



# UTAH STATE BOARD OF EDUCATION

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Brad C. Smith, Chief Executive Officer  
Lorraine Austin, Board Secretary

## MEMORANDUM

**TO:** Members, Utah State Board of Education

**FROM:** Brad C. Smith  
Chief Executive Officer

**DATE:** February 6, 2015

**ACTION:** Elementary and Secondary Education Act (ESEA) Flexibility Waiver  
Renewal

**Background:** The U.S. Congress reauthorized the Elementary and Secondary Education Act (ESEA) in 2001 as No Child Left Behind (NCLB). States were required to develop, assess, and determine performance levels as they related to state academic and achievement standards. The Utah UCAS accountability system was originally developed to comply with SB 59, *School Grading System* (2011 Legislative Session). It was also approved by the Department of Education as the Utah Accountability System for the ESEA Flexibility Waiver. UCAS replaced Adequate Yearly Progress (AYP) for NCLB.

The ESEA was to be reauthorized in 2007 and is still pending. The U.S. Department of Education allowed states to request a waiver to certain requirements under the law. Utah requested and was granted a waiver for SY12-13, and SY13-14. Additionally, Utah has an approved waiver extension for SY14-15.

The Department of Education announced on November 13, 2014 the opportunity for SEAs with approved requests to request a three-year renewal of ESEA flexibility through the 2017-2018 school year. A request for renewal must be submitted no later than March 31, 2015.

If Congress reauthorizes the ESEA during the period of waivers, the Department will provide guidance on the transition to the new law.

**Key Points:** In the Board's January 2015 meeting, information was provided and the Board discussed the ESEA waiver renewal. The Board has received the following:

### Information in regards to the ESEA Waiver Extension

1. ESEA Waiver Extension Request
2. ESEA Waiver Extension Approval
3. Title I ESEA Waiver Extension Potential Impact Information – <http://schools.utah.gov/fsp/College-Career/Improvement-Grant/FlexibilityWaivAYPpotentialImpact.aspx>

### Information in regards to the ESEA Waiver Renewal

4. ESEA Board Resolution
5. ESEA Waiver Renewal Guidance Summary Document

**Anticipated Action:** It is anticipated that the Board will determine if Utah will submit a request to the Department of Education requesting a three-year renewal for the ESEA Flexibility Waiver and the continuation of the UCAS Accountability system.

**Contact:** Brad Smith, 8801-538-7510  
Judy Park, 801-538-7550



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Martell Menlove, Chief Executive Officer  
Lorraine Austin, Board Secretary

August 22, 2014

Secretary Arne Duncan  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington DC 20202-0100

Dear Secretary Duncan:

On behalf of the Utah State Board of Education, I am writing to request a one-year extension of Utah's ESEA flexibility waiver so that Utah can continue to implement ESEA flexibility through the end of the 2014–2015 school year.

With the July 2, 2014 monitoring report, Utah recognizes that we are currently "Meeting Expectations" in all areas in regards to Principles 1, 2, and 3; and this letter further strengthens Utah's continued support of implementing college and career ready standards, developing and administering high quality assessments, adopting English Language Proficiency standards and assessments to measure English proficiency, developing and administering high quality alternate assessments for qualifying students, implementing of teacher and principal evaluation and support systems, and developing and implementing a state-based system of differentiated recognition, accountability and support for Utah schools.

In addition, Utah seeks to extend ESEA flexibility through the end of the 2014–2015 school year with the following replacement assurances and clarifications delineated by the Utah State Board of Education (the "State Board") as follows:

1. The State Board provides the following replacement assurances to satisfy Principle 1A:
  - a. On August 6, 2010, the State of Utah adopted college-and-career-ready standards in at least English/language arts and mathematics which were approved and certified by the State Board, pursuant to Article X of the Utah State Constitution, which delegates general control and supervision of public education to the State Board. [Exhibit A]
  - b. The Utah State Board of Regents, the governing authority over higher education within the State of Utah, declared on November 7, 2012 that "students who successfully attain the mutually agreed-upon standards for K-12 Mathematics and K-12 English/Language

- c. Arts will be prepared for beginning level college courses in each of these subject areas.” ([Exhibit B])
  - d. In accordance with 20 USC 7907, 7909, 7910, 7911, and 9527, the federal government is expressly prohibited from establishing federal K-12 public education standards, federal K-12 public education curriculum, national K-12 public education testing, national teacher certification, and a national student data base. On March 5, 2012, the State Board through its Superintendent of Public Instruction, asserted to the Secretary of Education its absolute “right to make changes to, and to add and subtract from the Utah Core Standards at its discretion.” The Board went on to assert its “right to complete control of Utah’s learning standards in all areas of our public education curriculum.” [Exhibit C]
  - e. Further, the State Board recognizes Secretary Duncan’s response in March of 2012 confirming on the part of the Department of Education “our full and unqualified agreement with your letter and understanding of the law regarding State control over K-12 learning standards. Nothing in federal law or in current or proposed policies of the U.S. Department of Education in any way contradicts what is stated in your letter. States have the sole right to set learning standards.” [Exhibit D].
2. Principle 1C, Principles 2A and 2B, and Assurance #14 are further clarified as follows:
    - a. Utah withdrew from the Smarter Balanced Assessment Consortium (SBAC) in 2012. In its place, the State Board developed and implemented during 2014 its Student Assessment of Growth and Excellence (SAGE) computer adaptive testing in English/ language arts, mathematics and science (Board rule R277-404). The State Board intends to move forward with its SAGE testing protocol.
    - b. The State Board has adopted and intends to move forward with its Utah Comprehensive Accountability System (UCAS), R277-497.
  3. Principle 3 is further clarified as follows:
    - a. The State Board has implemented its Public Educator Evaluation Requirements (PEER) in R277-531, based upon the Utah Effective Teaching and Educational Leadership Standards, R277-530. The State Board continues to move forward with its goals regarding teacher and principal evaluations.

The State Board reserves its absolute and exclusive right to modify, without negative effects with respect to its Waiver, its Utah Core Standards, SAGE testing, UCAS report card, and PEER teacher and principal evaluations without approval of the U.S. Department of Education. The State Board further reserves its right to withdraw from the Waiver if the State Board finds that such Waiver violates Utah Code Ann. 53A-1-402.6(7).

Secretary Arne Duncan  
August 22, 2014  
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With this letter, Utah affirms that it is implementing its ESEA flexibility request as approved on July 1, 2012 with the changes and clarifications reflected herein.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Crandall". The signature is fluid and cursive, with the first name "David" being the most prominent.

David L. Crandall  
Board Chair

- (1) Attachments: Exhibits A-D
- (2) Stakeholder Letters of Support



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

OCT 09 2014

The Honorable Joel Coleman  
Interim Superintendent of Schools  
Utah State Office of Education  
P.O. Box 144200  
Salt Lake City, UT 84114

Dear Superintendent Coleman:

This letter is in response to Utah's August 22, 2014 request for a one-year extension of flexibility under the Elementary and Secondary Education Act of 1965, as amended (ESEA flexibility), so that Utah may continue to implement ESEA flexibility through the end of the 2014–2015 school year.

Our team has reviewed Utah's request and, pursuant to section 9401(d)(2) of the ESEA, I am pleased to extend Utah's ESEA flexibility request for one year, through the end of the 2014–2015 school year. My decision to extend Utah's ESEA flexibility request is based on my determination that ESEA flexibility has been effective in enabling Utah to carry out important reforms to improve student achievement and that this extension is in the public interest. This letter also marks my approval of Utah's proposed amendments to Principle 1 of its ESEA flexibility request. A summary of Utah's approved amendments is enclosed with this letter, and Utah's approved request will be posted on the U.S. Department of Education's (ED) website.

This extension is subject to Utah's commitment to continue working with ED on Utah's requested amendments to its teacher and principal evaluation and support systems, which may require additional flexibility. Utah's continued work with ED on its requested changes to Principle 3 will inform ED's decision regarding renewal of Utah's ESEA flexibility beyond the 2014–2015 school year.

Please note that ED has established a process whereby States may request to amend their approved ESEA flexibility requests. Information regarding that process can be found at: <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>. ED will review and approve those changes that continue to align with the principles of ESEA flexibility.

Utah continues to have an affirmative responsibility to ensure that it and its districts 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.

400 MARYLAND AVE., SW. WASHINGTON, DC 20202  
<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.*

Page 2 – The Honorable Joel Coleman

I am confident that Utah will continue to implement the reforms described in its approved ESEA flexibility request and advance its efforts to hold schools and school districts accountable for the achievement of all students. If you need any additional assistance to implement your ESEA flexibility request, please do not hesitate to contact Victoria Hammer at [victoria.hammer@ed.gov](mailto:victoria.hammer@ed.gov) or Shevine Holeman at: [shevine.holeman@ed.gov](mailto:shevine.holeman@ed.gov).

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

Sincerely,



Deborah S. Delisle  
Assistant Secretary

Enclosure

cc: Judy Park, Associate Superintendent

## **Approved Amendments to Utah's ESEA Flexibility Request**

The following is a summary of approved amendments to Utah's ESEA flexibility request. The U.S. Department of Education (ED) approves these amendments because Utah's 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/ut.html>) for Utah's complete ESEA flexibility request.

- **Adopt College- and Career-Ready Standards (Element 1.A)**

Revision: Utah changed the way that it will meet the college- and career-ready standards requirement under ESEA flexibility. See page 20 and Attachment 30 of Utah's approved ESEA flexibility request.

- **Develop and Administer Annual, Statewide, Aligned, High-Quality Assessments That Measure Student Growth (Element 1.C)**

Revision: Utah changed the way that it will meet the high-quality assessment requirement under ESEA flexibility by indicating that it has developed and begun annually administering Statewide assessments that measure student growth in RLA and in mathematics in at least grades 3-8 and at least once in high school in all local educational agencies (LEAs) rather than administer the Smarter Balanced Assessment Consortium (SBAC) assessments. Please note that approval of this amendment does not constitute approval of the assessments that Utah intends to implement. Utah will need to submit the assessments for peer review when the new assessment peer-review process is available.



## Utah State Board of Education Resolution No. 2015-1

### A Resolution Calling for Legislation Preserving Utah's Educational State Sovereignty by Amending the Federal Elementary and Secondary Education Act

**BE IT RESOLVED** by the Utah State Board of Education:

**WHEREAS**, the Governor, Legislature, State Board of Education, educational leaders, educational groups, business leaders, and others recognize an imperative and immediate need to make changes to Utah's education system to provide a world-class education for its children; and

**WHEREAS**, both federal and state education leaders appear to be in agreement as to improving educational outcomes for children and that control of educational systems must be under the full control of the constitutionally established structures in the State of Utah; and

**WHEREAS**, the State of Utah has adopted rigorous educational standards, the Utah Core, assessment systems, SAGE, and teacher evaluation systems in good faith response to its obligations under federal law; and

**WHEREAS**, such changes may also include substantial and continuing changes, as Utah deems it advisable, to its teacher compensation system, educator evaluation system, teacher training, educational standards, assessment systems and other changes; and

**WHEREAS**, the Utah State Board of Education is, under the Utah Constitution, obligated and empowered to exercise general control and supervision over public schools in the State of Utah; and

**WHEREAS**, the federal Elementary and Secondary Education Act of 1965 was extensively amended in 2001 by the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301, et seq. [hereinafter "NCLB"]; and

**WHEREAS**, NCLB set a series of ambitious targets, including proficiency for all students in math and reading by 2014—targets which every state and almost every school have found nearly impossible to meet [hereinafter "the Federal Mandate"]; and

**WHEREAS**, as various states, including Utah, were at risk for failing to meet the Federal Mandate, in January 2012, the United States Department of Education [hereinafter "USED"] instituted a process whereby states could escape the consequences of failing the Federal Mandate by applying for a waiver under conditions set by USED; and

**WHEREAS**, some have argued that the waiver of the Federal Mandate used by the USED may be unconstitutional encroachments on the rights and prerogatives of the states in the United States' system of dual sovereignty, see, e.g., Derek Black, *Federalizing Education by Waiver*, 68 Vand. L. Rev. (forthcoming April 2015); and

**WHEREAS**, at the very least, the Federal Mandate coupled with the prescriptive requirements of NCLB waivers, a complex demand that potentially requires the abdication of state sovereignty in return for both federal mandates and federal funds; and

**WHEREAS**, Utah educational leaders have consistently asserted Utah's exclusive sovereignty over its public education system, including, without limitation, its curriculum, curricular standards, assessment system, teacher training, educator evaluation and all other aspects of its education system, assertions which the USED has unqualifiedly accepted; and



**WHEREAS**, on 22 August 2014, the Utah State Board of Education sought a waiver of certain onerous provisions of the NCLB from Secretary Duncan and USED (the "Utah Waiver"), recognizing Utah's refusal to abdicate its sovereignty, its refusal to accept federal control of state education, and its demand to receive its rightful portion of federal educational funds; and

**WHEREAS**, the Utah Waiver was expressly conditioned on Utah's "its absolute and exclusive right to modify, without negative effects with respect to its Waiver, its Utah Core Standards, SAGE testing, UCAS report card, and PEER teacher and principal evaluations[,] without approval of the U.S. Department of Education. The State Board further reserves its right to withdraw from the Waiver if the State Board finds that such Waiver violates Utah Code Ann. § 53A-1-402.6(7);" and

**WHEREAS**, this Utah Waiver, including the clear assertion of the State of Utah's full and unequivocal sovereignty over its educational system, in every detail, was accepted and approved without modification by the USED; and

**WHEREAS**, the State Board of Education may seek an NCLB "renewal" from the USED, with the same full and unequivocal assertion of absolute its sovereignty over its education system, in every detail; and

**WHEREAS**, conditional "waivers" and "renewals" offered by the USED are attractive only due to systemic and widely-recognized flaws in NCLB;

**NOW, THEREFORE, BE IT RESOLVED** that the State Board of Education continue to protect and preserve Utah's exclusive and unique sovereignty over its education system, in every detail, in the event that it seeks such "waivers" or "renewals" of NCLB; and

**BE IT FURTHER RESOLVED** that the State Board of Education firmly asserts that the sovereignty over Utah's educational system may not be compromised by a promise of federal funds; and

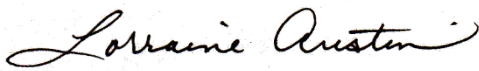
**BE IT FURTHER RESOLVED** that the State Board of Education of the State of Utah calls upon the Honorable Orrin Hatch, the Honorable Mike Lee, the Honorable Rob Bishop, the Honorable Chris Stewart, the Honorable Jason Chaffetz, and the Honorable Mia Love to sponsor or cosponsor legislation preserving Utah's educational state sovereignty by amending ESEA to resolve the impossible Federal Mandate of NCLB and to make such continuing conditional "waivers" or "renewals" unnecessary.

PASSED AND APPROVED THIS 8<sup>TH</sup> DAY OF JANUARY, 2015.



David L. Crandall  
Board Chair

ATTEST:



Lorraine Austin  
Board Secretary

COPIES: Utah Congressional Delegation  
Governor Gary Herbert  
Members, Utah Legislature

## **ESEA Flexibility Waiver Renewal Requirements**

The Department of Education announced on November 13, 2014, the opportunity for SEAs with approved requests to request a three or four-year renewal of ESEA flexibility through the 2017-2018 or 2018-2019 school year. A request for renewal must be submitted no later than March 31, 2015. Utah may be eligible to participate in an expedited review process if the request is submitted by January 30, 2015.

If Congress reauthorizes the ESEA during the period of waivers, the Department will provide guidance on the transition to the new law.

### **The ESEA Flexibility Waiver Renewal must contain the following:**

#### **1) Nine Required Waivers**

##### **a) Six waivers are identical to current waiver**

1. The requirements in ESEA section 1111(b)(2)(E)-(H) that prescribe how an SEA must establish annual measurable objectives (AMOs) for determining adequate yearly progress (AYP) to ensure that all students meet or exceed the State's proficient level of academic achievement on the State's assessments in reading/language arts and mathematics no later than the end of the 2013–2014 school year. The SEA requests this waiver to develop new ambitious but achievable AMOs in reading/language arts and mathematics in order to provide meaningful goals that are used to guide support and improvement efforts for the State, LEAs, schools, and student subgroups.

2. The requirements in ESEA section 1116(b) for an LEA to identify for improvement, corrective action, or restructuring, as appropriate, a Title I school that fails, for two consecutive years or more, to make AYP, and for a school so identified and its LEA to take certain improvement actions. The SEA requests this waiver so that an LEA and its Title I schools need not comply with these requirements.

3. The requirements in ESEA section 1116(c) for an SEA to identify for improvement or corrective action, as appropriate, an LEA that, for two consecutive years or more, fails to make AYP, and for an LEA so identified and its SEA to take certain improvement actions. The SEA requests this waiver so that it need not comply with these requirements with respect to its LEAs.

4. The requirements in ESEA sections 6213(b) and 6224(e) that limit participation in, and use of funds under the Small, Rural School Achievement (SRSA) and Rural and Low-Income School (RLIS) programs based on whether an LEA has made AYP and is complying with the requirements in ESEA section 1116. The SEA requests this waiver so that an LEA that receives SRSA or RLIS funds may use those funds for any authorized purpose regardless of whether the LEA makes AYP.

8. The requirements in ESEA section 2141(a), (b), and (c) for an LEA and SEA to comply with certain requirements for improvement plans regarding highly qualified teachers. The SEA

requests this waiver to allow the SEA and its LEAs to focus on developing and implementing more meaningful evaluation and support systems.

9. The limitations in ESEA section 6123 that limit the amount of funds an SEA or LEA may transfer from certain ESEA programs to other ESEA programs. The SEA requests this waiver so that it and its LEAs may transfer up to 100 percent of the funds it receives under the authorized programs among those programs and into Title I, Part A.

b) Three waiver have minor wording changes (displayed in red)

5. The requirement in ESEA section 1114(a)(1) that a school have a poverty percentage of 40 percent or more in order to operate a school-wide program. The SEA requests this waiver so that an LEA may implement interventions consistent with the turnaround principles or interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in a school in any of its priority and focus schools, as appropriate, even if those schools do not have a poverty percentage of 40 percent or more that meet the definitions of “priority schools” and “focus schools,” respectively, set forth in the document titled *ESEA Flexibility*, as appropriate, even if those schools do not have a poverty percentage of 40 percent or more.

6. The requirement in ESEA section 1003(a) for an SEA to distribute funds reserved under that section only to LEAs with schools identified for improvement, corrective action, or restructuring. The SEA requests this waiver so that it may allocate section 1003(a) funds to its LEAs in order to serve any of the State’s priority and focus schools that meet the definitions of “priority schools” and “focus schools,” respectively, set forth in the document titled *ESEA Flexibility*.

7. The provision in ESEA section 1117(c)(2)(A) that authorizes an SEA to reserve Title I, Part A funds to reward a Title I school that (1) significantly closed the achievement gap between subgroups in the school; or (2) has exceeded AYP for two or more consecutive years. The SEA requests this waiver so that it may use funds reserved under ESEA section 1117(c)(2)(A) for any of the State’s reward schools that meet the definition of “reward schools” set forth in the document titled *ESEA Flexibility*.

c) One waiver eliminated on SIG schools

~~10. The requirements in ESEA section 1003(g)(4) and the definition of a Tier 1 school in Section I.A.3 of the School Improvement Grants (SIG) final requirements. The SEA requests this waiver so that it may award SIG funds to an LEA to implement one of the four SIG models in any of the State’s priority schools.~~

## 2) Five Optional Waiver Flexibilities

a) One optional waiver is identical to previous optional waiver

10. The requirements in ESEA sections 4201(b)(1)(A) and 4204(b)(2)(A) that restrict the activities provided by a community learning center under the Twenty-First Century Community Learning

Centers (21st CCLC) program to activities provided only during non-school hours or periods when school is not in session (*i.e.*, before and after school or during summer recess). The SEA requests this waiver so that 21st CCLC funds may be used to support expanded learning time during the school day in addition to activities during non-school hours or periods when school is not in session.

b) Two optional waivers are similar

11. The requirements in ESEA sections 1116(a)(1)(A)-(B) and 1116(c)(1)(A) that require LEAs and SEAs to make determinations of adequate yearly progress (AYP) for schools and LEAs, respectively. The SEA requests this waiver because continuing to determine whether an LEA and its schools make AYP is inconsistent with the SEA's State-developed differentiated recognition, accountability, and support system included in its ESEA flexibility request. The SEA and its LEAs must report on their report cards performance against the AMOs for all subgroups identified in ESEA section 1111(b)(2)(C)(v), and use performance against the AMOs to support continuous improvement in Title I schools ~~that are not reward schools, priority schools, or focus schools.~~

12. The requirements in ESEA section 1113(a)(3)-(4) and (c)(1) that require an LEA to serve eligible schools under Title I in rank order of poverty and to allocate Title I, Part A funds based on that rank ordering. The SEA requests this waiver in order to permit its LEAs to serve a Title I-eligible high school with a graduation rate below 60 percent that the SEA has identified as a priority school even if that school does not otherwise rank sufficiently high to be served **under ESEA section 1113.**

c) Two optional waivers are new

13. The requirement in ESEA section 1003(a) for an SEA to distribute funds reserved under that section only to LEAs with schools identified for improvement, corrective action, or restructuring. The SEA requests this waiver in addition to waiver #6 so that, when it has remaining section 1003(a) funds after ensuring that all priority and focus schools have sufficient funds to carry out interventions, it may allocate section 1003(a) funds to its LEAs to provide interventions and supports for low-achieving students in other Title I schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

If the SEA is requesting waiver #13, the SEA must demonstrate in its renewal request that it has a process to ensure, on an annual basis, that all of its priority and focus schools will have sufficient funding to implement their required interventions prior to distributing ESEA section 1003(a) funds to other Title I schools.

14. The requirements in ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) that, respectively, require the SEA to apply the same academic content and academic achievement standards to all public schools and public school children in the State and to administer the same academic assessments to measure the achievement of all students. The SEA requests this waiver so that it is not required to double test a student who is not yet enrolled in high school but who takes advanced, high school level, mathematics coursework. The SEA would assess such a student with

the corresponding advanced, high school level assessment in place of the mathematics assessment the SEA would otherwise administer to the student for the grade in which the student is enrolled. For Federal accountability purposes, the SEA will use the results of the advanced, high school level, mathematics assessment in the year in which the assessment is administered and will administer one or more additional advanced, high school level, mathematics assessments to such students in high school, consistent with the State's mathematics content standards, and use the results in high school accountability determinations.

If the SEA is requesting waiver #14, the SEA must demonstrate in its renewal request how it will ensure that every student in the State has the opportunity to be prepared for and take courses at an advanced level prior to high school.

### **3) Fourteen Required Assurances**

a) Eight assurances are identical to current assurances

1. If the SEA is requesting waiver #14, the SEA must demonstrate in its renewal request how it will ensure that every student in the State has the opportunity to be prepared for and take courses at an advanced level prior to high school.

4. It will develop and administer ELP assessments aligned with the State's ELP standards, consistent with the requirements in ESEA sections 1111(b)(7), 3113(b)(2), and 3122(a)(3)(A)(ii) no later than the 2015–2016 school year. (Principle 1)

5. It will report annually to the public on college-going and college credit-accumulation rates for all students and subgroups of students in each LEA and each public high school in the State.(Principle 1)

6. If the SEA includes student achievement on assessments in addition to reading/language arts and mathematics in its differentiated recognition, accountability, and support system and uses achievement on those assessments to identify priority and focus schools, it has technical documentation, which can be made available to the Department upon request, demonstrating that the assessments are administered statewide; include all students, including by providing appropriate accommodations for English Learners and students with disabilities, as well as 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, consistent with 34 C.F.R. § 200.6(a)(2); and are valid and reliable for use in the SEA's differentiated recognition, accountability, and support system. (Principle 2)

9. It will evaluate and, based on that evaluation, revise its own administrative requirements to reduce duplication and unnecessary burden on LEAs and schools. (Principle 4)

10. It has consulted with its Committee of Practitioners regarding the information set forth in its ESEA flexibility request.

11. Prior to submitting this request, it provided all LEAs with notice and a reasonable opportunity to comment on the request and has attached a copy of that notice (Attachment 1) as well as

copies of any comments it received from LEAs. (Attachment 2)

12. Prior to submitting this request, it provided notice and information regarding the request to the public in the manner in which the SEA customarily provides such notice and information to the public (*e.g.*, by publishing a notice in the newspaper; by posting information on its website) and has attached a copy of, or link to, that notice. (Attachment 3)

b) Four assurances are similar to previous assurances

2. It has ~~will~~ adopted English language proficiency (ELP) standards that correspond to the State's college- and career-ready standards, consistent with the requirement in ESEA section 3113(b)(2), and that reflect the academic language skills necessary to access and meet the State's college- and career-ready standards. (Principle 1)

3. It will ~~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. (Principle 1)

7. It will ~~annually make report to the public~~ its lists of reward schools, priority schools, and focus schools ~~at the time the SEA is approved to implement the flexibility, and annually thereafter,~~ **prior to the start of the school year as well as** publicly recognize its reward schools, **and will update its lists of priority and focus schools at least every three years.** (Principle 2)

13. It will provide to the Department, in a timely manner, all required reports, data, and evidence regarding its progress in implementing the plans contained ~~throughout this request.~~ **its ESEA flexibility request, and will ensure that all such reports, data, and evidence are accurate, reliable, and complete or, if it is aware of issues related to the accuracy, reliability, or completeness of its reports, data, or evidence, it will disclose those issues.**

c) Two assurances are new

8. It will provide to the Department, no later than January 31, 2016, an updated list of priority and focus schools, identified based on school year 2014–2015 data, for implementation beginning in the 2016–2017 school year.

14. It will report annually on its State report card and will ensure that its LEAs annually report on their local report cards, for the "all students" group, each subgroup described in ESEA section 1111(b)(2)(C)(v)(II), and for any combined subgroup (as applicable): information on student achievement at each proficiency level; data comparing actual achievement levels to the State's annual measurable objectives; the percentage of students not tested; performance on the other academic indicator for elementary and middle schools; and graduation rates for high schools. In addition, it will annually report, and will ensure that its LEAs annually report, all other information and data required by ESEA section 1111(h)(1)(C) and 1111(h)(2)(B), respectively. It will ensure that all reporting is consistent with *State and Local Report Cards Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended Non-Regulatory Guidance* (February 8, 2013).

d) Two assurances have been eliminated

~~8. Prior to submitting this request, it provide student growth data on their current students and the students they taught in the previous year to, at a minimum, teachers of reading/language arts and mathematics in grades in which the State administers assessments in those subjects in a manner that is and informs instructional programs, or it will do so no later than the deadline required under the State Fiscal Stabilization Fund. (Principal 3)~~

~~10. It will submit to the Department for peer review and approval a copy of the guidelines that it will adopt by the end of the 2011-12 school year. (Principle 3)~~

#### **4) Principal 3 Assurance**

Utah will select Option A, The SEA is on track to fully implement Principal 3, including incorporation of student growth based on State assessments into educator ratings for teachers of tested grades and subjects and principals.

#### **5) Consultation**

In the 2012 waiver, the state provided assurance that it had consulted with the Committee of Practitioners, groups representing students with disabilities, Coalition of Minorities Advisory Committee (CMAC), Comprehensive Accountability System Advisory Committee, Utah Association of Elementary School Principals, Utah Association of Secondary Principals, Utah Education Association Board, Utah LEA Assessment Directors, Utah LEA Indian Education Coordinators and Tribal Leaders, Utah LEA Special Education Directors, Utah Policy Advisory Committee, Utah School Superintendents Association, and Utah Technical Advisory Committee. As a result of the waiver application, the USOE has been able to gather valuable information that both informed and assisted in the development of the waiver and its subsequent implementation.

New Guidance: An SEA must provide a description of how it meaningfully solicited input on the implementation of ESEA flexibility, and the changes that it made to its currently approved ESEA flexibility request in order to seek renewal, from LEAs, teachers and their representatives, administrators, students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities, organizations representing English Learners, business organizations, institutions of higher education (IHEs) and Indian tribes.

#### **6) Principle 1: College and Career-Ready Expectation for All Students**

Each SEA must update its currently approved ESEA flexibility request to describe how it will continue to ensure all students graduate from high school ready for college and a career, through implementation of college- and career-ready standards and high-quality aligned assessments (general, alternate, and English language proficiency), including how the SEA will continue to support all students, including English Learners, students with disabilities, low-achieving students, and economically disadvantaged students, and teachers of those students.

#### **7) Principle 2: State-Developed Systems of Differentiated Recognition, Accountability, an Support**

Each SEA must provide narrative responses for each of the items enumerated below. In providing these narrative responses, each SEA must describe its process for continuous improvement of its systems and processes supporting implementation of its system of differentiated recognition,

accountability, and support. In describing its process for continuous improvement, an SEA should consider how it will use systematic strategies to analyze data and revise approaches to address implementation challenges in order to ensure that it and its LEAs are meeting the needs of all students.

**2.A. Develop and Implement a State-Based System of Differentiated Recognition, Accountability, and Support:** In its request for renewal of ESEA flexibility, each SEA must demonstrate that a school may not receive the highest rating in the SEA's differentiated recognition, accountability, and support system if there are significant achievement or graduation rate gaps across subgroups that are not closing in the school.

**2.D. Priority Schools:** In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of priority schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of priority schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its timeline for implementation of interventions aligned with all of the turnaround principles in all priority schools; and
- c) Describe its process for identifying any schools that, after implementing interventions for three school years, have not made sufficient progress to exit priority status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

**2.E. Focus Schools:** In its request for renewal of ESEA flexibility, each SEA must:

- a) Submit either (i) its updated list of focus schools based on the most recent available data, for implementation beginning in the 2015–2016 school year, or (ii) an assurance that it will provide an updated list of focus schools based on school year 2014–2015 data no later than January 31, 2016, for implementation beginning no later than the 2016–2017 school year;
- b) Provide its process, including a timeline, for ensuring that its LEAs implement interventions targeted to a focus school's reason for identification; and
- c) Describe its process for identifying any schools that have not made sufficient progress to exit focus status and describe how the SEA will ensure increased rigor of interventions and supports in these schools by the start of the 2015-2016 school year.

**2.F. Other Title I Schools:** In its renewal request, each SEA must update its plan for providing incentives and supports to other Title I schools to include a clear and rigorous process for ensuring that LEAs provide interventions and supports for low-achieving students in those schools when one or more subgroups miss either AMOs or graduation rate targets or both over a number of years.

**2.G. Build SEA, LEA, and School Capacity to Improve Student Outcomes:** In its request for renewal of ESEA flexibility, each SEA must describe its statewide strategy to support and monitor LEA implementation of the State's system of differentiated recognition, accountability, and support. This description must include the SEA's process for holding LEAs accountable for improving school and student performance.