



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 29 2015

The Honorable Michael Williams
Commissioner of Education
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701

Dear Commissioner Williams:

I am writing in response to Texas' request for renewal of flexibility under the Elementary and Secondary Education Act of 1965, as amended (ESEA flexibility), so that Texas may continue to implement ESEA flexibility.

Our team, including my staff and other senior leaders at the U.S. Department of Education (ED), reviewed Texas' request dated September 16, 2015. Pursuant to section 9401(d)(2) of the ESEA, I am renewing approval of Texas' ESEA flexibility request through the end of the 2015–2016 school year, subject to the below condition.

My decision to renew approval of Texas' ESEA flexibility request is based on my determination that ESEA flexibility has been effective in enabling Texas to carry out important reforms to improve student achievement and that this renewal is in the public interest. With this renewal, Texas will be able to continue implementing its plans to promote innovative, locally tailored strategies to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. Texas' approved request will be posted on ED's website.

Texas' original ESEA flexibility request and extension were approved subject to a condition that Texas submit "final guidelines for teacher and principal evaluation and support systems that meet the requirements of ESEA flexibility, including the use of student growth, as defined in ED's June 7, 2012, document titled *ESEA Flexibility*, as a significant factor in determining a teacher's or principal's summative evaluation rating." Meeting this condition would help to ensure that teachers and principals in Texas receive clear, timely, and useful feedback designed to improve instruction, as well as support career opportunities aligned to ratings determined by multiple, valid measures, including growth in student learning. Meeting this condition would also provide critical information that Texas and its districts could use to ensure that all students have access to educators who are able to effectively help all students learn and grow. Unfortunately, Texas' request for renewal does not meet this condition. Accordingly, I have determined, pursuant to the authority in 2 C.F.R. §§ 200.207 and 3474.10, to place Texas on high-risk status.

To receive approval to implement ESEA flexibility beyond the 2015–2016 school year, Texas must:

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<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- Demonstrate how the State will ensure that all local educational agencies (LEAs): (1) implement teacher and principal evaluation and support systems that meet all requirements of ESEA flexibility Principle 3 no later than the 2016–2017 school year, including, as a significant factor, the use of growth in student learning and, for teachers of tested grades and subjects, a Statewide approach to measuring growth in student learning based on State assessments; and (2) use the results of such teacher and principal evaluation and support systems to inform personnel decisions starting with ratings generated using data from the 2016–2017 school year.

To meet the above conditions, Texas must:

- Submit to ED, by January 15, 2016, an assurance that Texas will ensure that all LEAs implement teacher and principal evaluation and support systems that meet all of the requirements of ESEA flexibility Principle 3 no later than the 2016–2017 school year and a description of how Texas will meet this assurance.
- Provide to ED, by January 15, 2016, a plan by which Texas will ensure that LEAs use the results of their teacher and principal evaluation and support systems to inform personnel decisions starting with ratings generated using data from the 2016–2017 school year.
- Adopt a Statewide approach, by January 15, 2016, to measuring growth in student learning based on State assessments for the grades and subjects in which assessments are required under ESEA section 1111(b)(3) for inclusion in evaluation and support systems for teachers and principals of these grades and subjects.
- Confer with ED on a monthly basis, beginning on October 15, 2015, regarding its implementation of ESEA flexibility and progress toward meeting the above conditions.

Additionally, this renewal is subject to Texas' commitment to demonstrate during ED's monitoring and follow-up of ESEA flexibility implementation that Texas is meaningfully collaborating with stakeholders on the implementation of Texas' ESEA flexibility request, including with students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities, organizations representing English learners, business organizations, institutions of higher education, and Indian tribes.

Please note that a request resolving the above conditions must be submitted to ED by January 15, 2016. If the conditions are not resolved by this date, Texas will be required to resume implementing the requirements of Title I of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB) in school year 2016–2017.

Texas may request reconsideration of its high-risk designation by submitting to me in writing, no later than 10 business days from the date of this letter, a detailed description setting forth the basis for its belief that this designation is improper, including the specific facts that support its position. If Texas chooses to request such reconsideration, that request must be submitted via e-mail to me, with a copy to Erin Shackel and Jameel Scott at: OSS.Texas@ed.gov, as well as by U.S. mail or commercial delivery. If I do not receive a request for reconsideration by October 9, 2015, Texas' high-risk status will be considered final and will be lifted only upon completing the actions set forth above.

This letter also provides my response to one requested significant amendment that Texas requested. A summary of this amendment is enclosed with this letter.

Texas continues to have an affirmative responsibility to ensure that it and its LEAs are in compliance with Federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age in their implementation of ESEA flexibility. These laws include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, the Age Discrimination Act of 1975, and requirements under the Individuals with Disabilities Education Act.

If you have any questions regarding this letter or the implementation of Texas' ESEA flexibility request, please contact Erin Shackel or Jameel Scott of my staff at: OSS.Texas@ed.gov.

Thank you for your commitment and continued focus on enhancing education for all of Texas' students.

Sincerely,

/s/

Ann Whalen
Delegated the authority to perform the functions
and duties of Assistant Secretary for Elementary
and Secondary Education

Enclosure

cc: Lizzette Reynolds, Chief Deputy Commissioner

Approved Amendment to Texas' ESEA Flexibility Request

The following is a summary of the significant amendment that Texas included as part of its request for renewal of ESEA flexibility. ED approves this amendment because Texas' ESEA flexibility request, as amended, continues to be aligned with the principles of ESEA flexibility. Please refer to ED's website (<http://www2.ed.gov/policy/elsec/guid/esea-flexibility/map/tx.html>) for Texas' complete ESEA flexibility request.

- **State-Developed Differentiated Recognition, Accountability, and Support (Principle 2)**

Revision: Texas amended its request to reset its graduation rate targets using data for the 2013–2014 school year as a baseline. Texas' previous graduation rate targets extended only through the 2014–2015 school year. Texas' new targets will be identical for all subgroups, and the four-year longitudinal graduation rate target will be 90 percent for all subgroups in the 2019–2020 school year.