



Our Students. Their Moment.

AMENDMENT OF COMMISSIONER'S REGULATIONS § 100.18

**School and District Accountability
and Approved New York State
ESEA Flexibility Renewal Waiver**

History of the ESEA Waiver

September 2011

- President Obama announces the ESEA Flexibility Initiative.

May 2012

- The USDE approved New York State's ESEA Flexibility Waiver Request for the 2012-13 and 2013-14 school years.

September/November
2013

- The USDE offered states with approved ESEA Flexibility Waivers the opportunity to renew the waivers for the 2014-15 school year only.

July 2014

- The USDE approved the State's ESEA Flexibility Waiver Renewal Request for the 2014-15 school year.

November 2014

- The USDE offered states with approved renewal waivers the opportunity to renew for the 2015-16, 2016-17, 2017-18, and 2018-19 school years.

June 2014

- The USDE approved the State's ESEA Flexibility Waiver Renewal for 2015-19.

ESEA Waiver Initiative

“Regulatory Flexibility”

On September 23rd, 2011, President Obama announced an Elementary and Secondary Education Act (ESEA) regulatory flexibility initiative to revise No Child Left Behind (NCLB).

- **Flexibility in the following areas was offered:**
 - Establish alternative Annual Measurable Objectives (AMOs) that do not require all students be proficient in ELA and mathematics by 2013-14.
 - Identify schools/districts as Priority Schools and Focus Schools and Districts in place of schools and districts for improvement, corrective action, and restructuring based on failure to make Annual Yearly Progress (AYP).
 - Revise the consequences for identified schools/districts, providing greater flexibility in how districts use funds to support improvement.
 - Eliminate 40% poverty percentage requirement to become a school wide program.
 - Allow the use of 1003(a) school improvement funds to provide grants to Title I Reward Schools and Local Assistance Plan Schools.
 - Allow districts to forego testing students who take Regents math examinations in grades 7 or 8 on the mathematics assessments for those grade levels.
 - Allow 21st Century Community Learning Center funds to support expanded learning time during and before/after the school day.
 - Waive the requirement that districts develop improvement plans regarding highly qualified teachers; and
 - Allow districts to transfer up to 100 percent of funds from certain programs into Title I.
- **In exchange for flexibility, states were required to:**
 - Set College- and Career-Ready Standards for All Students and Develop and Administer Annual, Statewide, Aligned, High-Quality Assessments that Measure Student Growth.
 - Develop Systems of Differentiated Recognition, Accountability and Support.
 - Support Effective Teaching and Leadership, including the implementation of Teacher and Principal Evaluation in which student growth is a significant factor.
 - Reduce Duplication and Unnecessary Burden.

The Proposed Amendments to § 100.18 Address Three Areas

1

Conform Commissioner's Regulations to Approved ESEA Waiver Renewal

2

Establish Procedures for Making Accountability Determinations for Groups Not Meeting Participation Requirements

3

Align SURR Process to new School Receivership Regulations and ESEA Waiver Requirements

Implementing the ESEA Waiver: Accountability Determinations

- **Create new Priority Schools, Focus Schools, Local Assistance Plan (LAP) Schools and Focus Districts lists in February 2016, based on 2014-15 school year data.**
- **Make modest revisions to methodologies used to identify and remove schools from Priority, Focus and LAP School status and districts from Focus status.**
- **Revise the Grades 3-8 Performance Index and remove “growth to proficiency” component, while maintaining student growth as significant factor in accountability determinations.**

Implementing the ESEA Waiver: Local Assistance Plan (LAP) Schools

- **Use two consecutive years of data in order for a school to be identified as a LAP School and increase to two years the period that a school must make acceptable progress in order to be removed from LAP status.**
- **Preliminarily identify a school that has been identified as a LAP for three consecutive years as a new Focus School beginning with 2015-16 school year results.**

Other Changes to Implement ESEA Waiver

- **Allow districts to use one of the three new 1003(g) School Improvement Grant (SIG) intervention models, in addition to current ones, to implement a whole school reform model in a Priority School. New models include:**
 - the early learning model,
 - the evidence-based model, and
 - the innovative framework model.
- **Require more rigorous interventions and supports for Re-identified Focus Schools, commencing with the 2015-16 school year.**
- **Extend through the 2018-19 school year the provision that allows districts to forego testing students on the Grades 7 and 8 Mathematics assessments, if these students have taken a Regents examination in mathematics.**

Accountability and Participation Rate

- **Beginning with 2014-15 school year results, combine current year and prior year assessment results when making accountability determinations, if an accountability group has fewer than 30 valid test scores in the current school year and has failed to meet the 95% participation rate requirement.**
 - **For example, if School A had 40 students with disabilities who participated in state assessments in 2013-14 and 20 who participated in 2014-15, then the results for 2013-14 and 2014-15 would be combined to make accountability determinations about the school's performance.**

Aligning ESEA Waiver, Struggling Schools and SURR Processes

- **Place “Re-Identified” Priority Schools under Registration Review, unless district successfully appeals preliminary identification.**
- **Require a SURR that has also been identified as a Struggling School or Persistently Struggling School, pursuant to Section 100.19, to implement School Receivership.**
- **Align the Struggling Schools and SURR notification processes.**

Changes Pertaining to SURR Process

- **Provide the Commissioner with the authority to direct a district with SURR that fails to make demonstrable improvement for two consecutive years to terminate Receivership and require that the district take one of the following actions:**
 - **convert the school to a charter school; or**
 - **enter into a contract with the State University of New York (SUNY) or City University of New York (in New York City); or**
 - **Without an acceptable plan, the Commissioner can direct that the school district close or phase out the school.**
- **Require that any school identified as a SURR automatically also be identified as a Priority School.**
- **Expand the conditions for which a school could be identified as a poor learning environment and therefore be identified as a SURR by the Commissioner to include failure to identify or provide required programs and services to English language learners and students with disabilities.**

Next Steps

- **The emergency rule will become effective July 21, 2015 and will remain in effect for 90 days, if adopted at the July Regents meeting.**
- **At the October 2015 Regents meeting, it is anticipated that the proposed rule will be presented for permanent adoption after:**
 - **Publication of a Notice of Emergency Rule Making and**
 - **Proposed Rule Making in the State Register and**
 - **Expiration of the 45-day public comment.**
- **The amended regulations will result in the creation in February 2016 of new lists of Priority Schools, Focus Schools, Focus Districts, and LAP Schools, based on 2014-15 school year assessment results.**