



**TO:** P-12 Education Committee

**FROM:** Cosimo Tangorra, Jr. *Cosimo Tangorra Jr.*

**SUBJECT:** 2015 Elementary and Secondary Education Act (ESEA)  
Waiver Renewal Application

**DATE:** December 8, 2014

**AUTHORIZATION(S):** *Elizabeth R Berlin*

### **SUMMARY**

#### **Issue for Discussion**

The purpose of this item is to request that the Board of Regents grant permission for Department staff to proceed with the development of an ESEA Waiver Renewal Application.

#### **Reason(s) for Consideration**

Review of policy pertaining to Federal statute.

#### **Proposed Handling**

This item will come before the P-12 Education Committee for discussion at the December 2014 meeting.

#### **Background Information**

In September 2011, President Obama announced an ESEA regulatory flexibility initiative, based upon the Secretary of Education's authority to issue waivers. In October 2011, the Board of Regents directed the Commissioner to submit an ESEA Flexibility Request to the United States Department of Education (USDE). On May 29, 2012, the USDE approved New York State's ESEA Flexibility Waiver Request. In September 2013, the USDE offered states with approved ESEA Flexibility Waivers the opportunity to renew those waivers for the 2014-15 school year. At its February 2014 meeting, the Board of Regents directed the Department to submit its ESEA Renewal Package. On

July 31, 2014, USDE approved New York State's ESEA Waiver Renewal Request for the 2014-15 school year. Since the initial approval of the Waiver in May 2012, offices within the Department have provided frequent updates on core Waiver activities such as the implementation of teacher and principal evaluation systems, implementation of the Common Core Learning Standards, creation of Common Core aligned assessments, and implementation of the Diagnostic Tool for School and District Effectiveness (DTSDE).

On November 13, 2014, the USDE issued new guidance for states with approved ESEA Flexibility Waivers, describing how states could apply for a three or four year renewal of their approved Flexibility Waivers. States such as New York that were identified by the USDE as having fully implemented the USDE's Flexibility Waiver requirements regarding teacher and principal evaluations were notified that they had the option of applying for a four year renewal, covering the 2015-16, 2016-17, 2017-18, and 2018-19 school years.

According to the new guidance and the accompanying Renewal Application, in order for states to receive approval to renew their current ESEA Flexibility Waiver, states must include the following in their renewal requests:

- Details on how the State consulted with key groups on the implementation of ESEA flexibility and the changes the State is proposing to make to its currently approved flexibility request;
- An updated description and evidence of how the State is ensuring that all Local Educational Agencies (LEAs) are fully implementing the State's college- and career- ready standards, including for English language learners, students with disabilities, and low-achieving students;
- A description of the process for ensuring that each of its LEAs is able to implement college- and career- ready assessments for all students in the 2014-2015 school year;
- A description of how the State will continue to ensure that all students graduate from high school ready for college and a career, including how the State will continue to support all students, including English language learners, students with disabilities, low-achieving students, and economically disadvantaged students, and teachers of those students;
- A demonstration that a school may not receive the highest rating in the State's accountability system if there are significant achievement or graduation rate gaps in the schools that are not closing;
- A description of interventions in the State's lowest-performing schools and schools with the largest-achieving gaps, including how the State will identify Priority and Focus Schools that have not met targets and how the State will increase the rigor of interventions and supports in those schools;
- A clear and rigorous process for providing interventions and supports to other Title I schools and supports for low-achieving students in those schools that consistently miss benchmarks;
- Demonstration that the State is on track for full implementation of its teacher and principal evaluation systems in 2014-15; and

- Updates from States reflecting the passage of time since the waivers were originally approved, including information about how the State will continuously improve implementation of its systems.

With the Regent's approval to begin development of the Renewal Application, the Department will work to address these requirements and update the plan to describe the Department's work under the waiver for the next four school years.

Department staff recommends that the general architecture of New York's current accountability system serve as the basis for development of New York's ESEA Renewal Application, including unique elements of the system such as identification of Focus Districts and the use of the Diagnostic Tool for School and District Effectiveness (DTSDE) to organize State supports and interventions. In addition, New York's Renewal Application should include proposals for modifications to assessment practices for students with disabilities and English language learners, consistent with the waiver amendments that the Department has submitted to USDE previously.

Additionally, department staff expects to:

1. Recommend to the Board of Regents that the application propose modest changes to the way in which schools and districts are identified and removed from Priority, Focus, and Local Assistance Plan (LAP) status.
2. Recommend to the Board of Regents that the application propose modest changes to the DTSDE, District Comprehensive Improvement Plan (DCIP), and School Comprehensive Education Plan (SCEP) processes based on the lessons learned during the first two years of implementation. These changes will be primarily designed to increase the effectiveness, timeliness, and transparency of these processes. Many of these changes are a result of ongoing dialogue with the ESEA Flexibility Think Tank.
3. Ensure that any decisions made by the Board of Regents regarding phase in of college- and career- ready graduation standards will be reflected in the waiver application.
4. Use the application to describe in more detail the additional supports and interventions that will occur in schools identified as Priority or Focus for more than three years. Commissioner's Regulation Part 100.18 provides a framework for such interventions.
5. Recommend to the Board of Regents that the Department uses 2014-15 data to generate new Priority School, Focus School, and Focus District lists by January 31, 2016, with related interventions beginning in the 2016-17 school year. The waiver allows states to either use 2013-14 school year or 2014-15 school year data to update lists of Priority and Focus Schools. Commissioner's Regulations are based on the use of 2014-15 school year data for this purpose.
6. Recommend to the Board of Regents that Department applies for an optional waiver that allows the State to provide districts with 1003(a) School Improvement funds to support improvement efforts in Title I LAP Schools. Department staff anticipate there will be strong field support for seeking this waiver.

## Development of the Renewal Application

The timeline for development of the Renewal Application is compressed to meet the USDE due date of March 31, 2015. While New York is one of seven states that the USDE has invited to submit an application by January 31, 2016 in order to receive an expedited review, Department staff believe that a January submission is not preferable, as it would leave insufficient time for engagement in the renewal process by stakeholders and the Board of Regents. As in the past, Department staff will meet regularly with the ESEA Think Tank and with an Internal Department Work Group to respond to the requirements of the Renewal Application. The Department proposes to return to the Board of Regents in February 2015 to receive approval to post the Renewal Application for public comment. In March 2015, the Department proposes to bring to the Board of Regents, for approval, a Renewal Application for submission to the USDE by March 31, 2015.

### Next Steps:

With the approval of the Regents, the Department will move forward with preparation of a Waiver Renewal Application as described below:

#### Renewal Application Timeline

Month	Activities
November 2014	<ul style="list-style-type: none"><li>• Convene Internal Work Group and Think Tank for bi-monthly meetings to guide drafting of Renewal Application.</li></ul>
December 2014	<ul style="list-style-type: none"><li>• Present Overview of Renewal Application to Committee of Practitioners.</li><li>• Present Overview of Renewal Application Process to Board of Regents.</li><li>• Continue meeting with ESEA Internal Work Group and Think Tank, for discussion of proposals and stakeholder feedback.</li></ul>
February 2015	<ul style="list-style-type: none"><li>• Present Renewal Application to Board of Regents for approval to post for public comment.</li><li>• Post Draft Renewal Application to SED website for public comment.</li></ul>
March 2015	<ul style="list-style-type: none"><li>• Finalize Renewal Application with the approval of the Board of Regents</li><li>• Submit ESEA Renewal Application to USDE.</li></ul>