

ESEA Waiver: Summary of Key Provisions

New York State Education Department
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for the ESEA Waiver Overview Webinar

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ESEA WAIVER INITIATIVE

“REGULATORY FLEXIBILITY”

On September 23rd, President Obama announced an Elementary and Secondary Education Act (ESEA) regulatory flexibility initiative to revise No Child Left Behind (NCLB).

- Flexibility in the following areas has been requested :
 - **2013-14 Timeline for All Students Becoming Proficient**
 - **School and District Improvement Requirements**
 - **Highly Qualified Teacher Improvement Plans**
 - **Schoolwide Programs**
 - **Transferability of Funds**
 - **Use of School Improvement Grant Funds**
 - **Rewards for Schools**
 - **Rural Schools**
 - **Twenty-First Century Community Learning Centers program (optional)**
 - **Determining Annual Yearly Progress (AYP) for each school and district (optional)**
 - **Rank Order Funding Allocation for districts (optional)**
- In exchange for flexibility, states must:
 - **Set College and Career-Ready Standards for All Students and Develop and Administer Annual, Statewide, Aligned, High-Quality Assessments that Measure Student Growth.**
 - **Develop Systems of Differentiated Recognition, Accountability and Support.**
 - **Support Effective Teaching and Leadership, including the implementation of Teacher and Principal Evaluation in which student growth is a significant factor.**
 - **Reduce Duplication and Unnecessary Burden.**

NOTE: States have one of three rounds to apply for waivers. Eleven states submitted requests on November 14, 2011 in Round 1. New York State submitted its request on February 28, 2012 in Round 2. A third round will be held at the end of the 2011-12 school year.

WAIVERS FOR SPECIFIC ESEA PROVISIONS

- States must meet all requirements in order to receive flexibility — they are not able to request a limited waiver based on partial implementation of these requirements. New York State has applied for flexibility through waivers of the following twelve provisions of NCLB:

1. *2014 timeline for achieving 100% proficiency (section 111(b)(2)(E));*
2. *School and District improvement and accountability requirements (section 1116(b) and (c));*
3. *Rural LEA fund restrictions (section 6213(b) and 6224(e));*
4. *Title I schoolwide program restrictions (section 1114(a)(1));*
5. *School improvement fund restrictions (section 1003(a));*
6. *School support and recognition fund restrictions (section 1117(c)(2)(A));*
7. *Improvement plan requirements and Title I and Title II fund restrictions for districts that miss HQT requirements (section 1111(b)(8)(C));*
8. *Increase percentage of funds that can be transferred to Title I, Part A (section 6123);*
9. *School Improvement Grant (SIG) fund restrictions (section 1003(g));*
10. *Optional flexibility to support Expanded Learning Time under the Twenty-First Century Community Learning Centers program;*
11. *Optional flexibility to determine AYP for each school and district; and*
12. *Optional flexibility to allocate funding to Title I eligible schools based on rank order of poverty (section 1113(a)).*

ESEA Flexibility Request

Big Picture Overview of ESEA Waiver

- ❑ Revise the Annual Measurable Objectives (AMO)
 - ❑ Use School and District Accountability Standards that are Better Aligned to College- and Career- Readiness
 - ❑ Replace Identification of Schools for Improvement, Corrective Action and Restructuring with Identification of Priority and Focus Schools
 - ❑ Replace Identification of Districts for Improvement and Corrective Action with Identification of Focus Districts
 - ❑ Replace Identification of Schools As High Performing/Rapidly Improving With Identification of Reward Schools
 - ❑ Use Proficiency and Growth Measures to Make Accountability Determinations for Elementary and Middle Schools
 - ❑ Create a Single Diagnostic Tool ("The Diagnostic Tool for School and District Effectiveness") to Drive Improvement
 - ❑ Reframe the Existing Set-Asides in ESEA
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Specific ESEA Flexibility Approved for Districts

Districts will have the Flexibility to:

- Transfer funds among programs
 - Designate Schoolwide programs
 - Implement Highly Qualified Teacher (HQT) Improvement Plans
 - Use Twenty-First Century Community Learning Centers (21st CCLC) Program Funds during the regular school day
 - Serve Non-Title I Priority High Schools
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Annual Measurable Objectives (AMO)

Revising:

1. To reflect the rigor required of college and career readiness standards, while at the same time making them realistic and attainable for schools and districts.
2. To increase them in annual equal increments toward the goal of reducing by half, within six years, the gap between the PI for each accountability group and a PI of 200 (Baseline = 2010-11 school year results).



ESEA Waiver Accountability Designations

Category	How Identified	Data Used for Identification
Reward Schools	High Performance or High Progress	Annual
Good Standing	Not Priority, Focus or Local Assistance Plan School	Annual
Local Assistance Plan Schools	School that is not a Priority of Focus School that: <ul style="list-style-type: none"> a) Has large gaps in student achievement among subgroups of students or b) Has failed to make AYP for three consecutive years with same subgroup on same measure or c) Is located in a non-Focus district but is among the lowest in the state for the performance of one or more subgroups and for which the school is not showing progress. 	Annual
Focus Districts	Districts and charter schools that are among the lowest performing for a subgroup of students and that fail to show progress or that have one or more priority schools	Identified once based on 10-11 data; districts and charter schools that improves performance may be removed from Focus status
Focus Schools (10% of State Schools)	Schools that are in Focus Districts and have either the greatest numbers or greatest percentage of not proficient or non graduation results in the group(s) for which a district is identified as Focus	Identified by Districts based on lists provided by Commissioner. District may request to modify annually the list of Focus Schools in the District.
Priority Schools (5% of State Schools)	Schools that were awarded a SIG grant in 11-12; have had graduation rates below 60% for the past three years; or are the lowest performing in ELA and math combined and have failed to show progress.	Identified once based on 10-11 data; schools that improve performance may be removed from Priority status

Grades 3 - 8 English Language Arts

		Targets by Year						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
Grades 3-8 ELA	All Students	146	150	155	159	164	168	173
	Students with Disabilities	92	101	110	119	128	137	146
	American Indian/Native American	132	137	143	149	154	160	166
	Asian or Pacific Islander	162	165	169	172	175	178	181
	Black (not Hispanic)	123	130	136	143	149	155	162
	Hispanic	126	132	138	144	151	157	163
	White	160	164	167	170	174	177	180
	English Language Learners	102	110	118	126	134	143	151
	Economically Disadvantaged	128	134	140	146	152	158	164
	Mixed Race	154	158	162	166	170	173	177

Grades 3 – 8 Math

		<i>Targets by Year</i>						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
Grades 3-8 Math	All Students	160	164	167	170	174	177	180
	Students with Disabilities	115	122	129	136	143	150	157
	American Indian/Native American	148	152	156	161	165	169	174
	Asian or Pacific Islander	183	185	186	187	189	190	192
	Black (not Hispanic)	136	142	147	152	158	163	168
	Hispanic	145	150	154	159	163	168	173
	White	172	174	177	179	181	184	186
	English Language Learners	134	140	145	151	156	162	167
	Economically Disadvantaged	146	151	155	160	164	169	173
	Mixed Race	163	166	169	172	175	178	181

Grades 4 and 8 Science

		<i>Targets by Year</i>						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
Grades 4 and 8 Science	All Students	178	179	181	183	185	187	189
	Students with Disabilities	150	154	158	162	166	171	175
	American Indian/Native American	171	174	176	179	181	183	186
	Asian or Pacific Islander	185	187	188	189	190	191	193
	Black (not Hispanic)	158	161	165	168	172	175	179
	Hispanic	162	165	169	172	175	178	181
	White	190	191	192	192	193	194	195
	English Language Learners	146	150	155	159	164	168	173
	Economically Disadvantaged	165	168	171	174	177	180	183
	Mixed Race	187	188	189	191	192	193	194

High School English Language Arts

		<i>Targets by Year</i>						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
High School ELA	All Students	155	159	163	166	170	174	178
	Students with Disabilities	87	97	106	116	125	134	144
	American Indian/Native American	138	143	148	153	158	164	169
	Asian or Pacific Islander	170	172	175	177	180	182	185
	Black (not Hispanic)	128	134	140	146	152	158	164
	Hispanic	131	137	143	149	154	160	166
	White	171	174	176	178	181	183	186
	English Language Learners	92	101	110	119	128	137	146
	Economically Disadvantaged	135	141	146	152	157	162	168
	Mixed Race	162	165	168	171	175	178	181

High School Math

		<i>Targets by Year</i>						
Measure	Group	<i>2010 - 2011 Baseline</i>	<i>2011 - 2012</i>	<i>2012 - 2013</i>	<i>2013 - 2014</i>	<i>2014 - 2015</i>	<i>2015 - 2016</i>	<i>2016 - 2017</i>
Subject and Grade Level	Accountable Group							
High School Math	All Students	130	136	142	148	154	159	165
	Students with Disabilities	72	82	93	104	114	125	136
	American Indian/Native American	107	115	123	130	138	146	154
	Asian or Pacific Islander	161	164	168	171	174	177	181
	Black (not Hispanic)	94	103	112	121	129	138	147
	Hispanic	100	108	117	125	133	142	150
	White	149	154	158	162	166	170	175
	English Language Learners	92	101	110	119	128	137	146
	Economically Disadvantaged	107	115	123	131	138	146	154
Mixed Race	136	141	147	152	157	163	168	

College- and Career-Readiness

- For Grades 3-8 ELA and math, the definition of proficiency remains the same as that established by Board of Regents in July 2010.
- For high school, the aspirational standards of passing Regents with a score of 75 or higher in ELA or 80 or higher in math have been adopted.
- **Schools will no longer receive credit in the high school ELA and math performance index for students who meet graduation requirements using the safety net.**
- The above are used for school and district accountability. Graduation standards for individual students remain unchanged.

Adequate Yearly Progress (AYP) Determinations

- Determined in a similar manner as currently required under NCLB, with a focus on the academic achievement of the current NCLB subgroups.
- No longer determined for schools and districts, just for subgroups.
- Use limited to being one of the indicators in determining Reward Schools and in determining whether districts must complete a Local Assistance Plan for specific schools.
- Safe Harbor will no longer require schools and districts to meet the third academic indicator requirement, i.e., science and graduation rate.

Growth Models

Elementary & Middle Levels

- Growth towards proficiency & growth compared to state median growth are used in the process of making accountability determinations for elementary and middle schools.
- Schools and districts will get “full credit” for students who are either proficient or on track to become proficient within three years or by grade 8, using a “proficiency plus” model (with grades 4-8 ELA and math results).

Growth Models (cont.)

Elementary & Middle Levels

- **A school will not be identified if:**

- the all students group's median SGP in ELA and mathematics combined for the past 2 years is above the Statewide median SGP

or

- the majority of the groups for which the school is accountable had SGP's in ELA and math combined that were above the State median.

- **A district will not be identified for a subgroup's performance if:**

- it has a graduation rate above the State average on the 4 year graduation cohort

or

- the group's median Student Growth Percentile in ELA and mathematics has been above the combined Statewide Median Growth Percentile for that group in the past 2 years combined.
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Computation of Performance Index for Grades 3-8 ELA Results

Performance Level	On Track to Proficiency?	Number of Students	Multiplier	Total Points
1 (Below Standards)	No	30	0	0
1 (Below Standards)	Yes	10	200	2,000
2 (Meeting Basic Standards)	No	40	100	4,000
2 (Meeting Basic Standards)	Yes	40	200	8,000
3 (Meeting Proficiency Standards)	NA	60	200	12,000
4 (Exceeding Proficiency Standards)	NA	20	200	4,000
Total		200		30,000

$$PI = 150 \text{ or } 30,000/200$$

Computation of Performance Index for High School Mathematics Results

Performance Level	Regents Score	Number of Students	Multiplier	Total Points
1 (Below Standards)	0 – 64	30	0	0
2 (Meeting Basic Standards)	65 - 79	40	100	4,000
3 (Meeting Proficiency Standards)	80 – 89	60	200	12,000
4 (Exceeding Proficiency Standards)	90 -100	20	200	4,000
Total		150		20,000
PI = 133 or $20,000/150$				



PRIORITY SCHOOLS

The following three groups of schools were identified as Priority Schools:

- Schools that were **awarded a School Improvement Grant** in the 2011-12 school year.
- High schools with **graduation rates below 60% for 3 consecutive years.**
- Schools **in improvement, corrective action or restructuring** in the 2011-12 school year that were among those with the lowest combined ELA and Math Performance Index for the all students group in 2010-11 and which failed to show progress, as measured by gains in PI between 2009-2010 and 2010-2011, and for elementary and middle schools median Student Growth Percentiles (SGPs) for the all students group and subgroups compared to statewide median SGPs.

Special Act School Districts and Transfer High Schools

- Schools in a *Special Act School Districts* will not be identified as Priority Schools, unless the school meets the requirement for being a Priority School and has been identified for Registration Review as a poor learning environment.
- The performance of *Transfer High Schools* will be reviewed on a case-by-case basis, giving careful consideration to the mission of the particular school, student performance, and the intent of the Priority School requirements.



FOCUS DISTRICTS

The following parameters will be used for identification:

- Two Stage Process
 1. Districts with the lowest performing subgroups that are not showing improvement will be Focus Districts.
 2. Districts, with the Commissioner's approval, will identify Focus Schools within the district.
- Districts with a combined ELA and mathematics PI or graduation rate that places the schools among the lowest 5% in the State for racial/ethnic subgroups, low-income students, SWD and/or ELL and that have not shown progress.
- Focus Districts will be assigned by the Commissioner a minimum number of schools they must identify.
- Focus Districts must identify those schools that have either the highest percentage or highest number of students who are not proficient in the subgroup(s) for which the school is identified.



Focus District Identification

- Districts are rank ordered on their combined elementary-middle and high school 2010-11 ELA and math Performance Index for each of the accountability groups and then the bottom 5% are identified.
 - Districts are rank ordered on their 2006 4-Year graduation rate for each of the accountability groups and then the bottom 5% are identified.
 - Accountability groups that have made progress are removed from consideration.
 - The PI and graduation rate cut points for each accountability group are determined.
 - A District with a Priority School automatically becomes a Focus District.
 - Special Act Districts are excluded from identification unless they have a Priority School.
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Focus School Identification

- For each identified Focus District (based on lowest achieving 5%) the individual school's count of non-proficient students and non-graduating students are determined.
 - Priority and Transfer Schools (on a case by case basis) are excluded.
 - Small schools and schools with high performance are excluded.
 - The District's percentage out of statewide count of non-proficient students and non-graduate students are determined.
 - The state is required to identify 10 percent of schools as Focus Schools (471 schools).
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Focus School Identification

- 471 is multiplied by the District's percentage to get the count of schools to be identified for PI and graduation rate.
- The number of schools to be identified is capped at a maximum of 85% of the District's total number of elementary-middle and high schools.
- In Districts with Priority Schools, schools are identified as Focus Schools if an accountable group's PI or graduation rate is at or below the cut point for which district was identified as a Focus District and the school does not meet the criteria for progress.

FOCUS SCHOOLS: Example

Stage 1: District A for SWD group

District A's combined Elementary-Middle and High School ELA and math Performance Index (PI) for the SWD group is 60. The SWD PI for all districts in the state is rank ordered in descending order. Focus districts are the bottom 5% districts for each accountability group in PI and graduation rate. There are 631 districts in the state with a SWD group and the bottom 32 districts (5%) will be identified as Focus districts. District A with a SWD PI of 60 was ranked 12th from the bottom, and therefore the district was identified as a Focus district for the SWD group.

FOCUS SCHOOLS: Example

Based on each District's share of non-proficient students (Level 1 & 2) and non-graduating students, the count of Focus Schools to be identified is determined.

Example: District identified for SWD group

Total # of schools in Dist A	10
Maximum # of schools that can be identified (85% cap, rounded down)	8
Total # of non proficient SWD students in Dist A (a)	656
Total # of non proficient students in State for all accountability groups (b)	65,600
Dist A's share of non proficient students (c = a/b)	1%
Total # of Focus schools to be identified in State (d)	471
Dist A's share of Focus schools (c x d)	5

FOCUS SCHOOLS: Example

Stage 2: Focus Schools in District A

List A: For each school in District A, the count of non- proficient SWD students for EM and HS is determined. The schools are rank ordered in descending order on count and the top five schools are selected.

List B: For each school in District A, the percent of non- proficient SWD students for EM and HS is determined. The schools are rank ordered in descending order on percentage and the top five schools are selected.

FOCUS SCHOOLS in District A

District A has to Identify **5** Focus Schools

School	# SWD Non Proficient	% SWD Non Proficient	Rank ordered by SWD Non Proficient #	Rank ordered by SWD Non Proficient %	Identified on SWD Non Proficient #	Identified on SWD Non Proficient %
A	178	83	1	6	Yes	No
B	156	90	2	4	Yes	Yes
C	104	96	3	1	Yes	Yes
D	47	92	4	3	Yes	Yes
E	43	80	5	7	Yes	No
F	40	95	6	2	No	Yes
G	30	88	7	5	No	Yes
H	22	78	8	8	No	No
I	20	63	9	9	No	No
J	16	58	10	10	No	No

Improvement Plans

- Focus Districts must develop a **District Comprehensive Improvement Plan**.
 - Priority and Focus Schools must do a **Comprehensive Education Plan (CEP)**
 - Priority Schools Must Develop and Implement **CEP** by the 2014-15 School Year:
 - that either implements 1 of the 4 Federal SIG intervention models as part of a whole school reform model with partner organizations;
 - or
 - that implements the entire ESEA waiver Turnaround Principles as part of a whole school reform model and with partner organizations.
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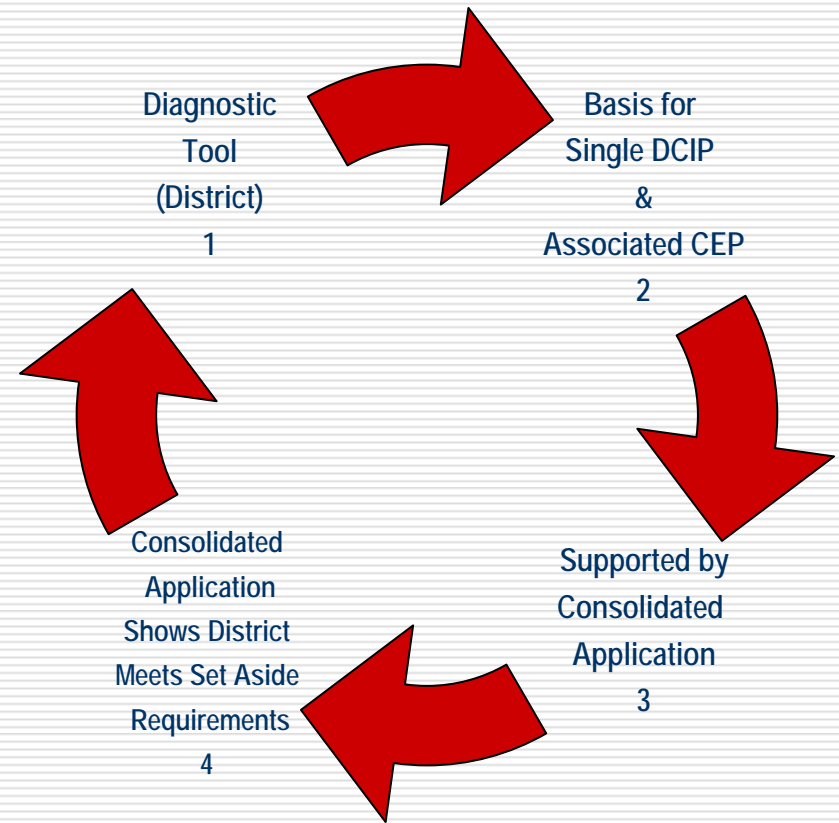
Diagnostic Tool

Beginning in the 2012-13 school year for Priority and Focus Schools/Districts New York will:

- ❑ Create a **diagnostic tool for school and district effectiveness** (single diagnostic tool).
- ❑ Place more emphasis on **district level diagnostic reviews**.

Based on the Charter Schools Act, charter agreements, and charter authorizing The Board of Regents will:

- ❑ will conduct on-site review and evaluation visits to its direct-authorized schools.



Required Public School Choice

- Districts will continue to be required to offer public school choice for students attending non-charter Title I Priority or Focus Schools. (Note: Charter schools, as LEA, do not have to offer students attending charter schools that are designated as Title I Priority or Focus Schools choice as the LEA consists solely of the charter school. Parents continue to have the choice to withdraw their child from the charter school and enroll them in a public school in their district of residency.)

Supplemental Education Services (SES)

- Beginning in the 2012-13 school year Districts and public charter schools **will not be required to offer SES** or set aside a portion of their Title I allocation to pay for SES. However, districts and public charter schools may choose to continue to provide SES to students in Title I schools that have been identified as Priority or Focus.
- Districts and public charter schools **may choose to offer SES** and pay for the services using Title I funds.
- Beginning in the 2012-13 school year Districts and public charter schools that wish to offer SES will be **allowed to determine the providers** that parents in their district may select.
- To support districts and public charter schools that choose to continue to provide SES, the Department will require **all state-approved SES providers to reapply for state approval**.
 - As part of the new application, the Department will evaluate whether the SES providers' programs are aligned with the common core standards.

Set-Aside Requirements

- Will not focus on SES funding, but support enhanced implementation of the Regents' Reform Agenda (RRA) in Priority and Focus Schools, and increased parental involvement and engagement in low-performing schools.
- Revised grant approval processes to ensure greater alignment in how ESEA Title funds (Title I, Title IIA, and Title III) are used to support RRA implementation.
- Beginning in the 2012-13 school year, districts with priority and/or focus schools will be required to set aside an amount equal to between 5 percent and 15 percent of the total Title I; Title IIA; and Title III allocations (if identified for the performance of the district's ELL) and up to 2 percent for parent involvement and engagement.

Menu of Allowable Programs and Services

- Professional Development
 - Diagnostic Tool for School and District Effectiveness
 - CTE
 - Expanded Learning Time (ELT)
 - AP, IB, and/or Cambridge AICE or IGCSE courses
 - CCS, PBIS and RtI
 - Training and Certification
 - Data Systems
 - Teacher Evaluation
 - Conduct Teacher Observations
 - Appointment of a Distinguished Educator
 - Development of Assessments
 - Equipment and Curricular Materials
 - Implementing School-Based Inquiry Teams
 - Supplemental Compensation
 - Implementation of 1 of the 4 School Intervention Models
 - Supporting LEA and EPO, CMO, charter school operators' planning activities for implementation
 - Academic Intervention Services
 - Pre-K Programs
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Expanded Learning Time and 21st Century Community Learning Center Grants

- New York applied for this optional waiver and will incorporate it into the next grant round for this program.
 - The RFP will allow **additional hours of learning time**, as well as additional **collaborative planning time** and **professional development for teachers and community partners** who provide expanded learning in core academic subjects for 21st Century Community Learning Center program recipients.
 - For non-charter Priority Schools - Requirement to meet the minimum standards set by the Commissioner and approved by the Board of Regents.
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Gearing Up for Waiver Implementation

June 2012

- SED will provide LEAs with a list of preliminarily identified Priority and Focus Schools, as well as the methodology that LEAs should use in making Focus School determinations.

June/July 2012

- SED will publish Field Guidance on:
 - Extended Learning Time requirements for Priority Schools
 - New flexibility regarding Choice and SES
 - New set asides to support Focus and Priority Schools

Gearing Up for Waiver Implementation

June 2012

- LEAs will submit a list of the Focus Schools that they will serve in 2012-2013, as well as any petitions for schools to be removed from either the Priority or Focus preliminary lists.
- SED will propose emergency regulations to codify proposed accountability system and supports for Board of Regents consideration and adoption.
- SED will issue new Consolidated Application and District Comprehensive Improvement Plan later this year.
- SED will confirm the final list of Priority and Focus Schools, and publicly announce the lists by June 30th.

September/October 2012

- LEA will notify SED regarding which Priority Schools will be implementing a SIG Model or a Turnaround Principle CEP in 2013-2014, and which schools will implement in 2014-2015.
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Notification Timeline

- ❑ Later this school year, NYSED will provide districts with information on the accountability status of the district and its schools for the 2012-13 school year. NYSED will also notify public charter schools of their identification and accountability status.

 - ❑ The Department will identify Priority Schools and Focus Districts only once during the wavier period. If a school is not identified as a Priority School in June 2012, it will not be so identified during the 2012-13, 2013-14, or 2014-2015 school years.

 - ❑ The Department will identify public charter schools as Priority Schools and Focus Schools only once during the wavier period. If a public charter school is not identified as a Priority or Focus School in June 2012, it will not be so identified during the 2012-13, 2013-14, or 2014-15 school years.
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For further information contact:

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or

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