ESEA Flexibility

Frequently Asked Questions



Revised August 3, 2012

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***Building SEA, LEA, and School Capacity to Improve Student Learning***

C-49. How might an SEA ensure appropriate selection of external providers to support the full and effective implementation of required interventions in priority and focus schools?

An SEA has flexibility to develop and implement a rigorous review process for external providers that meets State and local needs. For example, an SEA might develop a list of pre-approved providers from which its LEAs may select to assist in the implementation of interventions in priority and focus schools. An SEA also might delegate the review and approval of external providers to its LEAs, so long as it reviews and approves the process that LEAs use to select providers. Regardless of the level at which the review takes place, it should take into account, at a minimum, the research base for the services offered by the provider, the track record of the provider in achieving the results promised, the provider’s experience in supporting the specific interventions required in each priority and focus school, and the financial integrity of the provider.

C-50. How may an SEA use its school improvement reservation under ESEA section 1003(a) to support an LEA’s implementation of appropriate interventions in priority and focus schools?

As noted in B-15, because ESEA flexibility waives the requirement to identify schools for improvement, corrective action, or restructuring, an SEA that receives this flexibility must allocate funds it reserves under ESEA section 1003(a) to an LEA for use in its priority and focus schools. Allocating section 1003(a) funds in this manner is similar to what many SEAs have already done with their section 1003(a) funds in order to increase the funds available for implementation of the four school intervention models under the SIG program. (Modified August 3, 2012)

Supporting Effective Instruction and Leadership

C-51. What does this flexibility require regarding teacher and principal evaluation and support systems?

To receive this flexibility, an SEA and its LEAs must commit to develop, adopt, and implement (with the involvement of teachers and principals) teacher and principal evaluation and support systems that:

* Will be used for continual improvement of instruction;
* Meaningfully differentiate performance using at least three performance levels;
* Use multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English Learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys);
* Evaluate teachers and principals on a regular basis;
* Provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and
* Will be used to inform personnel decisions.

An SEA that requested flexibility in Window 1 or Window 2 had to include in its request guidelines for local teacher and principal evaluation and support systems or a plan to develop and adopt such guidelines by no later than the end of the 2011–2012 school year, and a process for ensuring LEA implementation of these systems. An SEA that requests flexibility in Window 3 must provide in its request guidelines for local teacher and principal evaluation and support systems or a plan to develop and adopt such guidelines by no later than the end of the 2012–2013 school year, and a process for ensuring LEA implementation of these systems. An SEA may include additional guidelines for its LEAs’ evaluation and support systems. Any such additional guidelines may not contradict the guidelines set forth above. (Modified August 3, 2012)

C-52. How may an SEA and its LEAs define performance levels that take into account multiple valid measures for teacher and principal evaluation and support systems?

In establishing guidelines for teacher and principal evaluation and support systems, an SEA must require an LEA’s systems to have a minimum of three performance levels, although the SEA may specify additional levels.  The Department recommends, but does not require, including (i) a level reflecting effective performance (to set a clear expectation of effective practice and to inform professional development); (ii) a level above such performance (to recognize, learn from, and retain outstanding educators); and (iii) a level below such performance (to identify those in need of additional support or other interventions).  Student growth and other measures that are used to define performance levels must be valid measures, which means measures that are clearly related to increasing student academic achievement and school performance, and are implemented in a consistent and high-quality manner across schools within an LEA.  Each performance level should take into account multiple valid measures, including as a significant factor data on student growth for all students (including English Learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys). An SEA has discretion to determine how student growth is included as a “significant factor” and to determine the other measures an LEA must use in defining its performance levels.

C-53. What are an SEA’s responsibilities with regard to ensuring that an LEA’s evaluation and support systems consider student growth?

An SEA is responsible for ensuring that an LEA develops and implements evaluation and support systems consistent with the guidelines the SEA has developed under principle 3 (as described in the document titled *ESEA Flexibility*). This includes ensuring that LEA evaluation and support systems take into account data on student growth in significant part in determining teacher and principal performance levels.

To ensure that an LEA’s evaluation and support systems take into account student growth, several approaches are appropriate. For grades and subjects in which assessments are required under ESEA section 1111(b)(3), an SEA must define a statewide approach for measuring student growth based on such assessments. For grades and subjects in which assessments are not required under ESEA section 1111(b)(3), an SEA may take one of two approaches, or a combination of both: (1) specify measures of student growth that LEAs must use or select from, or (2) provide guidance to LEAs as to what measures of student growth are appropriate, and establish a system to ensure that LEAs will use valid measures of student growth, meaning that the measures are clearly related to increasing student academic achievement and school performance, and are implemented in a consistent and high-quality manner across schools within an LEA. In designing its evaluation and support systems, an LEA should avoid policies that result in the dismissal of a teacher or principal solely on the basis of a single test score.

C-54. What are examples of other valid measures of professional practice an SEA might use to determine performance levels for teacher and principal evaluation and support systems?

An SEA has discretion to determine the measures of professional practice other than student growth that are used to determine performance levels for teachers and principals. Other measures of professional practice for teachers might include, for example, multiple observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys. In the case of observations, an SEA should ensure that they are implemented in a high-quality manner, such as by providing training to observers in conducting observations against a consistent rubric, monitoring inter-rater reliability, and tracking the distribution of evaluation ratings across schools and LEAs. Other measures of professional practice for principals might include, for example, additional student outcome information such as high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, retention rates of effective teachers, and positive family and community engagement.

An SEA’s guidelines may allow an LEA some flexibility in the other measures of professional practice that are used as part of local evaluation and support systems aligned with the State’s performance levels. If the SEA provides that flexibility, it must have in place a process to ensure that the other measures that an LEA includes are valid measures, meaning that they are clearly related to increasing student academic achievement and school performance, and are implemented in a consistent and high-quality manner across schools within an LEA.

C-55. May an SEA require an LEA to include specific measures of professional practice in addition to student growth in its evaluation and support systems?

Yes, if the SEA chooses to do so. Although an SEA may give an LEA discretion to choose the additional measures of professional practice that will be included in its evaluation and support systems, an SEA has the option of specifying the particular measures of professional practice that an LEA must include in its evaluation and support systems, as well as the weights given to each of those measures. An SEA also has the option of providing some guidelines with respect to the measures included in the evaluation and support systems, while allowing an LEA to decide how it will implement those guidelines. An SEA must have a plan for insuring that all measures used in an LEA’s teacher and principal evaluation and support systems are valid measures, meaning that they are clearly related to increasing student academic achievement and school performance, and are implemented in a consistent and high-quality manner across schools within an LEA.

C-56. What frequency of evaluation constitutes “regularly” evaluating educators?

An SEA and its LEAs should ensure that formative evaluations occur with a frequency sufficient to ensure that teachers and principals receive timely and relevant feedback to support effective practice, and that principals and LEA staff have performance data that are sufficiently recent to fairly and accurately use evaluation and support system results to improve instruction, guide professional development, and to inform other personnel decisions. As new teachers and principals may experience greater changes in effectiveness from year to year, and as more frequent ratings for such teachers and principals may be useful in informing decisions around tenure and licensure, the SEA and its LEAs might consider establishing different levels of frequency based on teachers’ and principals’ years of experience. The Department recommends, but does not require, that teachers and principals in their first three years of service be summatively evaluated annually, and at least once every three years thereafter.

By “evaluation,” the Department refers to the actual assessment of the teacher’s or principal’s effectiveness, not necessarily to the number of times a teacher or principal is observed. One evaluation could be based on a single observation, but it could also be based on multiple observations. Although no specific number of observations is required, good practice suggests that multiple observations per year should occur for all teachers and principals. Inexperienced teachers and principals, or teachers and principals who have been evaluated as ineffective, might benefit from more observations per year as a means of providing appropriate guidance to help them identify areas of weakness and improve their practice.

C-57. How might an SEA and its LEAs use evaluation and support systems to improve teacher and principal effectiveness?

In a State that receives ESEA flexibility in Window 1 or Window 2, an LEA is required to have in place, by the end of the 20142015 school year, a plan to use evaluation and support systems results for continual improvement of instruction, guiding professional development, and informing personnel decisions beginning in the 20152016 school year. In a State that receives ESEA flexibility in Window 3, an LEA is required to have in place a plan to fully implement its new evaluation and support systems in the 2015–2016 school year and to use evaluation and support systems results for continual improvement of instruction, guiding professional development, and informing personnel decisions beginning in the 20162017 school year. The SEA and its LEAs have discretion in determining exactly how evaluation and support systems results are used for these purposes, but the Department recommends that the SEA and LEAs develop comprehensive approaches that are designed to improve the effectiveness of all teachers and principals and ensure that all students, including low-income and minority students, English Learners, and students with disabilities, have access to highly rated teachers and leaders.

In designing their evaluation and support systems, an SEA and its LEAs should work with teachers, principals, and other stakeholders to develop, through their performance levels, a shared understanding of the practices, competencies, and levels of student growth that constitute effective teaching or leadership. Based on these shared understandings, the Department encourages the SEA and its LEAs to develop comprehensive systems of evaluation and professional development that support all teachers and principals by identifying both their strengths and their areas for professional growth, and creating opportunities for them to improve their skills in areas of identified need. Such opportunities might include professional development programs that are evidence-based and aligned with identified needs, expanded learning time to provide educators with time to collaborate and plan together, mentoring opportunities that pair teachers based on identified needs and strengths, and collaborative teams of teachers engaged in joint planning or professional development opportunities.

Additionally, the SEA and its LEAs should develop strategies for retaining teachers and principals rated at high levels. This might include providing those teachers with additional compensation, such as through bonus payments or by redesigning compensation structures to allow highly rated teachers to progress more rapidly to higher salary levels; creating professional advancement opportunities, including hybrid roles that allow teachers to serve as leaders within the school while maintaining classroom responsibilities; using highly rated teachers as mentors for new teachers; and developing other recognition programs that offer non-monetary rewards. (Modified August 3, 2012)

C-58. Must an SEA have developed and adopted the guidelines for teacher and principal evaluation and support systems by the time it requests this flexibility?

No. If an SEA that requested flexibility in Window 1 or Window 2 had not developed and adopted the guidelines for teacher and principal evaluation and support systems at the time it submitted its request, to receive this flexibility, the SEA was required to provide a plan and timeline for developing and adopting the guidelines no later than the end of the 2011–2012 school year and provide an assurance that it would submit to the Department for review and approval a copy of those guidelines. Likewise, if an SEA that requests flexibility in Window 3 has not yet developed and adopted the guidelines for teacher and principal evaluation and support systems, to receive this flexibility, the SEA must provide in its request a plan and timeline for developing and adopting the guidelines no later than the end of the 2012–2013 school year and provide an assurance that it will submit to the Department for review and approval a copy of those guidelines. (Modified August 3, 2012)

C-59. What is the deadline for an LEA to implement teacher and principal evaluation and support systems that meet the principles of this flexibility?

In a State that receives ESEA flexibility in Window 1 or Window 2, an LEA must begin developing its evaluation and support systems no later than the 2012–2013 school year, and either: (1) pilot the systems no later than the start of the 2013–2014 school year and implement the systems no later than the start of the 2014–2015 school year; or (2) implement the systems no later than the start of the 20132014 school year. Additionally, an LEA must, no later than the end of the 2014–2015 school year, have a plan in place to use evaluation and support systems results to improve instruction, guide professional development, and inform other personnel decisions beginning in the 20152016 school year.

In a State that receives ESEA flexibility in Window 3, an LEA must begin developing its evaluation and support systems no later than the 2013–2014 school year, and either: (1) pilot the systems no later than the start of the 2014–2015 school year with the intent to implement the systems no later than the start of the 2015–2016 school year; or (2) implement the systems no later than the start of the 20142015 school year. Additionally, an LEA must, no later than the end of the 2014–2015 school year, have a plan in place to use evaluation and support systems results to improve instruction, guide professional development, and inform other personnel decisions beginning in the 20162017 school year. (Modified August 3, 2012)

C-60. To what timelines for developing and implementing teacher and principal evaluation and support systems will an LEA that is also participating in other Department programs (i.e., Race to the Top, Teacher Incentive Fund, SIG) in addition to this flexibility be held accountable?

An LEA that is also participating in the Race to the Top, Teacher Incentive Fund, or SIG programs must follow the earliest required timeline, regardless of whether it comes from this flexibility or a separate Department program.