



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

FEB 27 2012

The Honorable Gerard Robinson  
Commissioner of Education  
Florida Department of Education  
325 West Gaines Street, Suite 1514  
Tallahassee, Florida 32399

Dear Commissioner Robinson:

As you know, on February 9, 2012, Secretary Duncan sent you a letter approving Florida's request for ESEA flexibility, subject to Florida's meeting the conditions set forth in that letter. One of those conditions requires Florida to modify its inclusion policies to ensure that all students, including all English Learners and all students with disabilities, are fully included in the State's system of differentiated recognition, accountability, and support upon enactment of the modifications and in accordance with the requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, for such inclusion. The purpose of this letter is to explain further this condition on Florida's ESEA flexibility approval.

To receive ESEA flexibility, a State educational agency must develop and implement a system of differentiated recognition, accountability, and support in accordance with principle 2 of the flexibility. As set forth in its approved request, Florida is enhancing its well-established A-F grading system to meet this principle. However, one aspect of Florida's existing system does not meet the requirements for this principle. In particular, the inclusion of all students in a State's accountability system is a critical component of ESEA flexibility, just as it is a critical component of an accountability system under the ESEA. Indeed, the primary purpose of ESEA flexibility is to provide educators and State and local leaders with flexibility regarding specific requirements of the ESEA in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students. Florida's current policies, however, permit certain English Learners and certain students with disabilities to be excluded from key aspects of the State's accountability system. To permit the continued exclusion of these students from key aspects of the State's accountability system would be to undermine the primary goal of ESEA flexibility.

In recognition of this fundamental requirement, in its request for ESEA flexibility, Florida committed to changing its inclusion policies related to English Learners and students with disabilities in order to ensure that all such students are fully included in the A-F grading system. As noted in the Secretary's February 9 letter, in order for Florida to receive approval to implement ESEA flexibility through the end of the 2013–2014 school year, it must satisfy this commitment and modify its inclusion policies so that all students are included in all components of the State's A-F grading system, including all English Learners and all students with disabilities, and must also meet the other condition placed on its ESEA flexibility approval.

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Should Florida be unable to satisfy either condition on its approval, the waivers being granted to Florida through ESEA flexibility will expire on July 27, 2012, and Florida and its districts will be required to immediately resume complying with all ESEA requirements.

We appreciate that you are moving expeditiously to meet the condition discussed above and are continuing to explore modifications to the State's grading system as Florida transitions to a more rigorous accountability system. We look forward to reviewing both Florida's amended request and evidence of formal modification of the State's inclusion policies. In the meantime, if you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Yudin", with a long horizontal flourish extending to the right.

Michael Yudin  
Acting Assistant Secretary