



ESEA Flexibility

Updated June 7, 2012

FLEXIBILITY TO IMPROVE STUDENT ACADEMIC ACHIEVEMENT AND INCREASE THE QUALITY OF INSTRUCTION

In order to move forward with State and local reforms designed to improve academic achievement and increase the quality of instruction for all students in a manner that was not originally contemplated by the No Child Left Behind Act of 2001 (NCLB), a State educational agency (SEA) may request flexibility, on its own behalf and on behalf of its local educational agencies (LEAs), through waivers of ten provisions of the Elementary and Secondary Education Act of 1965 (ESEA) and their associated regulatory, administrative, and reporting requirements. In order to receive this flexibility, an SEA must meet the principles described in the next section. Terms that are defined in the Definitions section of this document are in bold type the first time they appear.

This document was originally issued on September 23, 2011. It has been updated to include two optional waivers that have been added to ESEA flexibility since that time and to reflect the implementation timeline for an SEA that requests this flexibility at the beginning of the 2012–2013 school year.

1. Flexibility Regarding the 2013–2014 Timeline for Determining Adequate Yearly Progress (AYP): An SEA would no longer need to follow the procedures in ESEA section 1111(b)(2)(E) through (H) for setting annual measurable objectives (AMOs) to use in determining AYP. Instead, an SEA would have flexibility to develop new ambitious but achievable AMOs in reading/language arts and mathematics in order to provide meaningful goals that will be used to guide support and improvement efforts for the State, LEAs, schools, and student subgroups.
2. Flexibility in Implementation of School Improvement Requirements: An LEA would no longer be required to comply with the requirements in ESEA section 1116(b) to identify for improvement, corrective action, or restructuring, as appropriate, its Title I schools that fail, for two consecutive years or more, to make AYP, and neither the LEA nor its schools would be required to take currently required improvement actions; however, an SEA may still require or permit an LEA to take such actions. An LEA would also be exempt from all administrative and reporting requirements related to school improvement under current law.
3. Flexibility in Implementation of LEA Improvement Requirements: An SEA would no longer be required to comply with the requirements in ESEA section 1116(c) to identify for improvement or corrective action, as appropriate, an LEA that, for two consecutive years or more, fails to make AYP, and neither the LEA nor the SEA would be required to take currently required improvement actions. An LEA would also be exempt from all associated administrative and reporting requirements related to LEA improvement under current law.
4. Flexibility for Rural LEAs: An LEA that receives Small, Rural School Achievement Program funds or Rural and Low-Income School Program funds would have flexibility under ESEA sections 6213(b) and 6224(e) to use those funds for any authorized purpose regardless of the LEA's AYP status.
5. Flexibility for Schoolwide Programs: An LEA would have flexibility to operate a schoolwide program in a Title I school that does not meet the 40 percent poverty threshold in ESEA section 1114(a)(1) if the SEA has identified the school as a **priority school** or a **focus school**, and the LEA is implementing 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 the school, as appropriate.

6. Flexibility to Support School Improvement: An SEA would have flexibility to allocate ESEA section 1003(a) funds to an LEA in order to serve any priority or focus school, if the SEA determines such schools are most in need of additional support.
7. Flexibility for Reward Schools: An SEA would have flexibility to use funds reserved under ESEA section 1117(c)(2)(A) to provide financial rewards to any **reward school**, if the SEA determines such schools are most appropriate for financial rewards.
8. Flexibility Regarding Highly Qualified Teacher (HQT) Improvement Plans: An LEA that does not meet its HQT targets would no longer have to develop an improvement plan under ESEA section 2141 and would have flexibility in how it uses its Title I and Title II funds. An SEA would be exempt from the requirements regarding its role in the implementation of these plans, including the requirement that it enter into agreements with LEAs on the uses of funds and the requirement that it provide technical assistance to LEAs on their plan. This flexibility would allow SEAs and LEAs to focus on developing and implementing more meaningful evaluation and support systems. An SEA would not be exempt from the requirement 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; however, once more meaningful evaluation and support systems are in place in accordance with principle 3 (described below), an SEA may use the results of such systems to meet that requirement.
9. Flexibility to Transfer Certain Funds: An SEA and its LEAs would have flexibility to transfer up to 100 percent of the funds received under the authorized programs designated in ESEA section 6123 among those programs and into Title I, Part A. Moreover, to minimize burden at the State and local levels, the SEA would not be required to notify the Department and its participating LEAs would not be required to notify the SEA prior to transferring funds.
10. Flexibility to Use School Improvement Grant (SIG) Funds to Support Priority Schools: An SEA would have flexibility to award SIG funds available under ESEA section 1003(g) to an LEA to implement one of the four SIG models in any priority school.

OPTIONAL FLEXIBILITY

In addition to its request for waivers of each of the requirements above, an SEA may wish to request flexibility through waivers related to the following:

11. Flexibility in the Use of Twenty-First Century Community Learning Centers (21st CCLC) Program Funds: An SEA would have flexibility under ESEA sections 4201(b)(1)(A) and 4204(b)(2)(A) to permit community learning centers that receive funds under the 21st CCLC program to use those funds 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 (*i.e.*, before and after school or during summer recess).
12. Flexibility Regarding Making AYP Determinations: An SEA and its LEAs would no longer be required to comply with the requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) to make AYP determinations for LEAs and schools, respectively. Instead, an 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.

13. Flexibility Regarding Within-District Title I Allocations: An LEA would have flexibility under ESEA section 1113(a)(3)-(4) and (c)(1) so that it may serve with Title I funds 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 based solely on the school's poverty rate.

PRINCIPLES FOR IMPROVING STUDENT ACADEMIC ACHIEVEMENT AND INCREASING THE QUALITY OF INSTRUCTION

To receive flexibility through the waivers outlined above, an SEA must submit a request that addresses each of the following four principles, consistent with the definitions and timelines described later in this document, to increase the quality of instruction for students and improve student academic achievement in the State and its LEAs. In the SEA's request, the SEA must describe how it will ensure that LEAs will fully implement these principles, consistent with the SEA's authority under State law and the SEA's request.

1. College- and Career-Ready Expectations for All Students

Over the past few years, Governors and Chief State School Officers have developed and adopted rigorous academic content standards to prepare all students for success in college and careers in the 21st century. States are also coming together to develop the next generation of assessments aligned with these new standards, and to advance essential skills that promote critical thinking, problem solving, and the application of knowledge. To support States in continuing the work of transitioning students, teachers, and schools to a system aligned to college and career ready expectations, this flexibility would remove obstacles that hinder that work.

To receive this flexibility, an SEA must demonstrate that it has college- and career-ready expectations for all students in the State by adopting **college- and career-ready standards** in at least reading/language arts and mathematics, transitioning to and implementing such standards statewide for all students and schools, and developing and administering annual, statewide, aligned, **high-quality assessments**, and corresponding academic achievement standards, that measure **student growth** in at least grades 3-8 and at least once in high school. An SEA must also support English Learners in reaching such standards by committing to adopt English language proficiency (ELP) standards that correspond to its college- and career-ready standards and that reflect the academic language skills necessary to access and meet the new college- and career-ready standards, and committing to develop and administer aligned ELP assessments. To ensure that its college- and career-ready standards are truly aligned with postsecondary expectations, and to provide information to parents and students about the college-readiness rates of local schools, an SEA must annually report to the public on college-going and college credit-accumulation rates for all students and student subgroups in each LEA and each high school in the State.

2. State-Developed Differentiated Recognition, Accountability, and Support

Fair, flexible, and focused accountability and support systems are critical to continuously improving the academic achievement of all students, closing persistent achievement gaps, and improving equity. Based on the principles for accountability developed by the Council of Chief State School Officers, many States are already moving forward with next-generation systems that recognize student growth and school progress, align accountability determinations with support and capacity-building efforts, and provide for systemic, context-specific interventions that focus on the lowest-performing schools and schools with the largest achievement gaps. This flexibility would give SEAs and LEAs relief from the school and LEA improvement requirements of NCLB so they can implement these new systems.

To receive this flexibility, an SEA must develop and implement a system of differentiated

recognition, accountability, and support for all LEAs in the State and for all Title I schools in these LEAs. Those systems must look at student achievement in at least reading/language arts and mathematics for all students and all subgroups of students identified in ESEA section 1111(b)(2)(C)(v)(II); graduation rates for all students and all subgroups; and school performance and progress over time, including the performance and progress of all subgroups. They may also look at student achievement in subjects other than reading/language arts and mathematics, and, once an SEA has adopted high-quality assessments, must take into account student growth. An SEA's system of differentiated recognition, accountability, and support must create incentives and include differentiated interventions and support to improve student achievement and graduation rates and to close achievement gaps for all subgroups, including interventions specifically focused on improving the performance of English Learners and students with disabilities. More specifically, the SEA's system must, at a minimum:

- Set new ambitious but achievable AMOs in at least reading/language arts and mathematics for the State and all LEAs, schools, and subgroups, that provide meaningful goals and are used to guide support and improvement efforts.
- Provide incentives and recognition for success on an annual basis by publicly recognizing and, if possible, rewarding Title I schools making the most progress or having the highest performance as “reward schools.”
- Effect dramatic, systemic change in the lowest-performing schools by publicly identifying “priority schools” and ensuring that each LEA with one or more of these schools implements, for three years, meaningful interventions aligned with the turnaround principles in each of these schools. The SEA must also develop criteria to determine when a school that is making significant progress in improving student achievement exits priority status. Work to close achievement gaps by publicly identifying Title I schools with the greatest achievement gaps, or in which subgroups are furthest behind, as “focus schools” and ensuring that each LEA implements interventions, which may include tutoring and public school choice, in each of these schools based on reviews of the specific academic needs of the school and its students. The SEA must also develop criteria to determine when a school that is making significant progress in improving student achievement and narrowing achievement gaps exits focus status.
- Provide incentives and supports to ensure continuous improvement in other Title I schools that, based on the SEA's new AMOs and other measures, are not making progress in improving student achievement and narrowing achievement gaps.
- Build SEA, LEA, and school capacity to improve student learning in all schools and, in particular, in low-performing schools and schools with the largest achievement gaps. The SEA must provide timely and comprehensive monitoring of, and technical assistance for, LEA implementation of interventions in priority and focus schools, and must hold LEAs accountable for improving school and student performance, particularly for turning around their priority schools. The SEA and its LEAs must also ensure sufficient support for implementation of interventions in priority schools, focus schools, and other Title I schools identified under the SEA's differentiated recognition, accountability, and support system (including through leveraging funds the LEA was previously required to reserve under ESEA section 1116(b)(10), SIG funds, and other Federal funds, as permitted, along with State and local resources).

3. Supporting Effective Instruction and Leadership

In recent years, many SEAs and LEAs have begun to develop evaluation systems that go beyond

NCLB's minimum HQT standards, provide more meaningful information about the effectiveness of teachers and principals, and can be used to inform professional development and improve practice. High-quality systems, informed by research that affirms that educators have significant and lasting effects on student learning, draw on multiple measures of instructional and leadership practices to evaluate and support teacher and principal effectiveness. This flexibility will give SEAs and LEAs the ability to continue this work designed to increase the quality of instruction for all students by building fair, rigorous evaluation and support systems and developing innovative strategies for using them.

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.

4. Reducing Duplication and Unnecessary Burden

In order to provide an environment in which schools and LEAs have the flexibility to focus on what's best for students, an SEA should remove duplicative and burdensome reporting requirements that have little or no impact on student outcomes. To receive the flexibility, an SEA must assure that it will evaluate and, based on that evaluation, revise its own administrative requirements to reduce duplication and unnecessary burden on LEAs and schools.

Nothing in these principles shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

CONSULTATION

Each SEA must engage diverse stakeholders and communities in the development of its request. By engaging relevant stakeholders at the outset of the planning and implementation process, an SEA can ensure they have input in shaping the SEA's comprehensive plan, which will help ensure successful implementation of the SEA's plan. Ideally, an SEA will solicit input from stakeholders representing diverse perspectives, experiences, and interests, including those that will be impacted by and implement the policies included in the SEA's plan, and will strengthen its request by revising it based on this input.

Each SEA must provide a description of how the SEA meaningfully engaged and solicited input on its request from teachers and their representatives. Each SEA must also provide a description of how the SEA meaningfully engaged and solicited input on its request from other diverse communities, such as students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities and English Learners, business organizations, and Indian tribes. Finally, each SEA must provide an assurance that it has consulted with the State's Committee of Practitioners regarding the information set forth in its request.

EVALUATION

Implementing this flexibility presents a valuable opportunity for SEAs, LEAs, and the Department to learn more about the effectiveness of various programs, practices, and strategies and to contribute to the evidence base of what works. The Department encourages an SEA that receives approval to implement this flexibility to collaborate with the Department to evaluate at least one program, practice, or strategy the SEA or its LEAs implement under principle 1, 2, or 3. For example, an SEA could propose to evaluate an aspect of its plan for transitioning to college- and career-ready standards; the interventions the SEA and its LEAs are implementing in priority or focus schools; or its teacher and principal evaluation and support systems. Interested SEAs will need to, upon receipt of approval of this flexibility, nominate for evaluation a program, practice, or strategy the SEA or its LEAs will implement under principle 1, 2, or 3. The Department will work with the SEA to determine the feasibility and design of the evaluation and, if it is determined to be feasible and appropriate, will fund and conduct the evaluation in partnership with the SEA, ensuring that the implementation of the chosen program, practice, or strategy is consistent with the evaluation design.

DEFINITIONS

1. **College- and Career-Ready Standards:** “College- and career-ready standards” are content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State’s college- and career-ready standards must be either (1) **standards that are common to a significant number of States**; or (2) standards that are approved by a **State network of institutions of higher education**, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.
2. **Focus School:** A “focus school” is a Title I school in the State that, based on the most recent data available, is contributing to the achievement gap in the State. The total number of focus schools in a State must equal at least 10 percent of the Title I schools in the State. A focus school is—
 - a school that has the largest within-school gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, has the largest within-school gaps in graduation rates; or
 - a school that has a subgroup or subgroups with low achievement or, at the high school level, low graduation rates.

An SEA must also identify as a focus school a Title I high school with a graduation rate less than 60 percent over a number of years that is not identified as a priority school.

These determinations must be based on the achievement and lack of progress over a number of years of one or more subgroups of students identified under ESEA section 1111(b)(2)(C)(v)(II) in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, or, at the high school level, graduation rates for one or more subgroups.

3. **High-Quality Assessment:** A “high-quality assessment” is an assessment or a system of assessments that is valid, reliable, and fair for its intended purposes; and measures student knowledge and skills against college- and career-ready standards in a way that—
 - covers the full range of those standards, including standards against which student achievement has traditionally been difficult to measure;
 - as appropriate, elicits complex student demonstrations or applications of knowledge and skills;
 - provides an accurate measure of student achievement across the full performance continuum, including for high- and low-achieving students;
 - provides an accurate measure of student growth over a full academic year or course;
 - produces student achievement data and student growth data that can be used to determine whether individual students are college and career ready or on track to being college and career ready;
 - assesses all students, including English Learners and students with disabilities;
 - provides for alternate assessments based on grade-level academic achievement standards or alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities, consistent with 34 C.F.R. § 200.6(a)(2); and
 - produces data, including student achievement data and student growth data, that can be

used to inform: determinations of school effectiveness for purposes of accountability under Title I; determinations of individual principal and teacher effectiveness for purposes of evaluation; determinations of principal and teacher professional development and support needs; and teaching, learning, and program improvement.

4. **Priority School:** A “priority school” is a school that, based on the most recent data available, has been identified as among the lowest-performing schools in the State. The total number of priority schools in a State must be at least five percent of the Title I schools in the State. A priority school is—
 - a school among the lowest five percent of Title I schools in the State based on the achievement of the “all students” group in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the “all students” group;
 - a Title I-participating or Title I-eligible high school with a graduation rate less than 60 percent over a number of years; or
 - a Tier I or Tier II school under the SIG program that is using SIG funds to implement a school intervention model.
5. **Reward School:** A “reward school” is a Title I school that, based on the most recent data available, is—
 - a “**highest-performing school**,” which is a Title I school among the Title I schools in the State that have the highest absolute performance over a number of years for the “all students” group and for all subgroups, on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, and, at the high school level, is also among the Title I schools with the highest graduation rates. A highest-performing school must be making AYP for the “all students” group and all of its subgroups. A school may not be classified as a “highest-performing school” if there are significant achievement gaps across subgroups that are not closing in the school; or
 - a “**high-progress school**,” which is a Title I school among the ten percent of Title I schools in the State that are making the most progress in improving the performance of the “all students” group over a number of years on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, and, at the high school level, is also among the Title I schools in the State that are making the most progress in increasing graduation rates. A school may not be classified as a “high-progress school” if there are significant achievement gaps across subgroups that are not closing in the school.
6. **Standards that are Common to a Significant Number of States:** “Standards that are common to a significant number of States” means standards that are substantially identical across all States in a consortium that includes a significant number of States. A State may supplement such standards with additional standards, provided that the additional standards do not exceed 15 percent of the State’s total standards for a content area.
7. **State Network of Institutions of Higher Education (IHEs):** A “State network of institutions of higher education” means a system of four-year public IHEs that, collectively, enroll at least 50 percent of the students in the State who attend the State’s four-year public

IHEs.

8. **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.
9. **Turnaround Principles:** Meaningful interventions designed to improve the academic achievement of students in priority schools must be aligned with all of the following “turnaround principles” and selected with family and community input:
- providing strong leadership by: (1) reviewing the performance of the current principal; (2) either replacing the principal if such a change is necessary to ensure strong and effective leadership, or demonstrating to the SEA that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort; and (3) providing the principal with operational flexibility in the areas of scheduling, staff, curriculum, and budget;
 - ensuring that teachers are effective and able to improve instruction by: (1) reviewing the quality of all staff and retaining only those who are determined to be effective and have the ability to be successful in the turnaround effort; (2) preventing ineffective teachers from transferring to these schools; and (3) providing job-embedded, ongoing professional development informed by the teacher evaluation and support systems and tied to teacher and student needs;
 - redesigning the school day, week, or year to include additional time for student learning and teacher collaboration;
 - strengthening the school’s instructional program based on student needs and ensuring that the instructional program is research-based, rigorous, and aligned with State academic content standards;
 - using data to inform instruction and for continuous improvement, including by providing time for collaboration on the use of data;
 - establishing a school environment that improves school safety and discipline and addressing other non-academic factors that impact student achievement, such as students’ social, emotional, and health needs; and
 - providing ongoing mechanisms for family and community engagement.

A priority school that implements one of the four SIG models is implementing an intervention that satisfies the turnaround principles. An SEA may also implement interventions aligned with the turnaround principles as part of a statewide school turnaround strategy that allows for State takeover of schools or for transferring operational control of the school to another entity such

as a recovery school district or other management organization.

TIMELINES FOR “WINDOW 1” AND “WINDOW 2” REQUESTS

The dates identified in the chart as deadlines (bolded in the chart) for complying with a principle are the latest by which an SEA that submitted an ESEA flexibility request for Window 1 (*i.e.*, for peer review in December 2011) or Window 2 (*i.e.*, for peer review in March 2012) or its LEAs must meet a particular principle. The dates identified as when an SEA or LEA may begin to implement a waiver represent the earliest an SEA that submitted an ESEA flexibility request for Window 1 or Window 2 or its LEAs may take advantage of the specified waiver.

The “At Submission” column describes generally the information an SEA must supply in order to receive the flexibility. See the document titled *ESEA Flexibility Request* for more detail on the specific evidence that States must submit to meet the principles. The initial waiver period for waivers granted to an SEA that submits a request in Window 1 or Window 2 will be through the 2013–2014 school year; however, an SEA that wishes to receive the flexibility must develop a plan that covers all four years identified in the chart. The “SY 2014–2015” column identifies the additional actions that an SEA that submitted a request in Window 1 or Window 2 must take if it receives an extension of the flexibility.

TIMELINE FOR IMPLEMENTATION OF ESEA FLEXIBILITY FOR “WINDOW 1” AND “WINDOW 2” REQUESTS

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Adopt college- and career-ready standards	Request includes evidence that the State has formally adopted college- and career-ready standards	No text	No text	No text	No text
Implement college- and career-ready standards	Request includes plan for transitioning to and implementing college- and career-ready standards	SEA and LEAs prepare to implement college- and career-ready standards	SEA and LEAs prepare to implement college- and career-ready standards	SEA and LEAs implement college- and career-ready standards	No text
Develop and administer high-quality assessments aligned with college- and career-ready standards	Request includes plan for developing and administering high-quality assessments aligned with college- and career-ready standards, and assurance that SEA will develop and administer alternate assessments consistent with 34 C.F.R. § 200.6(a)(2)	SEA develops statewide high-quality assessments aligned with college- and career-ready standards	SEA develops statewide high-quality assessments aligned with college- and career-ready standards	SEA administers pilot high-quality assessments aligned with college- and career-ready standards	SEA administers high-quality assessments aligned with college- and career-ready standards

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Adopt ELP standards that correspond to college- and career-ready standards	Request includes assurance that SEA will adopt ELP standards	No text	No text	SEA adopts ELP standards that correspond to State’s college- and career-ready standards, consistent with the requirement in ESEA section 3113(b)(2)	No text
Develop and administer ELP assessments	Request includes assurance that SEA will develop and administer ELP assessments	No text	No text	No text	SEA develops and administers ELP assessments aligned with the State’s ELP standards, consistent with the requirements in ESEA sections 1111(b)(7), 3113(b)(2), and 3122(a)(3)(A)(ii)

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Annually report college-going and college credit-accumulation rates for all students and subgroups of students in each LEA and each public high school in the State	Request includes assurance that SEA will annually report to the public the required data	No text	No text	No text	SEA annually reports to the public college-going and college credit-accumulation rates, as defined under State Fiscal Stabilization Fund Indicators (c)(11) and (c)(12)
Waiver to set new ambitious but achievable AMOs	Request includes proposed new AMOs and justification that they are ambitious but achievable	SEA may apply new AMOs to AYP determinations beginning with SY 2011–2012 assessment results	SEA may apply new AMOs to AYP determinations beginning with SY 2011–2012 assessment results	SEA may apply new AMOs to AYP determinations beginning with SY 2011–2012 assessment results	Continue applying new AMOs

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver of requirement to make AYP determinations (*Optional)	No text	Beginning with reporting results of SY 2011–2012 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively	Beginning with reporting results of SY 2011–2012 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively	Beginning with reporting results of SY 2011–2012 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively	Continue waiver
Waiver of requirements to identify schools and LEAs for improvement status	No text	Beginning with release of AYP determinations based on SY 2011–2012 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement	Beginning with release of AYP determinations based on SY 2011–2012 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement	Beginning with release of AYP determinations based on SY 2011–2012 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement	Continue waiver
Waiver of requirements for schools and LEAs in improvement status to take certain specified actions	No text	No text	Beginning in SY 2012–2013, LEAs and schools need not take required actions under ESEA section 1116(b) or (c) (per the waiver discussed in the preceding row, LEAs and schools will no longer be in improvement status)		Continue waiver

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Develop and implement a State-based system of differentiated recognition, accountability, and support	Request includes a description of the SEA’s differentiated recognition, accountability, and support system and the SEA’s plan for implementation	No text	SEA implements its system of differentiated recognition, accountability, and support		Continue implementing differentiated recognition, accountability, and support system
Annually identify and recognize or reward highest-performing and high-progress Title I schools	Request includes SEA’s methodology for identifying schools and list of schools based on SY 2010-2011 assessment results	SEA annually publicly identifies and recognizes or rewards highest-performing and high-progress Title I schools	SEA annually publicly identifies and recognizes or rewards highest-performing and high-progress Title I schools		Continue annually publicly identifying reward schools
Implement school interventions consistent with the turnaround principles in priority schools	Request includes SEA’s methodology for identifying schools, list of schools based on SY 2010–2011 assessment results, and a plan to implement interventions consistent with the turnaround principles in such schools over the period of the flexibility	SEA makes public its list of priority schools	LEAs implement interventions consistent with the turnaround principles in each Title I school identified as a priority school and consistent with SEA’s timeline for implementing such interventions in all of those schools over the period of the flexibility		Continue implementing interventions in priority schools

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Implement interventions in focus schools	Request includes SEA’s methodology for identifying schools, list of schools based on SY 2010–2011 assessment results, SEA’s process for ensuring LEAs implement interventions based on needs, and examples of interventions	SEA makes public its list of focus schools	LEAs implement interventions in each Title I school identified as a focus school		Continue implementing interventions in focus schools
Build capacity to improve student learning	Request includes description of the SEA’s process for building SEA, LEA, and school capacity	No text	SEA implements its process for building SEA, LEA, and school capacity through monitoring and technical assistance; holding LEAs accountable for improving school and student performance; and ensuring sufficient support for implementation of interventions in priority schools, focus schools, and other identified schools		No text
Waiver of poverty threshold for priority and focus schools to operate a schoolwide program	No text	No text	LEAs may operate a schoolwide program in their priority schools to implement interventions consistent with the turnaround principles and in their focus schools to implement interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school		Continue waiver

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver of requirement to serve schools in rank order of poverty (*Optional)	No text	No text	LEAs may serve with Title I funds 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 based solely on the school’s poverty rate		Continue waiver
Waiver providing flexibility for rural LEAs	No text	No text	LEAs that receive Small, Rural School Achievement Program or Rural and Low-Income School Program funds may use those funds for any authorized purpose regardless of their AYP status		Continue waiver
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

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver of limits on transferability of funds and requirements to report transfers prior to transferring funds	No text	Limits on transferability do not apply to FY 2011 and subsequent funds	Limits on transferability do not apply to FY 2011 and subsequent funds		Continue waiver
Waiver for flexibility to support school improvement	No text	No text	SEA may allocate ESEA section 1003(a) funds to any LEA in order to serve focus and priority schools identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most in need of additional support		Continue waiver
Waiver for flexibility to reward schools	No text	No text	SEA may use funds reserved under ESEA section 1117(c)(2)(A) to provide financial rewards to any reward school identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most appropriate for financial rewards		Continue waiver

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver to use SIG funds to support priority schools	No text	SEA may award SIG funds to an LEA to implement one of the four SIG models in a priority school, even if that school is not otherwise a Tier I or Tier II school	SEA may award SIG funds to an LEA to implement one of the four SIG models in a priority school, even if that school is not otherwise a Tier I or Tier II school		Continue waiver

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver regarding use of 21st CCLC program funds (*Optional)	No text	Beginning with its first competition for 21st CCLC funds after receiving ESEA flexibility, SEA may award funds to eligible entities to provide activities that support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session	Beginning with its first competition for 21st CCLC funds after receiving ESEA flexibility, SEA may award funds to eligible entities to provide activities that support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session		Continue waiver

Principle or waiver	Required at submission	Required during initial waiver period SY 2011–2012	Required during initial waiver period SY 2012–2013	Required during initial waiver period SY 2013–2014	Required if approved for extension SY 2014–2015
Waiver regarding Highly Qualified Teacher (HQT) improvement plan	No text	LEAs that do not meet the State’s HQT targets need not develop an improvement plan or restrict their use of Title I and Title II funds; SEA need not implement HQT plans or agreements regarding the use of funds and need not provide technical assistance to LEAs in implementing their plans	LEAs that do not meet the State’s HQT targets need not develop an improvement plan or restrict their use of Title I and Title II funds; SEA need not implement HQT plans or agreements regarding the use of funds and need not provide technical assistance to LEAs in implementing their plans		Continue waiver

TIMELINES FOR “WINDOW 3” REQUESTS

The dates identified in the chart as deadlines (bolded in the chart) for complying with a principle are the latest by which an SEA that submits an ESEA flexibility request for Window 3 (*i.e.*, for peer review in October 2012) or its LEAs must meet a particular principle. The dates identified as when an SEA or LEA may begin to implement a waiver represent the earliest an SEA that submits an ESEA flexibility request for Window 3 or its LEAs may take advantage of the specified waiver.

The “At Submission” column describes generally the information an SEA must supply in order to receive the flexibility. See the document titled *ESEA Flexibility Request for Window 3* for more detail on the specific evidence that States must submit to meet the principles. The waiver period for requests submitted for Window 3 will be through the 2014–2015 school year.

TIMELINE FOR IMPLEMENTATION OF ESEA FLEXIBILITY FOR “WINDOW 3” REQUESTS

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Adopt college- and career-ready standards	Request includes evidence that the State has formally adopted college- and career-ready standards	No text	No text	No text
Implement college- and career-ready standards	Request includes plan for transitioning to and implementing college- and career-ready standards	SEA and LEAs prepare to implement college- and career-ready standards	SEA and LEAs implement college- and career-ready standards	No text

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Develop and administer high-quality assessments aligned with college- and career-ready standards	Request includes plan for developing and administering high-quality assessments aligned with college- and career-ready standards, and assurance that SEA will develop and administer alternate assessments consistent with 34 C.F.R. § 200.6(a)(2)	SEA develops statewide high-quality assessments aligned with college- and career-ready standards	SEA administers pilot high-quality assessments aligned with college- and career-ready standards	SEA administers high-quality assessments aligned with college- and career-ready standards
Adopt ELP standards that correspond to college- and career-ready standards	Request includes assurance that SEA will adopt ELP standards	No text	SEA adopts ELP standards that correspond to State’s college- and career-ready standards, consistent with the requirement in ESEA section 3113(b)(2)	No text
Develop and administer ELP assessments	Request includes assurance that SEA will develop and administer ELP assessments	No text	No text	SEA develops and administers ELP assessments aligned with the State’s ELP standards, consistent with the requirements in ESEA sections 1111(b)(7), 3113(b)(2), and 3122(a)(3)(A)(ii)

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Annually report college-going and college credit-accumulation rates for all students and subgroups of students in each LEA and each public high school in the State	Request includes assurance that SEA will annually report to the public the required data	No text	No text	SEA annually reports to the public college-going and college credit-accumulation rates, as defined under State Fiscal Stabilization Fund Indicators (c)(11) and (c)(12)
Waiver to set new ambitious but achievable AMOs	Request includes proposed new AMOs and justification that they are ambitious but achievable	SEA may apply new AMOs to AYP determinations beginning with SY 2012–2013 assessment results	SEA may apply new AMOs to AYP determinations beginning with SY 2012–2013 assessment results	SEA may apply new AMOs to AYP determinations beginning with SY 2012–2013 assessment results
Waiver of requirement to make AYP determinations (*Optional)	No text	Beginning with reporting results of SY 2012–2013 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively	Beginning with reporting results of SY 2012–2013 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively	Beginning with reporting results of SY 2012–2013 assessments, SEA and LEAs need not make AYP determinations for LEAs or schools, respectively

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver of requirements to identify schools and LEAs for improvement status	No text	Beginning with release of AYP determinations based on SY 2012–2013 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement	Beginning with release of AYP determinations based on SY 2012–2013 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement	Beginning with release of AYP determinations based on SY 2012–2013 assessments, SEA and LEAs need not identify LEAs or schools, respectively, for improvement
Waiver of requirements for schools and LEAs in improvement status to take certain specified actions	No text	No text	Beginning in SY 2013–2014, LEAs and schools need not take required actions under ESEA section 1116(b) or (c) (per the waiver discussed in the preceding row, LEAs and schools will no longer be in improvement status)	Beginning in SY 2013–2014, LEAs and schools need not take required actions under ESEA section 1116(b) or (c) (per the waiver discussed in the preceding row, LEAs and schools will no longer be in improvement status)

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Develop and implement a State-based system of differentiated recognition, accountability, and support	Request includes a description of the SEA’s differentiated recognition, accountability, and support system and the SEA’s plan for implementation	No text	SEA implements its system of differentiated recognition, accountability, and support	SEA implements its system of differentiated recognition, accountability, and support
Annually identify and recognize or reward highest-performing and high-progress Title I schools	Request includes SEA’s methodology for identifying schools and list of schools based on SY 2011–2012 assessment results	SEA annually publicly identifies and recognizes or rewards highest-performing and high-progress Title I schools	SEA annually publicly identifies and recognizes or rewards highest-performing and high-progress Title I schools	SEA annually publicly identifies and recognizes or rewards highest-performing and high-progress Title I schools

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Implement school interventions consistent with the turnaround principles in priority schools	Request includes SEA’s methodology for identifying schools, list of schools based on SY 2011–2012 assessment results, and a plan to implement interventions consistent with the turnaround principles in such schools over the period of the flexibility	SEA makes public its list of priority schools	LEAs implement interventions consistent with the turnaround principles in each Title I school identified as a priority school and consistent with SEA’s timeline for implementing such interventions in all of those schools over the period of the flexibility	LEAs implement interventions consistent with the turnaround principles in each Title I school identified as a priority school and consistent with SEA’s timeline for implementing such interventions in all of those schools over the period of the flexibility
Implement interventions in focus schools	Request includes SEA’s methodology for identifying schools, list of schools based on SY 2011–2012 assessment results, SEA’s process for ensuring LEAs implement interventions based on needs, and examples of interventions	SEA makes public its list of focus schools	LEAs implement interventions in each Title I school identified as a focus school	LEAs implement interventions in each Title I school identified as a focus school

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Build capacity to improve student learning	Request includes description of the SEA’s process for building SEA, LEA, and school capacity	No text	SEA implements its process for building SEA, LEA, and school capacity through monitoring and technical assistance; holding LEAs accountable for improving school and student performance; and ensuring sufficient support for implementation of interventions in priority schools, focus schools, and other identified schools	SEA implements its process for building SEA, LEA, and school capacity through monitoring and technical assistance; holding LEAs accountable for improving school and student performance; and ensuring sufficient support for implementation of interventions in priority schools, focus schools, and other identified schools

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver of poverty threshold for priority and focus schools to operate a schoolwide program	No text	No text	LEAs may operate a schoolwide program in their priority schools to implement interventions consistent with the turnaround principles and in their focus schools to implement interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school	LEAs may operate a schoolwide program in their priority schools to implement interventions consistent with the turnaround principles and in their focus schools to implement interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver of requirement to serve schools in rank order of poverty (*Optional)	No text	No text	LEAs may serve with Title I funds a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if it does not rank high enough to be served based solely on the school’s poverty rate	LEAs may serve with Title I funds a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if it does not rank high enough to be served based solely on the school’s poverty rate
Waiver providing flexibility for rural LEAs	No text	No text	LEAs that receive Small, Rural School Achievement Program or Rural and Low-Income School Program funds may use those funds for any authorized purpose regardless of their AYP status	LEAs that receive Small, Rural School Achievement Program or Rural and Low-Income School Program funds may use those funds for any authorized purpose regardless of their AYP status

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
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	<p>SEA adopts guidelines for teacher and principal evaluation and support systems</p> <p>SEA provides student growth data to teachers</p>	LEAs develop evaluation and support systems consistent with State guidelines	<p>LEAs pilot implementation of evaluation and support systems (e.g., pilot in a few schools; implement in all schools but do not publicize results) with intent to fully implement in 2015–2016 or fully implement evaluation and support systems</p>
Waiver of limits on transferability of funds and requirements to report transfers prior to transferring funds	No text	Limits on transferability do not apply to FY 2012 and subsequent funds	Limits on transferability do not apply to FY 2012 and subsequent funds	Limits on transferability do not apply to FY 2012 and subsequent funds

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver for flexibility to support school improvement	No text	No text	SEA may allocate ESEA section 1003(a) funds to any LEA in order to serve focus and priority schools identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most in need of additional support	SEA may allocate ESEA section 1003(a) funds to any LEA in order to serve focus and priority schools identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most in need of additional support

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver for flexibility to reward schools	No text	No text	SEA may use funds reserved under ESEA section 1117(c)(2)(A) to provide financial rewards to any reward school identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most appropriate for financial rewards	SEA may use funds reserved under ESEA section 1117(c)(2)(A) to provide financial rewards to any reward school identified under the State-developed differentiated recognition, accountability, and support system, if the SEA determines such schools are most appropriate for financial rewards

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver regarding Highly Qualified Teacher (HQT) improvement plan	No text	LEAs that do not meet the State’s HQT targets need not develop an improvement plan or restrict their use of Title I and Title II funds; SEA need not implement HQT plans or agreements regarding the use of funds and need not provide technical assistance to LEAs in implementing their plans	LEAs that do not meet the State’s HQT targets need not develop an improvement plan or restrict their use of Title I and Title II funds; SEA need not implement HQT plans or agreements regarding the use of funds and need not provide technical assistance to LEAs in implementing their plans	LEAs that do not meet the State’s HQT targets need not develop an improvement plan or restrict their use of Title I and Title II funds; SEA need not implement HQT plans or agreements regarding the use of funds and need not provide technical assistance to LEAs in implementing their plans
Waiver to use SIG funds to support priority schools	No text	SEA may award SIG funds to an LEA to implement one of the four SIG models in a priority school, even if that school is not otherwise a Tier I or Tier II school	SEA may award SIG funds to an LEA to implement one of the four SIG models in a priority school, even if that school is not otherwise a Tier I or Tier II school	SEA may award SIG funds to an LEA to implement one of the four SIG models in a priority school, even if that school is not otherwise a Tier I or Tier II school

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Review and evaluate State-level administrative and reporting requirements to reduce duplication and unnecessary burden	SEA assures it will review and evaluate State-level administrative requirements and adjust appropriately in order to reduce duplication and unnecessary burden on LEAs and schools.	SEA reviews and evaluates State-level administrative and reporting requirements and adjusts appropriately in order to reduce duplication and unnecessary burden on LEAs and schools	SEA reviews and evaluates State-level administrative and reporting requirements and adjusts appropriately in order to reduce duplication and unnecessary burden on LEAs and schools	SEA reviews and evaluates State-level administrative and reporting requirements and adjusts appropriately in order to reduce duplication and unnecessary burden on LEAs and schools

Principle or Waiver	At submission	SY 2012–2013	SY 2013–2014	SY 2014–2015
Waiver regarding use of 21st CCLC program funds (*Optional)	No text	<p>Beginning with its first competition for 21st CCLC funds after receiving ESEA flexibility, SEA may award funds to eligible entities to provide activities that support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session</p>	<p>Beginning with its first competition for 21st CCLC funds after receiving ESEA flexibility, SEA may award funds to eligible entities to provide activities that support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session</p>	<p>Beginning with its first competition for 21st CCLC funds after receiving ESEA flexibility, SEA may award funds to eligible entities to provide activities that support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session</p>