



# **ESEA Flexibility**

## **Guidance for Renewal Process For Windows 1 and 2 States**



August 29, 2013

## INTRODUCTION

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In September 2011, the U.S. Department of Education (Department) offered each State educational agency (SEA) the opportunity to request flexibility, on behalf of itself and its local educational agencies (LEAs) and schools, to help them move forward with State and local reforms designed to improve student learning and increase the quality of instruction for all students. This voluntary opportunity provides educators and State and local leaders with flexibility regarding specific requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, 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 (ESEA flexibility).

SEAs, LEAs, and schools implementing ESEA flexibility are meeting a high bar. They are holding all students to high standards, and protecting students by ensuring that low-achieving students in each subgroup are identified for targeted interventions based on need. ESEA flexibility also challenges SEAs to meet the goal of having an effective teacher in every classroom and an effective principal in every school.

Through its four core principles, ESEA flexibility builds on and supports significant State and local reform efforts. Under Principle 1, each SEA is implementing college- and career-ready standards, which serve as the basis for what all students are taught, and will implement high-quality assessments aligned to those standards, to ensure that every student graduates from high school college- and career-ready. Under Principle 2, each SEA is implementing targeted and differentiated accountability systems, providing rigorous supports and interventions to the lowest-performing schools and schools with the lowest graduation rates, and identifying and supporting low-achieving students based on need. Under Principle 3, each SEA is implementing teacher and principal evaluation and support systems that provide teachers and principals with the feedback and support they need to improve their practices and increase student achievement. Under Principle 4, each SEA is working to reduce duplication and unnecessary burden. Additional details about ESEA flexibility and its principles are described in the document titled *ESEA Flexibility* (updated June 7, 2012, and available at: <http://www.ed.gov/esea/flexibility/documents/esea-flexibility-acc.doc>).

The Department invited interested SEAs to request this flexibility pursuant to section 9401 of the ESEA, which allows the Secretary to waive, with certain exceptions, statutory or regulatory requirements of the ESEA for an SEA that receives funds under a program authorized by the ESEA and requests a waiver. Approvals of State requests have occurred in several iterations: Window 1, for which SEAs submitted requests in November 2011; Window 2, for which SEAs submitted requests in February 2012; Window 3, for which SEAs submitted requests in September 2012; and Window 4, for which SEAs submitted requests in spring 2013. Generally, the Department approved the requests of SEAs that requested flexibility in Windows 1 and 2 through the end of the 2013–2014 school year. The Department is now inviting Window 1 and Window 2 SEAs to request a two-year renewal of ESEA flexibility through the end of the 2015–2016 school year. In the event that Congress reauthorizes the ESEA prior to the end of the 2015–2016 school year, the Department will provide guidance on the transition to the new law.

An SEA seeking renewal of ESEA flexibility must submit an updated ESEA flexibility request describing how it will continue to meet the four principles and, consistent with ESEA section 9401(d), demonstrate that the waivers have been effective in enabling the State to carry out the activities for which the waivers were requested, they have contributed to improved student achievement, and their extension is in the public's best interest. In order to receive renewal, an SEA must address each of the items described below (Sections I—III of this document), provide narrative responses within its currently approved ESEA flexibility request and attach any new documentation or evidence where appropriate, and submit a revised version of its currently approved flexibility request to the Department. In addition, the SEA must submit a completed ESEA flexibility renewal form indicating where changes have been made in its currently approved ESEA flexibility request. If an SEA's request for ESEA flexibility is not renewed, the SEA and its LEAs will be required to resume complying with all ESEA requirements by the beginning of the 2014–2015 school year, including making adequate yearly progress (AYP) determinations based on assessments administered during the 2013–2014 school year, identifying schools and LEAs for improvement, and taking required improvement actions, including offering and paying for supplemental educational services and transportation for public school choice, as required by Title I of the ESEA. The Department has set the deadlines for renewal submissions outlined below to allow sufficient time for the Department to review the submissions and make determinations prior to the beginning of the 2014–2015 school year.

The request for renewal of ESEA flexibility also provides an opportunity for an SEA to strengthen its initial request as part of a continuous improvement process to ensure it is improving student achievement and increasing the quality of instruction. An SEA may choose, but is not required, to amend its currently approved ESEA flexibility request to make any additional changes it deems necessary to improve implementation moving forward and/or to reflect more accurately implementation activities that have already occurred (Section IV).

The purpose of each of the requirements, that must be met, to receive renewal is to confirm that an SEA is meeting its commitments in accordance with the principles and timelines of ESEA flexibility. To assist in the renewal process, the Department will perform a data analysis, described below, to confirm that schools and subgroups are being properly identified and supported under the State systems. After only a year and a half of implementation, it is too early to use student outcomes in making renewal decisions, however the Department anticipates that any future extension of these waivers will be outcomes-driven, based primarily on whether or not an SEA has improved student achievement and made progress towards closing achievement gaps.

## **REVIEW AND EVALUATION OF REQUESTS FOR RENEWAL**

The Department will review SEA requests for renewal of ESEA flexibility against the principles of ESEA flexibility, as well as the specific information requested in this document. As in the initial review process, this renewal process will ensure that each request approved by the Department is consistent with the principles of ESEA flexibility; is likely to close achievement gaps, improve student academic achievement, and increase the quality of instruction; and is both educationally and technically sound. Similar to the initial invitation to request flexibility, each SEA will have the opportunity, if necessary, to clarify its plans and to resolve issues that may arise during the review.

## GENERAL INSTRUCTIONS

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An SEA seeking approval to continue to implement ESEA flexibility must submit a revised version of its currently approved flexibility request that addresses all items described below and, when indicated, includes a high-quality plan or process. Consistent with ESEA section 9401(d), the Department intends to renew ESEA flexibility through the end of the 2015–2016 school year. In order to provide a complete picture of an SEA’s reform efforts and demonstrate how ESEA flexibility will continue to improve student achievement for all students, close achievement gaps, and increase the quality of instruction, each SEA must submit a revised flexibility request that includes in redline: any changes made to the currently approved flexibility request; all narrative responses to the items described below (Sections I – III of this document) and, where appropriate and not already provided during monitoring<sup>1</sup>, any documentation and evidence addressing each of the items listed below and on the ESEA flexibility renewal form. In addition, any SEA is invited to make additional changes to its approved request in order to address challenges, build on successes from early implementation, or further align its implementation with other reform efforts within the SEA. To ensure transparency, an SEA may also choose to make amendments to its request to reflect more accurately its ESEA flexibility implementation to date.

High-Quality Plans and Processes: An SEA is not required to submit an entirely new ESEA flexibility request. Each SEA need address only the items below by embedding narrative responses and evidence, as necessary, in redline within its currently approved flexibility request.

When the renewal guidance states that an SEA must submit a high-quality plan, the Department is seeking a new plan in an SEA’s currently approved flexibility request. This plan should reflect continuous improvement of ESEA flexibility systems by building on data, evidence, or feedback from the first two years of implementation of ESEA flexibility, and should include, at a minimum: key activities to be accomplished, a detailed timeline, parties responsible, supporting evidence, and resources necessary to complete key activities that will occur in school years 2014–2015 and 2015–2016.

When the renewal guidance states that an SEA must describe a process, the Department is seeking additional information about how the SEA is implementing and executing its plans under its currently approved flexibility request.

Preparing the Request: To prepare a high-quality request for renewal of ESEA flexibility, an SEA should continue to refer to the document titled *ESEA Flexibility*, which includes the principles, definitions, and timelines. Additionally, the document titled *ESEA Flexibility Frequently Asked Questions* provides helpful guidance for SEAs regarding the effective implementation of ESEA flexibility. Please note that all guidance provided in the document titled *ESEA Flexibility Frequently*

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<sup>1</sup> The Department will be monitoring Window 1 and Window 2 states between May, 2013 thru October, 2013. This monitoring cycle will focus on assessing the implementation of elements from an SEA’s approved ESEA flexibility request for Principles 1, 2, and 3. This monitoring will also assess an SEA’s systems and processes that are fundamental to supporting implementation of ESEA flexibility and improving student outcomes, with specific focus on elements related to monitoring, technical assistance, data collection and use, and family and community engagement and outreach.

*Asked Questions* applies to all SEAs requesting renewal of ESEA flexibility. In order to receive renewal, an SEA must ensure that its flexibility request complies with all requirements of ESEA flexibility, consistent with the guidance issued by the Department.

As used in this guidance, 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) student growth, and (6) turnaround principles.

Each SEA request for renewal of ESEA flexibility must provide the following, through redline edits to its most current approved ESEA flexibility request, as well as relevant attachments, if necessary (page numbers are references to pages within this document):

- Waivers requested and assurances given;
- A description of how the SEA has met the consultation requirements, consistent with Section I (p. 6);
- A narrative response updating the SEA’s currently approved ESEA flexibility request to address each of the items under Sections II and III (pp. 6-11) and, where applicable and not provided through monitoring, evidence of updated plans and processes responsive to those items; and
- Any other amendments beyond the requested items, and a rationale supporting each of those amendments, consistent with Section IV (p. 11).

An SEA must use the text boxes provided on the ESEA flexibility renewal form to indicate the page numbers where changes have been made or attachments have been added in the request.

Please ensure that a request does not include personally identifiable information.

Process for Submitting a Renewal Request: In order to be considered for renewal of ESEA flexibility, an SEA must submit a redlined flexibility request to the Department, together with a completed copy of the ESEA flexibility renewal form indicating the page numbers where edits have been made and attachments have been added. The renewal form and other pertinent documents are available on the Department’s Web site at: <http://www.ed.gov/esea/flexibility/>.

Electronic Submission: The Department strongly prefers to receive an SEA’s request for renewal of ESEA flexibility electronically. The SEA should submit it to the following address: [ESEAFlexibility@ed.gov](mailto:ESEAFlexibility@ed.gov).

Paper Submission: As an alternative, an SEA may submit a redlined request for renewal of ESEA flexibility and two copies to the following address:

Dr. Monique M. Chism, Director  
Student Achievement and School Accountability Programs  
U.S. Department of Education  
400 Maryland Avenue, SW  
Room 3W224  
Washington, DC 20202-6132

Due to potential delays in processing mail sent through the U.S. Postal Service, SEAs are encouraged to use alternate carriers for paper submissions.

### **REQUEST SUBMISSION DEADLINE**

An SEA that was approved for ESEA flexibility in Window 1 or Window 2 that is interested in renewal of ESEA flexibility must submit its request for renewal during one of three phases: January 2–10, 2014 (Phase A); January 22–31, 2014 (Phase B); or February 12–21, 2014 (Phase C). All requests for renewal of ESEA flexibility must be received no later than February 21, 2014. In general, requests will be reviewed in the phase that they are received by the Department. The Department requests that an SEA submit a letter of intent by December 15, 2013 via e-mail to: [ESEAFlexibility@ed.gov](mailto:ESEAFlexibility@ed.gov). This letter of intent should identify whether or not an SEA intends to seek renewal and the phase in which the SEA intends to submit its request.

### **TECHNICAL ASSISTANCE**

The Department will assist SEAs in preparing their renewal requests through webinars, email, and telephone communications with SEA contacts. Please visit the Department's website at: <http://www.ed.gov/esea/flexibility/> for relevant technical assistance materials and feel free to email or call your SEA's contact within the Department with any questions you may have.

## GUIDANCE

### SECTION I: WAIVERS, ASSURANCES, AND CONSULTATION

An SEA must renew its request for each of the waivers offered under ESEA flexibility by checking the box next to each waiver on the ESEA flexibility renewal form. An SEA may also request, or opt to no longer request, the three optional waivers (21st Century Community Learning Centers, making AYP determinations, and within-district Title I allocations).

An SEA must also renew the assurances made under ESEA flexibility and, through this renewal (as described in items 1 and 4 in Section II), also provide additional assurances that it remains committed to ensuring the full implementation of college- and career-ready standards (see item 1 of Section II); that it will, in submitting a comprehensive equity plan that meets the requirements of sections 1111(b)(8)(C) and 1112(c)(1)(L), use effectiveness data from teacher and principal evaluation and support systems by October 2015 (see item 13 of Section II) and, if applicable, that it is participating in one of the two State consortia that received a grant under the Race to the Top Assessment competition (see item 4 of Section II). The SEA provides these assurances by checking the box next to each assurance on the ESEA flexibility renewal form.

In addition, an SEA must provide a description and documentation of how it meaningfully engaged and solicited input on the implementation of ESEA flexibility, and the changes that it made to its currently approved flexibility request in order to seek renewal, from LEAs, teachers, their representatives, administrators, students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities and English Learners, business organizations, and Indian tribes.

### SECTION II: CONTINUED COMMITMENT TO AND PROGRESS TOWARDS ESEA FLEXIBILITY PRINCIPLES

An SEA seeking renewal of ESEA flexibility must demonstrate a continued commitment to implementing the ESEA flexibility principles. Specifically, an SEA must provide narrative responses and evidence, where appropriate, for each of the items enumerated below showing that the SEA has met or is on track to meeting ESEA flexibility implementation timelines. This is to demonstrate that the SEA is complying with ESEA flexibility requirements in all guidance issued to date, and that it has a high-quality plan for continued implementation, including for the 2014–2015 and 2015–2016 school years.

If an SEA has already provided documentation or evidence relevant to a particular item during ESEA flexibility monitoring, the SEA need not resubmit that documentation or evidence, but need only provide any updates regarding its implementation in a narrative response.

1. Each SEA approved for ESEA flexibility committed to fully implement college- and career-ready standards for all students, including for English Learners, students with disabilities, and low-achieving students, by the start of the 2013–2014 school year. In its request for renewal, the SEA must provide an assurance of its continued commitment to implementing

these standards and demonstrate that it is meeting this commitment by providing evidence of its process for ensuring that all students are being taught using college- and career-ready standards. Specifically, in this portion of its request, the SEA must describe how it is monitoring and supporting effective implementation of college- and career-ready standards for all students. The SEA must provide evidence of its process for ensuring implementation, support, and oversight. For example, such evidence may include the use of capacity audits and educator surveys.

2. Full implementation of college- and career- ready standards and aligned assessments requires that each SEA and LEA provide teachers and principals of all students, particularly teachers of students with disabilities and English learners with appropriate resources and support. Such support includes leveraging available Federal, State, and local funds to provide professional development; gathering local educators' feedback to identify their professional development needs; and determining, through ongoing feedback, if educator needs are being met.

Pursuant to ESEA section 2122, in order to be eligible to receive Title II, Part A funds, an LEA must conduct a needs assessment involving teachers and must submit an application to the SEA describing how proposed activities will meet certain requirements identified in ESEA section 2122. Therefore, building on the requirements included in current statute, in its request for renewal of ESEA flexibility, an SEA must describe its systematic process for ensuring that:

- a) Each LEA's use of Title II, Part A funds is aligned with the findings of the local needs assessment and derived from sources of student and educator data such as educator surveys and evaluation results, classroom observations, student mastery of standards, professional learning communities and performance tasks; and
- b) When an LEA is using ESEA Title II, Part A funds for professional development, (1) the professional development for teachers and principals of all students is deepening their knowledge of college- and career-ready standards and the instructional practices, curricula, and high-quality assessments tied to those standards; (2) such professional development is evidence-based and is intended to have a substantial, measurable, and positive impact on educators' subject-matter knowledge and instructional practices and student academic achievement, including for students with disabilities, English learners, and low-achieving students; and (3) an LEA's teachers and principals have collaborated in preparing the local professional development plan and that their ongoing input and feedback are used to monitor and improve that plan.

Further, the SEA and its LEAs must ensure that educators and parents have easy access to information about how each LEA's Title II, Part A funds are used.

3. Each SEA approved for ESEA flexibility provided an assurance that it would adopt English language proficiency (ELP) standards that correspond to the State's college- and career-ready standards no later than the 2013–2014 school year. Each SEA also provided an assurance that it will develop and administer ELP assessments aligned with the State's ELP standards. In its request for renewal of ESEA flexibility, an SEA must provide a narrative description of its progress in meeting both of these assurances.

4. Each SEA approved for ESEA flexibility committed to develop and administer statewide, aligned, high-quality assessments no later than the 2014–2015 school year. In its request for renewal of ESEA flexibility, an SEA must demonstrate that it is on track to meet this commitment by providing an assurance that it continues to be a member of one of the two Race to the Top Assessment consortia or evidence that the SEA has carried out or is continuing to carry out all activities necessary to administer its own statewide aligned, high-quality assessments beginning no later than the 2014–2015 school year. In addition, each SEA must describe a process for ensuring that each of its LEAs is able to administer college- and career-ready assessments in the 2014–2015 school year, particularly in terms of accessibility, capacity and infrastructure.
5. An SEA approved for ESEA flexibility committed to develop and administer no later than the 2014–2015 school year alternate assessments based on grade-level academic achievement standards or alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities that are consistent with 34 C.F.R. § 200.6(a)(2) and are aligned with the State’s college- and career-ready standards. In its request for renewal of ESEA flexibility, an SEA must provide a narrative description of its progress in meeting this assurance.
6. An SEA approved for ESEA flexibility that previously administered alternate assessments based on modified academic achievement standards committed to no longer administer those assessments beginning no later than the 2014–2015 school year. In its request for renewal of ESEA flexibility, an SEA must demonstrate either that it has phased out these alternate assessments or that it has a process to phase out these assessments by 2014–2015, and must provide evidence of a process for ensuring that students with disabilities who previously were assessed using these assessments are prepared to take the general assessments, with appropriate accommodations.
7. Transparency and communication with families and stakeholders are critical elements of ESEA flexibility. Consistent with those priorities, the Department released updated report card guidance in February 2013, clarifying SEA and LEA reporting requirements under ESEA flexibility. An SEA that has not provided the Department with examples of SEA and LEA report cards that reflect the February 2013 Report Card Guidance through monitoring must provide that documentation in its request for renewal of ESEA flexibility.
8. When the Department invited SEAs to request ESEA flexibility, it indicated that waivers would generally be approved for two years with a possible extension for one additional year. As a result, many SEAs provided a description of three years of implementation of interventions and supports for priority schools (i.e., implementation through the 2014–2015 school year). As the Department is now offering to renew ESEA flexibility for an additional two years, an SEA must provide a high-quality plan for implementation of interventions aligned with the turnaround principles in priority schools in the 2014–2015 and 2015–2016 school years, including how the SEA will identify future cohorts of priority schools. Additionally, the SEA must describe how it will increase the rigor of interventions and supports in those previously-identified priority schools that have not yet met the SEA’s exit criteria after three years of implementing interventions aligned with the turnaround principles. Through ESEA flexibility monitoring, the Department found variability in how interventions and supports were fully implemented in the priority schools in a State starting

with the 2012–2013 and 2013–2014 school years, as well as in other priority schools in the 2014–2015 school year. Therefore, an SEA must provide as an attachment, a list of the SEA’s priority schools that began full implementation of rigorous interventions and supports aligned with the turnaround principles in the 2012–2013 and 2013–2014 school years, as well as a list of the priority schools that will begin full implementation in the 2014–2015 school year.

9. To receive ESEA flexibility, an SEA had to ensure that its LEAs would implement interventions and supports in their focus schools. In its renewal request, an SEA must provide a high-quality plan for implementation of interventions in focus schools in the 2014–2015 and 2015–2016 school years, including how the SEA will identify future cohorts of focus schools. Additionally, the SEA must describe how it will increase the rigor of interventions and supports in those previously-identified focus schools that have not yet met the SEA’s exit criteria after implementing interventions that are based on the needs of students and designed to improve the performance of low-achieving students and reduce achievement gaps among subgroups.
10. Each SEA approved for ESEA flexibility committed to provide incentives and supports to ensure continuous improvement in other Title I schools that, based on the SEA’s AMOs and other measures, were not making progress in improving student achievement and narrowing achievement gaps. Through ESEA flexibility monitoring and discussions with SEAs and other stakeholders, the Department found variability in how some SEAs were meeting this requirement. In addition, in a guidance letter issued to SEAs on November 26, 2012, the Department clarified that each SEA approved for ESEA flexibility must incorporate, to a significant degree, the four-year adjusted cohort graduation rate in its State-developed system of differentiated recognition, accountability, and support, including using graduation rate targets for all students and for all subgroups to drive incentives, interventions, and supports in all other Title I schools. As a result, each SEA seeking a renewal of ESEA flexibility must demonstrate that its high-quality plan for ensuring continuous improvement in other Title I schools includes a clear and rigorous process for providing interventions and supports for low-achieving students in those schools when one or more subgroups miss AMOs or graduation rate targets over a number of years. To the extent that an SEA has sufficiently addressed this requirement in its original request, the SEA may reference the relevant pages in its request in response to this requirement.
11. Each SEA approved for ESEA flexibility committed to hold LEAs accountable for improving school and student performance, particularly in priority and focus schools. The SEA’s plan for holding LEAs accountable should consist of a process for determining LEAs’ progress in improving school and student performance, and using the information and data gathered through that process to provide differentiated recognition, interventions, and support for LEAs based on need. Therefore, each SEA seeking a renewal of ESEA flexibility must demonstrate that its high-quality plan for holding LEAs accountable includes a clear and rigorous process to provide differentiated recognition, accountability, and support to LEAs based on improved school and student performance. To the extent that an SEA has sufficiently addressed this requirement in its original request, the SEA may reference the relevant pages in its request in response to this requirement.

12. Each SEA approved for ESEA flexibility in Window 1 or Window 2 committed to ensuring that its LEAs fully implement teacher and principal evaluation and support systems that meet the requirements of Principle 3 of ESEA flexibility by no later than the 2014–2015 school year. The results of those systems, including student growth data, must be used to inform personnel decisions no later than the 2015–2016 school year, unless the SEA has received additional flexibility to begin using the results of those systems to inform personnel decisions in the 2016–2017 school year. Each Window 1 or Window 2 SEA also committed to pilot these systems no later than the 2013–2014 school year. In its request for renewal of ESEA flexibility, an SEA must demonstrate that it is on track for full implementation of its teacher and principal evaluation and support systems no later than the 2014–2015 school year. This should include providing a process for collecting and incorporating data and feedback on implementation in all of its LEAs, including collecting and incorporating data on measures of growth for tested and non-tested grades and subjects to ensure that growth is included as a significant factor. In addition, each SEA seeking renewal of ESEA flexibility must provide a detailed timeline of the SEA’s plan for implementation of teacher and principal evaluation and support systems, including when data from the systems will be collected, publicly reported and incorporated into ratings, when ratings will be given to teachers and principals, when ratings will be used to guide professional development, and when ratings will be used to make personnel decisions.
13. In the document titled *ESEA Flexibility*, the Department stated that once the teacher and principal evaluation and support systems developed under Principle 3 were fully implemented in a State, an SEA and its LEAs could use the data from these systems to meet the requirements of ESEA sections 1111(b)(8)(C) and 1112(c)(1)(L) that poor and minority children not be taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers. As SEAs transition toward full implementation of teacher and principal evaluation and support systems, the effectiveness data derived from those systems will serve to measure teacher quality and determine whether a teacher is unqualified. Accordingly, in its request for renewal of ESEA flexibility, an SEA must describe how it will transition to ensuring that poor and minority students are not taught at higher rates than other children by inexperienced, ineffective, or out-of-field teachers and must provide an assurance that it will submit a comprehensive equity plan that meets the requirements of sections 1111(b)(8)(C) and 1112(c)(1)(L) using effectiveness data from teacher and principal evaluation and support systems by October 2015.

### SECTION III: RESOLUTION OF STATE-SPECIFIC IMPLEMENTATION ISSUES

In July 2013, the Department began an analysis of data on the differentiated recognition, accountability, and support systems each Window 1 and Window 2 SEA has developed and implemented under ESEA flexibility, examining the extent to which each SEA’s system identified low-performing schools and subgroups for the 2012–2013 school year based on student achievement and graduation rate. Specifically, the Department used 2010–2011 and 2011–2012 data to determine the relationship between the following factors and school identification:

1. Student achievement for all ESEA subgroups
2. Graduation rate for all ESEA subgroups
3. Performance against AMOs and graduation rate targets for all ESEA subgroups
4. Participation rate on State assessments for all ESEA subgroups
5. Use of a combined subgroup (where applicable)
6. N-size over 30 (where applicable)

Results of the data analysis will be shared with SEAs starting in October 2013. Where the data analysis appears to indicate that an SEA's system of differentiated recognition, accountability, and support is not identifying low-performing schools and subgroups appropriately or sufficiently, the Department will work with the SEA to determine if there is any misidentification or under-identification of schools and the causes thereof. If, as a result of this process, an SEA's system is found to have misidentified or under-identified low-performing schools or subgroups, the SEA must revise its system to address the factors enumerated above that are contributing to the misidentification or under-identification. These revisions, and data demonstrating that the changes made address the identified concerns, must be included in the redlined request to receive renewal of ESEA flexibility.

In addition, an SEA must resolve any other outstanding issues relating to implementation of ESEA flexibility. These issues may include outstanding findings of non-compliance, conditions placed on approval, next steps identified in ESEA flexibility and related program monitoring reports, and other areas of concern raised during the initial approval process.

All outstanding implementation and compliance issues that an SEA must address in its request for renewal of ESEA flexibility, including any issues identified in the data analyses described above, will be included in a letter sent to the SEA starting October 2013. The SEAs receiving ESEA flexibility monitoring in October 2013 will begin receiving letters in November 2013.

## SECTION IV: ADDITIONAL AMENDMENTS (OPTIONAL)

The Department expects each SEA approved for ESEA flexibility to continuously evaluate the effectiveness of its plan and other elements of its currently approved flexibility request as the SEA proceeds with implementation. As part of this continuous improvement process, the Department encourages each SEA to consider if changes are necessary to address any challenges that it identifies, to implement its currently approved flexibility request more efficiently and/or effectively, or to further align its implementation with other reform efforts within the SEA. If an SEA wishes to make any additional amendments to its currently approved flexibility request to clarify or revise how the SEA and its LEAs will close achievement gaps, improve student achievement, and increase the quality of instruction, the SEA must include those amendments in its redlined request and identify on the renewal request form the page numbers where edits have been made. An SEA need not make any amendments beyond those discussed in Sections I–III above in order to receive renewal of ESEA flexibility. For any additional amendments the SEA makes to its currently approved flexibility request consistent with this Section, an SEA must provide a rationale for the proposed change, either in the text of the ESEA flexibility request or on the ESEA flexibility renewal form.

In considering whether or not to make additional amendments to its approved ESEA flexibility request, an SEA should keep in mind that any amendment may not conflict with the ESEA flexibility principles.