
ESEA Flexibility Request

Virginia Department of Education

**Original Application Approved by the
Virginia Board of Education
on February 23, 2012**

**REVISIONS SUBMITTED JANUARY 11, 2013
EXTENSION APPLICATION SUBMITTED MARCH 31, 2014
EXTENSION APPLICATION APPROVED BY USED JULY 3, 2014
RENEWAL APPLICATION SUBMITTED JANUARY 28, 2015
REVISIONS TO RENEWAL APPLICATION SUBMITTED MARCH 16, 2015**



Revised February 10, 2012
U.S. Department of Education
Washington, DC 20202

OMB Number: 1810-070
Paperwork Burden Statement

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INTRODUCTION

The U.S. Department of Education (Department) is offering each State educational agency (SEA) the opportunity to request flexibility on behalf of itself, its local educational agencies (LEAs), and its 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 the No Child Left Behind Act of 2001 (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 underway 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.

The Department invites interested SEAs to request this flexibility pursuant to the authority in section 9401 of the Elementary and Secondary Education Act of 1965 (ESEA), which allows the Secretary 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. Under this flexibility, the Department would grant waivers through the 2013–2014 school year, after which time an SEA may request an extension of this flexibility.

REVIEW AND EVALUATION OF REQUESTS

The Department will use a review process that will include both external peer reviewers and staff reviewers to evaluate SEA requests for this flexibility. This review process will help ensure that each request for this flexibility approved by the Department is consistent with the principles described in the document titled *ESEA Flexibility*, which are designed to support State efforts to improve student academic achievement and increase the quality of instruction, and is both educationally and technically sound. Reviewers will evaluate whether and how each request for this flexibility will support a comprehensive and coherent set of improvements in the areas of standards and assessments, accountability, and teacher and principal effectiveness that will lead to improved student outcomes. Each SEA will have an opportunity, if necessary, to clarify its plans for peer and staff reviewers and to answer any questions reviewers may have. The peer reviewers will then provide comments to the Department. Taking those comments into consideration, the Secretary will make a decision regarding each SEA's request for this flexibility. If an SEA's request for this flexibility is not granted, reviewers and the Department will provide feedback to the SEA about the components of the SEA's request that need additional development in order for the request to be approved.

GENERAL INSTRUCTIONS

An SEA seeking approval to implement this flexibility must submit a high-quality request that addresses all aspects of the principles and waivers and, in each place where a plan is required, includes a high-quality plan. Consistent with ESEA section 9401(d)(1), the Secretary intends to grant waivers that are included in this flexibility through the end of the 2013–2014 school year. An SEA will be permitted to request an extension of the initial period of this flexibility prior to the start of the 2014–2015 school year unless this flexibility is superseded by reauthorization of the ESEA. The Department is asking SEAs to submit requests that include plans through the 2014–2015 school year in order to provide a complete picture of the SEA’s reform efforts. The Department will not accept a request that meets only some of the principles of this flexibility.

This version of the *ESEA Flexibility Request* replaces the document originally issued on September 23, 2011 and revised on September 28, 2011. Through this revised version, the following section has been removed: 3.A, Option B (Option C has been renamed Option B). Additions have also been made to the following sections: Waivers and Assurances. Finally, this revised guidance modifies the following sections: Waivers; Assurances; 2.A.ii; 2.C.i; 2.D.i; 2.E.i; Table 2; 2.G; and 3.A, Options A and B.

High-Quality Request: A high-quality request for this flexibility is one that is comprehensive and coherent in its approach, and that clearly indicates how this flexibility will help an SEA and its LEAs improve student achievement and the quality of instruction for students.

A high-quality request will (1) if an SEA has already met a principle, provide a description of how it has done so, including evidence as required; and (2) if an SEA has not yet met a principle, describe how it will meet the principle on the required timelines, including any progress to date. For example, an SEA that has not adopted minimum guidelines for local teacher and principal evaluation and support systems consistent with Principle 3 by the time it submits its request for the flexibility will need to provide a plan demonstrating that it will do so by the end of the 2011–2012 school year. In each such case, an SEA’s plan must include, at a minimum, the following elements for each principle that the SEA has not yet met:

1. **Key milestones and activities:** Significant milestones to be achieved in order to meet a given principle, and essential activities to be accomplished in order to reach the key milestones. The SEA should also include any essential activities that have already been completed or key milestones that have already been reached so that reviewers can understand the context for and fully evaluate the SEA’s plan to meet a given principle.
2. **Detailed timeline:** A specific schedule setting forth the dates on which key activities will begin and be completed and milestones will be achieved so that the SEA can meet the principle by the required date.
3. **Party or parties responsible:** Identification of the SEA staff (*e.g.*, position, title, or office) and, as appropriate, others who will be responsible for ensuring that each key activity is accomplished.

4. **Evidence:** Where required, documentation to support the plan and demonstrate the SEA’s progress in implementing the plan. This *ESEA Flexibility Request* indicates the specific evidence that the SEA must either include in its request or provide at a future reporting date.
5. **Resources:** Resources necessary to complete the key activities, including staff time and additional funding.
6. **Significant obstacles:** Any major obstacles that may hinder completion of key milestones and activities (*e.g.*, State laws that need to be changed) and a plan to overcome them.

Included on page 19 of this document is an example of a format for a table that an SEA may use to submit a plan that is required for any principle of this flexibility that the SEA has not already met. An SEA that elects to use this format may also supplement the table with text that provides an overview of the plan.

An SEA should keep in mind the required timelines for meeting each principle and develop credible plans that allow for completion of the activities necessary to meet each principle. Although the plan for each principle will reflect that particular principle, as discussed above, an SEA should look across all plans to make sure that it puts forward a comprehensive and coherent request for this flexibility.

Preparing the Request: To prepare a high-quality request, it is extremely important that an SEA refer to all of the provided resources, including the document titled *ESEA Flexibility*, which includes the principles, definitions, and timelines; the document titled *ESEA Flexibility Review Guidance*, which includes the criteria that will be used by the peer reviewers to determine if the request meets the principles of this flexibility; and the document titled *ESEA Flexibility Frequently Asked Questions*, which provides additional guidance for SEAs in preparing their requests.

As used in this request form, the following terms have the definitions set forth in the document titled *ESEA Flexibility*: (1) college- and career-ready standards, (2) focus school, (3) high-quality assessment, (4) priority school, (5) reward school, (6) standards that are common to a significant number of States, (7) State network of institutions of higher education, (8) student growth, and (9) turnaround principles.

Each request must include:

- A table of contents and a list of attachments, using the forms on pages 1 and 2.
- The cover sheet (p. 3), waivers requested (p. 4-6), and assurances (p. 7-8).
- A description of how the SEA has met the consultation requirements (p. 9).
- Evidence and plans to meet the principles (p. 10-18). An SEA will enter narrative text in the text boxes provided, complete the required tables, and provide other required evidence. An SEA may supplement the narrative text in a text box with attachments, which will be included in an appendix. Any supplemental attachments that are included in an appendix must be referenced in the related narrative text.

Requests should not include personally identifiable information.

