendations of DTSDE reviews, or support community school programs or the provisions of CTE or advanced coursework to high school students.

Revisions to Priority School Identification

- Create new list of Priority Schools based on 2014-15 School Year assessment data.
- All public schools eligible for identification, including Schools In Good Standing.

Revisions to Focus School Identification

- Replace current complex formula based on percentage of students who are non-proficient/non-graduates with streamlined method.
- Within Focus Districts, identify any school as Focus that has one or more subgroups performing unacceptably.
- It is possible therefore that a Focus School may be identified for a different subgroup than that for which the District is identified.
- It is also possible that a Focus District may have no identified Focus Schools.

Revisions to Performance Index

- Eliminate the incorporation of "Growth to Proficiency" in computation of Grades 3-8 ELA and math Performance Index (PI), as incorporation of growth rarely changes accountability decisions and significantly delays returning accountability determinations to schools and districts.
- Continue to use Student Growth Percentiles (SGPs), which measure growth of students compared to comparable students across the State, in making elementary and middle school accountability determinations.
- Modify PI to incorporate students with disabilities (SWD), English language learner (ELL), and Career and Technical Education (CTE) waiver amendments, if approved by USDE.

Double Testing Waiver

- Apply for a four-year waiver to allow grades 7 and 8 students who take high school math Regents to not be required to take the grade level mathematics assessment.
- Previously, an annual application was required.

Revisions to Annual Measurable Objectives (AMOs)

- Set new AMOs for the 2017-18 through the 2022-23 school years for elementary/middle schools based on 2015-16 school year results.
- For high schools, reset AMOs earlier than 2017-18 if appropriate as more students take the Common Core based Regents ELA and mathematics exams.
- Readjust AMOs as necessary to reflect any approved amendments in relation to assessments of SWD, ELL and to include CTE results.

Revisions to Local Assistance Plan Identification and Supports

- Revise LAP School identification process to:
  - Ensure that all schools that would have been identified as Priority or Focus in a Focus District are identified as LAP in a non-Focus District.
  - Ensure that schools that have large gaps in performance between members of a subgroup and non-members of a subgroup are not identified, if members of the subgroup are performing well in relation to the rest of the state.
  - Align the "Progress Filters" for LAP identification with those for Priority and Focus Schools.
- Base LAP identification for low-performance and large gaps in performance between subgroups on two years of performance and require two years of progress for removal.
- Provide 1003(a) School Improvement Grants to Title I LAP Schools.

Revisions to Progress Filters

Progress Filters are alternate measures used to determine whether districts and schools have made sufficient progress so that even though the school or district may be low-performing for an accountability group on a performance measure that group's performance is used to identify the district or school.

Department proposes to:

- Standardize the filters used for Priority, Focus, and LAP Schools.
- Use Adequate Yearly Progress as a filter for Priority and Focus Schools.
- Key Progress Filters are:
  - Group has made a ten point gain in the Performance Index from Prior Year.
  - Median Student Growth Percentile is at or above Statewide average.
  - Subgroups 4- or 5-year graduation rate is above Statewide average or has increased by ten percent over last two years.
  - Subgroup has made AYP for past two years.

Revisions to Focus School Removal and Replacement

- Eliminate requirement that in certain circumstances Districts must replace schools that are eligible for removal from Focus status with new Focus Schools.
- Note: New LAP rules may result in LAP Schools becoming Focus Schools.

Revisions to Graduation Rate Requirements for Removal

- Allow Priority and Focus Schools and Focus Districts to considered for removal, if:
  - ✓ They make two years of progress.
  - ✓ They are above the minimum standards for removal in the most current year.

  (Currently, schools and districts must be above the minimum standard for graduation rate in both the current and the prior school year.)

Revisions to Supplemental Educational Services (SES)

- New York's ESEA Renewal Waiver proposes that, rather than being required to provide parents the choice to have their children receive tutorial services from any vendor on the State's approved list that has agreed to serve that district, the district would decide the vendors from among whom parents could choose.

- As is now the case, districts that wish to enter into contracts with vendors to provide tutorial services to students who attend Priority or Focus Schools could continue to do so using Title I funds.

- Alternatively, districts could choose to instead use these funds to provide students with expanded learning time or other services.

- The Department proposes that it would no longer maintain a list of approved SES providers and would remove the current list from its website.

- Accordingly, staff recommend that the Board of Regents, in conjunction with submission of New York's ESEA waiver application for the 2015-16 to 2018-19 school years, seek a legislative amendment to remove the State statutory requirement that the Commissioner approve SES providers.

ESEA Renewal: Consultation and Collaboration

Local Educational Agencies, and organizations representing teachers, administrators, parents, community-based organizations, civil rights organizations, students with disabilities and English language learners have assisted the Department in responding to the requirements of the Renewal application.

- May 2014 - the ESEA "Think Tank," which supported the Department with development of the original ESEA Waiver application and its subsequent renewal, was reconvened and has met eight times.
- January 2015 – Work Group for Districts LAP Schools
- January 2015 – DTSDE Institute
- January and February 2015 – Title I Committee of Practitioners
- February 2015 - Commissioner, Senior Deputy Commissioner, Deputy Commissioner for P-12 and other staff will be discussing the proposed Waiver Renewal as part of regular meetings.

ESEA Renewal: Request for Public Comment

- With the approval of the Regents, staff will release the February 2015 draft renewal request for public comment from approximately **February 12 – February 23, 2015.**

- At the March 16-17, 2015 meeting of the Board, Department staff will provide a summary of the public comments received and any suggested revisions to the application based on those comments.

- The Department will also present the proposed final draft of the ESEA Waiver Flexibility Request for Board of Regents approval at the March 2015 meeting prior to submission to the USDE.

Recommendation to Board of Regents

The Department recommends that the Board of Regents direct the Commissioner of Education and the State Education Department to issue for public comment a draft ESEA Waiver Renewal request, with related amendments, based upon the materials provided to the Board of Regents at its December 2014 and February 2015 meetings.