
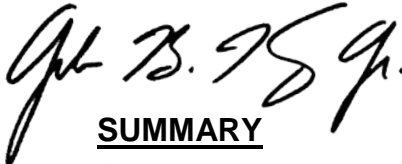




TO: Full Board
FROM: Ken Slentz 
SUBJECT: Update on New York State's Next Generation
Accountability System - Approval of Recommended
Revisions to the Elementary and Secondary Education
Act (ESEA) Flexibility Request

DATE: April 16, 2012

AUTHORIZATION(S):


SUMMARY

Issue for Decision

Should the Board of Regents direct the Commissioner of Education and State Education Department (SED or "the Department") staff to move forward in the implementation of changes as outlined in the ESEA Flexibility Request submitted to the United States Department of Education (USDE) on February 28, 2012?

Reason(s) for Consideration

For review of proposed policies relevant to the implementation of the ESEA Flexibility Request relating to the standards for Expanded Learning Time in Priority Schools, designation of schools for recognition and reward, and methodology for selection of Focus Schools.

Proposed Handling

This item will come before the full Board of Regents for decision at its April 2012 meeting.

Procedural History

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 USDE during the second round of submissions in mid-February 2012, and designated five members of the Board to help lead the work.

In November 2011, the Board of Regents approved the Guiding Principles to be used as the basis for the development of New York's ESEA Flexibility Request.

In December 2011, the Board of Regents was presented with specific proposed changes to New York's current accountability system, which were based on the Guiding Principles.

In January 2012, the Board of Regents directed staff to release a draft for public comment to engage in additional stakeholder consultation and prepare to submit a final draft waiver application for action by the Regents in February 2012.

In February 2012, the Board of Regents directed staff to prepare the final version of the ESEA Flexibility Request by incorporating revisions (including comments received from the public, as appropriate) with the approved guiding principles and any additional technical and/or editorial changes necessary. The Board of Regents also directed Department staff to submit the application to USDE by February 28, 2012. New York submitted its ESEA Flexibility Request to USDE by the required date. This request can be found at <http://www.p12.nysed.gov/esea-waiver/>. The final draft includes information pertaining to the following initiatives: Expanded Learning Time for Priority Schools, Methodology for the Identification of Focus Schools and Methodology for the Identification of Recognition Schools.

Background Information

New York's ESEA waiver application states that the Commissioner will establish, as approved by the Board of Regents, a minimum amount of Expanded Learning Time that must be incorporated into the redesign of the school day, week and/or year for Priority Schools. The Commissioner will also identify the districts/schools with the lowest performing subgroups that are not demonstrating growth as Focus Districts/Schools and identify Reward Schools. At the February 2012 Board of Regents meeting Department staff recommended that the Commissioner also identify a second group of schools as Recognition Schools.

This month the Commissioner will provide his proposal for these three initiatives: Expanded Learning Time (Attachment A), the identification of Recognition Schools (Attachment B), and the identification of Focus Schools (Attachment C) for Board of Regents endorsement.

- The key elements of the Extended Learning Time component for priority schools implementing a School Improvement Grant or a whole school reform model incorporating the ESEA waiver turnaround principles are that schools must: set as a goal serving 50 percent of eligible students; ensure the integration of academics, enrichment, and skill development through hands-on experiences

that make learning relevant and engaging; and must have instruction in any core academic subject delivered under the supervision of a teacher who is NYS certified in that particular content area. If the program is intended to count towards a Focused District meeting its set aside requirement for Priority Schools then the program must expand learning time by a minimum of 200 student contact hours per year.

- The key proposal for Recognition Schools is to identify two groups of schools: one in which schools so designated meet all the criteria for Reward Schools for which they are accountable, but do not meet all reward criteria because they have insufficient numbers of students or insufficient years of data to be measured on all criteria; and one in which schools so designated whose overall performance in ELA and math places them slightly below the criteria for Reward Schools, but are among the best performing or most progressing schools in the State for the performance of students with disabilities and/or English language learners.
- The key proposals for identification of Focus Schools are that:
 - the number of schools that are identified in a Focus District be based on the number not-proficient results in ELA or math, or non graduation results in the group(s) for which the district is identified as a proportion of all such results in Focus Districts in the state;
 - the number of schools to be identified in a district be adjusted to reflect the number of schools in the district that are priority schools;
 - schools are removed from consideration as focus schools when there are very few students who are not proficient or non-graduates in the group(s) for which the district is identified, or all of the group(s) for which the district was identified are meeting minimum performance thresholds in the school;
 - the number of Focus Schools in a district be capped at no more than 95% of elementary and middle schools and 85% of high schools.
 - when a district is identified as a Focus District because it has one or more priority schools, schools in that district that are low performing and not improving for the subgroup(s) for which the district is identified also be designated as Focus Schools; and
 - that the Commissioner identify the schools that a district must select as Focus Schools using rank orderings of schools in the district based on the number and percent not proficient or non-graduate results in the group(s) for which the district was identified.

Recommendation

It is recommended that the Board of Regents take the following action:

Voted: That the Board of Regents approves the Commissioner's recommendations for:

- Standards for the implementation of Expanded Learning Time in priority schools as proposed in Attachment A.
- Establishment of a Recognition Schools process and the methodology for identification as proposed in Attachment B.
- Methodology for identification of Focus Schools as proposed in Attachment C.

Timetable for Implementation

With the approval of the Board of Regents, staff will begin plans to implement these proposals upon approval of New York ESEA waiver application.

Attachments

Attachment A: Standards for Expanded Learning Time (ELT) in Priority Schools

A growing body of evidence shows that high quality expanded learning positively affects students' behavior, school attendance, and academic achievement. Students not only develop the characteristics they need to succeed in school, but to become active leaders in a collaborative workplace. (*Durlak and Weissberg, 2010; Halpern, 2003; Huang, et al., 2005.*)

The United States Department of Education defines "Increased learning time" for purposes of School Improvement Grants as increasing the length of the school day, week, or year to significantly increase the total number of school hours so as to include additional time for (a) instruction in core academic subjects including English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; (b) instruction in other subjects and provision of enrichment activities that contribute to a well-rounded education, such as physical education, service learning, and experiential and work-based learning opportunities; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects. To meet the requirements of the transformation and turnaround models, a school receiving a School Improvement Grant must offer all students an opportunity to participate in the program, and the school must have sufficient capacity and resources to serve any and all students who choose to participate.

SED recognizes that expanded learning opportunities, including high-quality afterschool, summer, and other expanded learning time approaches are an essential dimension of an education system that supports student success in school, work, and life. SED further recognizes that active parent involvement in their children's education is a factor in student success, and community-based organizations partnering with schools on expanded learning opportunities and comprehensive school turnaround can help facilitate that involvement.

New York State's ESEA waiver application requires that Priority Schools incorporate into the implementation of their whole school reform model an Expanded Learning Time (ELT) program. The ELT program will be a required component of the District's Comprehensive Improvement Plan and the Comprehensive Education Plan of each priority school that is implementing an ELT program. The District's consolidated application for federal funds must describe the extent to which federal and other funds are supporting the ELT program.¹

¹ SED further recognizes that ELT programs to be successful must be integral and not a mere add on to a school intervention model. According to a report entitled, "Off the Clock, What More Time Can (and Can't) Do For School Turnarounds (Education Sector, 2012), "Schools that have succeeded with extended time have done so largely because they include time as part of a more comprehensive reform."

Department staff proposes that the standard for approval of an Expanded Learning Time program in a Priority School be as follows²:

- the program must be offered to all students in those schools implementing a Transformation or Turnaround model, and, at a minimum, to all students eligible for Academic Intervention Services in schools implementing a whole school reform model not funded by 1003(g) School Improvement Grant Funds;
- the program may be either voluntary or compulsory. However, if the program is voluntary, its goal must be to serve at least fifty percent of eligible students. If a district offers Supplemental Educational Services (SES) to students, students who participate in SES will count towards achievement of the 50 percent goal. Failure to achieve this goal may be considered in determining the accountability status of the school;
- the program must ensure the integration of academics, enrichment, and skill development through hands-on experiences that make learning relevant and engaging;
- the program must offer a range of activities that capture student interest and strengthen student engagement in learning so as to promote higher attendance, reduces risk for retention or drop out, and increases the likelihood of graduation;
- the program must actively address the unique learning needs and interests of all types of students, especially those who may benefit from approaches and experiences not offered in the traditional classroom setting;
- the program must contain components designed to improve student academic, social, and emotional outcomes, including opportunities for enrichment programs such as in music and art; and
- instruction in any core academic subject offered in the program must be delivered under the supervision of a teacher who is NYS certified in that particular content area;

In addition to the above, the program must be offered in conjunction with a high quality, high capacity community partner if funded by 21st Century Community Center Learning Funds. If the program will be used to meet the requirements of the Title I set aside for Priority Schools. the program must expand learning time by a minimum of 200 student contact hours per year beyond the current mandated length of 900 hours per year of instruction in elementary school and 990 hours per year in high school (Kindergarten and Grades 1-6 = 5 hours, Grades 7-12 = 5.5 hours X 180 days of instruction per year). Title IIA funds may be used for professional

² The National Center on Time and Learning in its report "Time Well Spent: Eight Powerful Practices of Successful Expanded-Time Schools," identified optimizing time for student learning, using time to help students thrive in school and beyond and dedicating time to improve teacher effectiveness as the characteristics of high performing Expanded-Time Schools. These proposed standards are intended to encourage the development of these characteristics in Priority Schools that implement an ELT model.

development, and planning for Expanded Learning Time delivery may also be counted towards the Title II set aside for Priority Schools.

A priority school that is implementing a 21st Century Community Learning grant may use that grant to meet these requirements for an extended learning time program.

For the 2012-13 school year, all Priority Schools implementing a School Improvement Grant will be required to implement an ELT program that meets the above requirements. All other Priority Schools will be required to implement ELT programs in the first year in which they implement a whole school reform model aligned with ESEA waiver turnaround principles (typically the 2013-14 school year).

Attachment B: Methodology for Identification of Recognition Schools

As part of New York's flexibility request, the Department was required to develop a methodology to identify *high performing* and *high progress* Reward Schools. For more information regarding Reward schools, please review the ESEA Flexibility Request which can be found at: <http://www.p12.nysed.gov/esea-waiver/>.

The methodology for identifying Reward Schools requires subgroup analyses and several years of data to calculate the academic measures. Consequently, many schools were ineligible for identification because they did not have a sufficient number of students or data for particular groups or years. In some cases, there were schools that have met all the reward school criteria for which there is data to measure their performance, but because they lacked data to demonstrate that they met all Reward school criteria, they were not identified as Reward Schools. To address this situation Department staff propose that high performing schools and high progress schools that meet all criteria for which they are held accountable and that are accountable for at least the majority of reward criteria be identified as "Recognition Schools."

In addition, a trend emerged that many schools that are held accountable for English language learners (ELL) or students with disabilities often had a significantly lower Performance Index (PI) than other schools. However, some of these same schools have closed the achievement gap between subgroups, or have an above average PI for the "all students" group and a PI that places them among the best performers in the state for students with disabilities and/or ELLs. To acknowledge these accomplishments, a process to identify these schools is being proposed. To be identified as a high progress Recognition School for ELL and/or students with disabilities performance, the school must meet all of the Reward School criteria, except that instead of having a combined Performance Index in ELA and math that places it in the top twenty percent of schools in the state, the school can have a PI that places it in the top third of schools in the state. However, as additional criteria, the school must also have an ELL or students with disabilities PI that is in the top ten percent of schools in the state for these subgroups.

Using these criteria, 140 schools would be identified as Recognition Schools for being high performing or high progress or for their performance with students with disabilities and/or English language learners. Compared to the Reward School list, the Recognition School list has a lower percentage of schools from Low Need districts identified and higher percentages of schools from rural high need districts, large city school districts, average need districts and charter schools.

Below are three examples of schools that would be identified as Recognition Schools:

- School A was in the 96th percentile for its Performance Index, but did not have the minimum number of 15 students to be included in the bottom quartile calculations. Therefore, it was added as a Recognition School.

- School B was in the 77th percentile for Performance Index in 2009-10 and 87th percentile in 2010-11, so was not eligible to be a Reward School since its Performance Index in 2009-10 was below the 80th percentile. It was added to the ELL/SWD Recognition list because its Performance Index for those two groups was in the top 10 percent in the state.
- School C was in the 93rd percentile for its Performance Index in 2009-10, and in the 98th percentile in 2010-11, but was not in existence in 2007-08 and cannot meet the gap closing criteria for a Reward School. Therefore it was added as a Recognition School.

We recommend that Recognition Schools be included in an annual and public press release with a posting of the list to the Department's website and that Recognition Schools be able to share their best practice initiatives that can be highlighted on our instructional support website, <http://engageny.org/>, so that other schools may learn from and implement the practices used in Recognition Schools, as we have also proposed for Reward Schools.

Attachment C: Focus Schools Methodology

Methodology for Identification of Focus Schools

In its waiver request, New York State proposed to identify Focus Districts as a means to ensure that districts take dramatic and systematic actions in support of their schools in which the performance of disaggregated groups of students is among the lowest in the State. Specifically, Focus Districts are those whose combined Performance Index in English language arts and mathematics for Grades 3-8 and high school ELA and mathematics or high school graduation rate places the district among the lowest five percent of districts in the State for that subgroup of students. In addition, any District that has a Title I school or Title I eligible secondary school that is a Priority School will also be automatically identified as a Focus District, except that Special Act school districts will only be identified as a Focus District based upon whether the district has a Priority School. Once identified, a Focus District will then be required to identify a specified minimum number of schools upon which it will focus its support and intervention efforts based on similar criteria. The total of the minimum number of schools that Focus Districts must identify will equal ten percent of the schools in the State, exclusive of those already identified as Priority Schools.

New York State identifies a district as a Focus District if any of its student subgroups have a combined ELA and mathematics Performance Index that places the subgroup among the lowest five percent of districts in the State for racial/ethnic subgroups, low-income students, students with disabilities, or English language learners. A district will not be identified for that subgroup's performance if that subgroup has a graduation rate above the State average on the four 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 two years combined. For purposes of identification of Focus Districts, each of New York City's 32 community school districts will be treated as a separate district. In addition to identifying ten percent of the state's school districts as Focus Districts, the Commissioner will use the same methodology to identify ten percent of the total number of charter schools (both Title I and non-Title I) in the State as Focus Schools.

Based on these criteria, the cut points for potential identification as a focused district and the number of districts identified for each subgroup is as follows:

Performance Index for Elementary/Middle and High School
English Language Arts and Mathematics

Subgroup	Criteria for Identification (Performance Index for Grade 3-8 and high school ELA and math at or below this Performance Index)	Number of Districts Identified
American Indian/Pacific Islander	111	2
Asian	111	5
Black	111	27
Hispanic	111	22
White	111	0
Multiracial	111	1
Students with Disabilities	70	35
Limited English Proficient	79	9
Low-Income	117	41

Four Year Graduation Rate

Subgroup	Criteria for Identification (Graduation Rate at or below this Percent)	Number of Districts Identified
American Indian/Pacific Islander	54	1
Asian	54	1
Black	54	20
Hispanic	54	24
White	54	4
Multiracial	54	0
Students with Disabilities	25	13
Limited English Proficient	28	2
Low-Income	56	18

When a district is identified as a Focus District, all of the schools in the district are preliminarily identified as Focus Schools. A Focus District may either choose to provide support to all of its schools to address the performance of subgroup(s) on the accountability measure(s) that caused the district to be identified, or the District may choose to identify a subset of schools as Focus Schools. If the district chooses the latter option, the district must use the rank order lists provided by the Commissioner based on the number or the percentage of students who are not proficient in ELA or mathematics in the subgroup(s) that caused the district to be identified, and then use that rank ordered list to identify the minimum, required number of Focus Schools.

The number of schools that a Focus District must identify is based upon whether the district has been identified as a Focus District because of its district wide performance in ELA and math and/or graduation rate, or because the district is identified solely because there are one or more priority schools in the district.

If the district has been identified as a Focus District solely because it has one or more priority schools in the district, then the schools in the district that are identified as Focus Schools will be those whose performance for a subgroup is below the cut points listed in the above tables and which are not making progress for that subgroup. Progress is determined using the same criteria as is used in the Focus District methodology. If a school has fewer than a total of 15 non-proficient student results in the group(s) for which it could be potentially identified or 15 non-graduate results in the group(s) for which it could be potentially identified, then the school will not be identified as a Focus Group. In addition, if a school has more than 60 percent of its students proficient in ELA and math or a graduation rate of more than 60 percent for all subgroup(s) for which the school could be identified, then the school will not be identified as a Focus School. Transfer Schools are not identified as Focus School and Special Act districts are not identified as Focus districts until after additional analysis is conducted.

Once the Focus Schools in these districts are identified, it is necessary to then determine the minimum number of schools that each remaining Focus District must identify. This number of Focus Schools is based upon the number of non-proficient results and non-graduate results in the district for students who are members of the district's identified subgroups as a percentage of such students in all of the Focus districts in the State. In determining a district's proportion of the non-proficient or non-graduate students within the Focus Districts in the State, results for students who are enrolled in priority schools are not included in making this determination. The minimum number of schools that a district must identify will not exceed 95 percent of the elementary and middle schools and 85 percent of the high schools in the district that have not been identified as Priority Schools.

Before the minimum number of schools that the district must identify as Focus Schools is determined, certain schools are removed from consideration as Focus Schools. These include schools in which there are a cumulative total of fewer than 15 non-proficient student or 15 non-graduate results in the subgroup(s) for which the district is identified as well as any schools in which the percentage of students who are proficient in all of the group(s) for which the district is identified is above 60 percent, and for high schools, the graduation rate for all such groups is above 60 percent. In the event that all schools in the district meet the criteria for removal from consideration, the district must choose a school in the district to be the district's Focus School.

After these schools are removed from consideration, the remaining schools are rank ordered twice, once by the total number of non-proficient student or non-graduate results for the subgroup(s) for which the district was identified and once based upon the weighted percentage of non-proficient or non-graduate results for the subgroup(s) identified. On each list, schools are identified as Focus Schools based on their rank on the list until a number of schools equal to the District's minimum requirement is reached. If a district believes there are extraordinary circumstances and that a school should not be identified as a Focus School, the district may seek permission from the Commissioner to identify a school with subgroup performance that is higher than that of the school with special circumstances.

An example of the process follows:

District A is a small city school district in New York with 13 schools. Eleven of the schools are elementary and middle schools and two are high schools. One of the high schools is large and the second is a middle/high school program with a smaller high school component.

One of the 13 schools, a middle school, has been identified as a Priority School, and the District has been identified as a Focus District because of the performance of Black students, low-income students, and students with disabilities in ELA and mathematics and for Black students for graduation rate.

In the twelve schools that are not priority schools, there were 7,323 cumulative results that are not proficient in ELA or math for the students in the identified subgroups. (For example, if a student who was Black and had a disability was not proficient in either ELA or math that would be considered four non-proficient results. If the student had also been low-income that would be considered six non-proficient results.) There are 123 Black students who are non-graduates in the two high schools in the district. This represents three percent of non-proficient student results statewide in Focus Schools for ELA and math as well as for non-graduates.

The Department's goal is to identify 471 Focus Schools Statewide (10 percent of the total schools in the State). The district's initial proportional share of the number of schools to be identified is 14, which is more than the number of eligible schools in the district. When the 95 percent cap based on ELA and math results and 85 cap for results based on graduation rate is applied, however, the district becomes responsible for identification of nine schools for ELA and math results and one school for graduation results. However, in the two high schools, one school has a graduation rate higher than 60 percent for Black students and the other has fewer than 15 Black students who are non-graduates. Therefore, although the district must develop a plan to address this issue, it is not required to identify either school for graduation rate. Therefore, the minimum number of schools the district must identify as Focus Schools is nine since the cap for identification for ELA and math results is 95 percent of the total number of eligible elementary and middle schools in the district. (Because one middle school has been identified as a priority school, $95\% \times 10 = 9.5$. Therefore the cap based on ELA and math results is nine).

Below is the rank ordering of schools in the district based on the number and percent of students who are not proficient.

School	# SWD Not Proficient	# Black Not Proficient	# Low Income Not Proficient	% SWD Not Proficient	% Black Not Proficient	% Low Income Not Proficient	Sum of Not Proficient	Weighted Percent Proficient	Rank order By Not Proficient	Rank by Percent Proficient	Identify By Number Not Proficient	Identify by Percent Not Proficient
A	162	336	624	95	73	72	1122	75.2%	1	2	Y	Y
B	175	316	572	93	76	73	1063	76.3%	2	1	Y	Y
C	218	282	554	94	71	68	1054	73.2%	3	3	Y	Y
D	117	188	605	74	62	62	910	63.0%	4	8	Y	Y
E	122	222	475	80	67	63	819	66.0%	5	5	Y	Y
F	84	120	266	75	66	60	470	63.9%	6	6	Y	Y
G	90	112	242	83	58	53	444	58.7%	7	10	Y	N
H	33	137	243	87	67	65	413	67.0%	8	4	Y	Y
I	68	99	217	65	56	51	384	54.3%	9	11	Y	N
J	29	93	179	76	58	61	301	61.1%	10	9	N	Y
K	54	62	116	73	39	39	232	43.6%	11	12	N	N
L	9	17	85	90	53	64	111	63.8%	12	7	N	Y

While all of the schools in the district are preliminarily identified as Focus Schools, the District may choose to use either the rank ordered list of schools based on number of not proficient results or the weighted percent of not proficient results. If the district uses the list based on the number not proficient results, the district need not identify Schools J, K, and L as Focus Schools. If the district uses the list based on the weighted percentage of not proficient results, the district need not identify Schools G, I and K, because they have the lowest weighted percentage of not proficient results. Note that these lists include the two high schools in the district. Even though both high schools were excluded from identification for graduation rate, the schools are ranked ordered based on ELA and math results.

While the district's Comprehensive Improvement Plan must address the issue of low performance of students with disabilities, black students, and low-income students system wide, the district's set aside of an amount equal to 15 percent of Title I and Title IIA funds must be used to support the menu of allowable programs and services in its Priority and Focus Schools. Similarly, the district would not be able to use the district's allocation of School Improvement Grant funds in schools that are not identified as Priority or Focus Schools.