



## State of New Jersey

DEPARTMENT OF EDUCATION

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July 10, 2012

TO: District Superintendents  
Charter School Leaders

FROM: Barbara Gantwerk, Assistant Commissioner  
Division of Student and Field Services

SUBJECT: Implementation of ESEA Flexibility in the 2012-2013 School Year

This memo is to provide information regarding the Title I changes that will result from the United States Department of Education's (USDE) approval of the state's application for flexibility under the Elementary and Secondary Education Act (ESEA). Districts are encouraged to read the waiver application, which may be found on the USDE's web site at <http://www.ed.gov/esea/flexibility/requests>. This application provides information on New Jersey's comprehensive plan to move the state forward in ensuring that all children, regardless of life circumstances, graduate from high school ready for college and career. **Attached is also a chart clarifying the provisions under the NCLB authorization that will no longer be required under the ESEA flexibility waiver.**

The flexibilities in the waiver application support the department's efforts to implement many exciting and innovative initiatives. The NJDOE will now be able to implement a new comprehensive and meaningful performance and accountability system. At the heart of this system will be a newly designed School Performance Report that gives a full picture of each school and district's performance, including state and peer school comparisons. A critical component of the state's waiver application is the NJDOE's new organizational structure for engaging and intervening in schools and districts. Through seven Regional Achievement Centers (RACs), the department will focus its resources on those schools that have remained in a perpetual state of underperformance. The RACs will work with Priority Schools, the lowest performing 5 percent of Title I schools in the state, and Focus Schools, those with the greatest disparity among the performance of its student subpopulations, to employ integrated strategies for increasing student performance and closing the achievement gap. The waiver strengthens the work the department has started with the Excellent Educators for New Jersey (EE4NJ) evaluation pilot through the assurance that the NJDOE will commit to a timeline for improving effective instruction and leadership through comprehensive teacher and principal evaluation systems. Finally, the waivers will ensure that the needs of all students, especially English Language Learners, students with disabilities and low-performing students, are thoroughly articulated in a plan to transition to college and career-ready standards.

### **Additional Flexibility Waivers**

The NJDOE has also applied for and was approved to implement two additional flexibility waivers. The first is a waiver of the requirements of ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) and the corresponding regulations that require districts and the NJDOE to determine AYP for all schools and districts. The department's goal is to transition to a new accountability system that more accurately reflects the true performance of schools and districts based on multiple factors. This holistic performance assessment is counter to the concept of adequate yearly progress, which viewed student performance on the state assessment as the primary indicator of a school and district's success.

The department has also received approval to waive the requirement to serve and allocate funds to Title I schools in rank order of poverty. This waiver of ESEA sections 1113(a)(3)-(4) and 1113(c)(1) and the corresponding regulations will allow districts to use their Title I, Part A funds to serve a high school with a graduation rate below 60 percent that the NJDOE has identified as a priority school, even if that school's poverty rate is not as high as other Title I schools that are eligible to be served. This waiver supports efforts to help these high schools increase the quality of their instruction and improve the academic achievement of all their students, leading to increased graduation rates.

### **NCLB Accountability Requirements**

The approval of the state's waiver application means that schools and districts in New Jersey will no longer be subject to the accountability provisions that were part of the No Child Left Behind (NCLB) authorization of the ESEA legislation. Schools will no longer be identified as Schools in Need of Improvement, Corrective Action and Restructuring if they do not meet adequate yearly progress. Along with this, many districts will no longer be mandated to reserve a portion of their Title I allocation to implement the interventions, such as school choice and supplemental educational services that accompany the designation of a school in need of improvement. The flexibility waiver also removes the requirement for the NJDOE to identify low-performing districts as districts in need of improvement, corrective action or restructuring, and for these districts to set aside 10 percent of funds for targeted professional development activities. Attached is a chart clarifying the provisions under the NCLB authorization that will no longer be required under the ESEA flexibility waiver.

### **Set-Asides**

- *Title I Districts without Priority and Focus Schools*
  - *Supplemental Educational Services:* Title I districts without Priority and Focus Schools will no longer be required to set aside 20 percent of their Title I allocation to offer supplemental education services (SES) and/or public school choice transportation to students in their low-performing schools. However, districts may opt to continue offering individual tutoring as a potential intervention for students in their schools who are not achieving proficiency. For these districts, the waiver gives them the flexibility to identify and contract with providers of tutoring services to work with their low-performing students. For the 2012-2013 school year, the NJDOE will maintain its list of state-approved providers of supplemental educational services to facilitate the process for districts to identify providers of tutoring services.
  - *School Choice Transportation:* The waiver does not remove the requirement in the legislation for districts to permit a student to remain at a choice school through completion of the highest grade offered at that school. Also, throughout the current school year, districts should continue to offer transportation to their students who have taken advantage of intra-district choice.
  - *Professional Development for Schools in Need of Improvement (SINIs) and Districts in Need of Improvement (DINIs):* Title I districts without Priority and Focus Schools will no longer have to set aside 10 percent of their Title I allocation for DINI professional development and/or 10

percent of their schools' Title I allocations for SINI professional development. Districts will now have the opportunity to use these funds to enhance programs and services offered to students in their Title I schools. Districts may choose to expand their Title I program to include more students, operate extended day programs for a longer portion of the school year or increase professional development offerings to assist teachers in meeting the needs of their low-performing students.

- *Title I Districts with Priority and Focus Schools*
  - *Interventions and Supports for Low-Performing Schools:* Title I districts with Priority and Focus Schools will be required to set aside 30 percent of its Title I allocation in a reserve to be used for implementation of the schools' individualized School Improvement Plans. The requirement to reserve 30 percent of the total Title I, Part A allocation for services to Priority and Focus Schools is consistent with the requirement under NCLB for Title I districts with schools in need of improvement (SINIs) to reserve 20 percent of their allocation for supplemental educational services and/or public school choice transportation and 10 percent of their allocation for SINI professional development. The Regional Achievement Center staff will work directly with districts to determine which interventions in Priority and/or Focus Schools will be supported with the 30 percent set-aside.

To further support the implementation of interventions in Priority Schools, the NJDOE will direct Title I School Improvement Award (SIA) funds to support Priority School interventions. Notification of funding amounts will be included in the NJDOE's 2012-2013 NCLB Allocation Notice to districts. SIA funds must be used to implement programs, strategies and positions identified in Priority School Improvement Plans, which will be developed by Priority School leaders, district leaders, and RAC staff this fall. Further guidance on budgeting for interventions will be communicated by the Regional Achievement Center staff.

The NJDOE is looking forward to working with Title I districts and schools to utilize this additional flexibility to meet the needs of students. You may access the state's approved waiver application, on the USDE's web site at: <http://www.ed.gov/esea/flexibility/requests>. If you have questions about how this ESEA waiver flexibility will impact your district and/or school, please contact the Office of Title I by email at [titleone@doe.state.nj.us](mailto:titleone@doe.state.nj.us) or by phone at 609-943-4283.

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Attachment

c: Members, State Board of Education  
Christopher D. Cerf  
Senior Staff  
Justin Barra  
Karen Campbell  
Diane Shoener  
Executive County Superintendents  
Lee Group  
Garden State Coalition of Schools

**NCLB Requirement Waived:** The requirement that each school meet a benchmark of 100 percent proficiency on the state assessment by the end of the 2013-2014 school year.

**Changes for the 2012-2013 School Year:**

- Schools will no longer be held to performance targets that reach 100 percent proficiency by 2014. Instead, the NJDOE has developed more reasonable, yet rigorous, achievement targets that are unique to each school and subpopulation in the school.
- Schools will no longer be identified as schools in need of improvement based on the performance of a small group of students. Still, schools will be required to address the needs of any group of underperforming students.
- The state's new accountability system will include more indicators than NCLB, and identify only the lowest performing schools (Priority) and the schools with the largest achievement gaps (Focus) for more intensive interventions. The waiver frees the NJDOE from having to identify half the schools in the state as not making AYP as a result of unrealistic targets set for every student. The NJDOE can now focus its resources on the schools demonstrating the greatest need. Without the waiver, ultimately the majority of schools in New Jersey would be identified as a "School in Need of Improvement."

**NCLB Requirement Waived:** The requirement for the State to determine AYP for all schools and districts.

**Changes for the 2012-2013 School Year:**

**Annual Measurable Objectives:** The NJDOE will calculate annual measurable objectives (AMOs) for its school and districts based on the goal of closing the achievement gap by half within six years. AMOs, also known as performance targets, were calculated for the state, districts, schools and subgroups based on closing this gap in equal increments each year.

The AMOs were set in annual equal increments toward a goal of reducing by half the percentage of students in the "all students" group and in each subgroup who are not proficient within six years. The current proficiency rates based on assessments administered in the 2010–2011 school year were used as the starting point for setting its AMOs.

For example, if the 'all students' group is currently demonstrating a proficiency rate of 40 percent, the methodology would take the 60 percent point gap between 100 percent proficiency and the current rate ( $100 - 40 = 60$ ) and then divide the gap in half to determine the target for the sixth year – a gain of 30 percentage points ( $60 / 2 = 30$ ).

Then, the 30-percentage point gain is divided into six equal increments ( $30/6 = 5$ ) so that annual targets can be set. Thus, the school in this example begins this process with a rate of 40 percent and is then expected to move to proficiency rates of 45 percent, 50 percent, 55 percent, 60 percent, 65 percent, and finally 70 percent in each of the following years of the six-year period.

The NJDOE also determined that for the highest performing schools and subgroups, this will likely present unreasonable increments as the performance targets approach 100 percent proficiency with the result of identifying schools at the absolute top of the performance level as failing to meet their performance targets. The NJDOE therefore established that schools and subgroups could meet expectations by either reaching their individually determined performance targets or a proficiency rate of 90 percent. This rate will be increased to 95 percent in 2015.

**NCLB Requirement Waived:** Requirements for the NJDOE's district and school report cards to identify a school in need of improvement and a district in need of improvement.

**Changes for the 2012-2013 School Year:**

All schools will receive a report card that provides a comprehensive analysis of the school's performance against many goals and targets. The waiver will no longer require us to identify schools on the report card as a School in Need of Improvement based solely on narrow AYP achievement targets.

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| <p><b>NCLB Requirement Waived:</b> Requirements for schools in need of improvement, corrective action and restructuring</p> <p><b>Changes for the 2012-2013 School Year:</b></p> <ul style="list-style-type: none"> <li>• The NJDOE will no longer identify schools that do not make AYP as “schools in need of improvement,” “schools in corrective action” or “schools in restructuring.</li> <li>• Title I districts without Priority and Focus Schools will no longer be required to set aside 20 percent of their Title I allocation to offer supplemental education services (SES) and/or school choice transportation to students in their low-performing schools.</li> <li>• Title I Districts without Priority and Focus Schools will no longer have to set aside 10 percent of their Title I allocation for DINI professional development and/or 10 percent of their schools’ Title I allocations for SINI professional development. Districts will now have the opportunity to use these funds to enhance programs and services offered</li> <li>• Title I districts with Priority and Focus Schools will be required to set aside 30 percent of its Title I allocation in a reserve to be used for implementation of the schools’ individualized School Improvement Plans.</li> <li>• Districts will be freed from the bureaucratic paperwork requirements of Title I and the misconception that their schools are failing schools based on an unrealistic target. Districts will no longer have to notify the parents of each child in the school of the school’s status as a school in need of improvement, corrective action or restructuring; develop a Title I Unified Plan for schools in need of improvement, corrective action and restructuring; implement corrective actions for schools in Year 4; or develop a Restructuring Plan for Schools in Year 5.</li> </ul> |
| <p><b>NCLB Requirement Waived:</b> Requirements for districts in need of improvement or corrective action</p> <p><b>Changes for the 2012-2013 School Year:</b></p> <ul style="list-style-type: none"> <li>• The NJDOE will no longer identify districts that do not make AYP as “districts in need of improvement” or “districts in corrective action.” The State will have the flexibility in identifying the districts that need the greatest level of support or intervention to improve their schools.</li> <li>• Title I districts will no longer be mandated to set aside 10 percent of their allocation for professional development to address the causes resulting in the district’s low performance, develop a District in Need of Improvement Plan, or notify parents of each child in the district of the district’s status as a district in need of improvement or corrective action.</li> </ul>   |
| <p><b>NCLB Requirement Waived:</b> The requirement for a district to serve schools eligible for Title I funding in rank order of poverty and the requirement to allocate Title I, Part A funds based on that rank ordering.</p> <p><b>Changes for the 2012-2013 School Year:</b></p> <p>Districts with a high school designated as a Priority School that has a graduation rate below 60 percent may opt for that school to become a Title I-participating school even though its poverty rate may not be as high as other Title I participating schools. Receiving Title I, Part A funds would help these high schools to better increase the quality of their instruction and improve the academic achievement of all their students, concurrently increasing their graduation rates.</p>   |
| <p><b>NCLB Requirement Waived:</b> Requirement for a school to have a poverty rate of 40 percent or higher to operate a Title I schoolwide program.</p> <p><b>Changes for the 2012-2013 School Year:</b></p> <p>Districts may apply to operate a Title I schoolwide program in a priority or focus school that does not have a minimum poverty rate of 40 percent. Schoolwide Title I programs are used to improve the entire school population rather than a targeted group of students. The waiver will allow priority and focus schools to use their Title I funds as part of a comprehensive plan to benefit the entire school and staff.</p>   |
| <p><b>NCLB Requirement Waived:</b> The requirement for districts reporting less than 100 percent of their teachers as meeting the definition of “Highly Qualified” to develop and implement an improvement plan.</p>  |

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| <p><b>Changes for the 2012-2013 School Year:</b><br/>The waiver diminishes the importance of “highly qualified teacher” status and focuses on the development of more meaningful evaluation systems for teachers. It does this by eliminating the need for districts to submit plans when all their teachers do not meet the Highly Qualified requirements. This is important because the Highly Qualified requirements do not lead to improved student achievement as much as improved teacher evaluation systems.</p>   |
| <p><b>NCLB Requirement Waived:</b> The requirement to allocate 1003(a), or Title I School Improvement Funds (SIA) to districts with the lowest achieving schools that demonstrate the greatest need for the funds, and the strongest commitment for working with their schools to improve student achievement.</p> <p><b>Changes for the 2012-2013 School Year:</b><br/>The waiver allows the state to distribute Title I school improvement funds to priority and focus schools to assist with implementing the required interventions and not to NCLB identified “Schools in Need of Improvement”, thus focusing on those schools with the greatest need.</p> |
| <p><b>NCLB Requirement Waived:</b> The requirement that the state distribute 1003(g), or School Improvement Grant (SIG) funds to a school defined as Tier 1 based on the definition of the SIG final requirements.</p> <p><b>Changes for the 2012-2013 School Year:</b><br/>The waiver allows the state to use SIG funds in a more flexible manner. The state may now award the funds to any priority school that elects or is directed by the RAC to implement one of the four SIG models. The state has the option.</p>   |
| <p><b>NCLB Requirement Waived:</b> The option for the state to reward a Title I school that either 1) significantly closes the achievement gap between its subgroups, or 2) exceeds AYP for two or more consecutive years.</p> <p><b>Changes for the 2012-2013 School Year:</b><br/>The waiver requires the state to formally recognize and reward high-performing schools.</p>   |