

Letters from the Education Secretary or Deputy Secretary

September 23, 2011

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Dear Chief State School Officers:

Over the past few years, States and districts have initiated groundbreaking reforms and innovations to increase the quality of instruction and improve academic achievement for all students. Forty-four States and the District of Columbia have adopted a common set of State-developed college- and career-ready standards, and 46 States and the District of Columbia are developing high-quality assessments aligned with these standards. Over 40 States are developing next-generation accountability and support systems, guided by principles developed by the Council of Chief State School Officers. Many States are also moving forward with reforms in such areas as teacher and principal evaluation and support, turning around low-performing schools, and expanding access to high-quality schools.

Many of these innovations and reforms, however, were not anticipated when the No Child Left Behind Act of 2001 (NCLB) was enacted nearly a decade ago. While NCLB helped State and local educational agencies (SEAs and LEAs) shine a bright light on the achievement gap and increased accountability for groups of high-need students, it inadvertently encouraged some States to set low academic standards, failed to recognize or reward growth in student learning, and did little to elevate the teaching profession or recognize the most effective teachers. Instead of fostering progress and accelerating academic improvement, many NCLB requirements have unintentionally become barriers to State and local implementation of forward-looking reforms designed to raise academic achievement. Consequently, many of you are petitioning us for relief from the requirements of current law. One of my highest priorities is to help ensure that Federal laws and policies can support these reforms and not hinder State and local innovation aimed at increasing the quality of instruction and improving student academic achievement.

For these reasons, I am writing to offer you the opportunity to request flexibility on behalf of your State, your LEAs, and your schools, in order to better focus on improving student learning and increasing the quality of instruction. This voluntary opportunity will provide educators and State and local leaders with flexibility regarding specific requirements of NCLB in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. This flexibility is intended to build on and support the significant State and local reform efforts already under way in critical areas such as transitioning to college- and career-ready standards and assessments; developing systems of differentiated recognition, accountability, and support; and evaluating and supporting teacher and principal effectiveness. Of course, programs and activities your SEA or LEAs have been implementing under NCLB that are increasing the quality of instruction and improving student academic achievement may be incorporated into your implementation of this flexibility.

I invite each interested SEA to request this flexibility pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), which allows me to waive, with certain exceptions, any statutory or regulatory requirement of the ESEA for an SEA that receives funds under a program authorized by the ESEA and requests a waiver. In order to provide a rigorous review process, we will draw on expertise of those outside the Department through a peer review process. Taking into account the comments of the peer reviewers, we will review requests for this flexibility and, if appropriate, grant waivers through the 2013–2014 school year, after which time an SEA may request an extension of the flexibility.

In addition to this letter, we have posted two documents on our Web site at <http://www.ed.gov/esea/flexibility>. The first document is titled ESEA Flexibility, which is also attached to this letter. This document contains three parts. First, it sets forth the statutory and regulatory requirements that would be waived in order to provide flexibility for SEAs and LEAs. Second, it lays out the principles to which SEAs and LEAs must adhere in order to receive that flexibility. Finally, it defines key terms (in bold type the first time they appear) and specifies timelines for implementation of the waivers and key principles.

The second document is titled ESEA Flexibility Request. An SEA should use this request form if it wishes to request the flexibility. The request details specific evidence that an SEA will need to submit. We will also provide in the near future additional information to assist an SEA in preparing its request for the flexibility, including answers to frequently asked questions and peer review guidance.

If an SEA needs additional time to plan for implementation of the flexibility, it may request approval to use as its annual measurable objectives (AMOs) for adequate yearly progress (AYP) determinations based on assessments administered in the 2011-2012 school year the same AMOs that it used the previous year. In return for this temporary flexibility, the SEA must adopt college- and career-ready standards; link teacher, principal, and student data and provide that information to educators to improve their practices; and identify persistent achievement gaps within the State that need to be closed.

If you have questions about this flexibility, please e-mail us at ESEAflexibility@ed.gov or write to us at the following address:

U.S. Department of Education
Office of Elementary and Secondary Education
Student Achievement and School Accountability Programs
400 Maryland Avenue, SW
Washington, DC 20202

To assist us in planning for the peer review process, I encourage you to notify us by October 12, 2011, using the e-mail address above, of your intent to request the flexibility. Please see the document titled ESEA Flexibility Request for information on submission windows and deadlines so that you can indicate in your e-mail the specific window during which you intend to request the flexibility. Thank you for your commitment to increasing the quality of instruction and improving academic achievement for all students. I look forward to receiving your SEA's flexibility request.

Sincerely,

/s/

Arne Duncan

Attachments

- [ESEA Flexibility](#) [MS Word, 1.8MB]
- [ESEA Flexibility Request](#) [MS Word, 1.9MB]



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