



The Education Trust

January 27, 2014

Dr. Lisa Long
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Office of Accountability
55 Hanson Place, Room 445
Brooklyn, NY 11217

RE: ESEA waiver comment submission, public comments on amendments 1 and 3

As an organization dedicated to advancing achievement for low-income students and students of color, The Education Trust is keenly aware of the need to couple policies and practices that promote high expectations for all students with those that acknowledge and act on the unique needs of students who are the furthest behind academically.

As such, we appreciate the challenges New York faces as it moves to assess all students on rigorous college- and career-ready standards. But we believe that the state's proposal to amend testing requirements for students with disabilities does not include sufficient detail in key areas and does not provide sufficient transparency as it is currently crafted.

Given the importance of high expectations for students with disabilities — many of whom are low-income, African American, or Latino — it is critical that New York clarify the details of its proposed policy before it seeks a waiver from the U.S. Department of Education and commit to providing parents and members of the public a clear picture of who would be affected by that proposed policy. We offer the following recommendations to help address these concerns.

Recommendation 1: Clearly articulate the criteria by which students would be eligible for testing at their instructional, rather than chronological, grade level. These criteria are the mechanism for ensuring that the policy affects only those students it is intended to affect and does not sweep up large numbers of unintended students. In the current proposal, the criteria are given only passing mention. The full list of criteria should be identified and made public before, not after, the state applies for ESEA waiver renewal.

Recommendation 2: Make public the best available estimates of how many students would be eligible for instructional-grade-level testing. These data also should be disaggregated by race/ethnicity, income,

and ELL status, and should be reported at the state and district levels. This will clarify the impact of NYSED's proposal, in particular whether students from certain backgrounds or particular districts are likely to be overrepresented in instructional-level testing. Further, these data should be included as part of the state's ESEA waiver renewal application, posted on the NYSED website, and distributed to organizations representing students with disabilities and their families.

Recommendation 3: Commit to reporting the percentage of students tested at their instructional grade level on publicly available school and district report cards. These data also should be disaggregated by race/ethnicity, income, and ELL status. This will help parents and members of the public make sense of assessment results and keep track of who's being impacted by this policy.

Recommendation 4: Commit to revisiting this policy when New York implements an assessment that's fully aligned with the state's college- and career-ready standards. The policy as proposed is based on data from the current New York State Testing Program and should, therefore, be revisited when there's a significant change to the state's assessment. The state, thus, should not seek longer than a one-year approval for this aspect of its waiver renewal application.

Recommendation 5: Articulate the revised AMOs in grades three through eight for all groups of students. These AMOs reflect the state's expectations for improvement and gap-closing and are a foundational part of the school and district accountability system. Before the state applies for waiver renewal, educators, parents, and members of the public deserve to know what these revised AMOs will be. This is especially important in light of the interaction between the proposed testing change and accountability: The proposed caps on instructional-grade-level testing apply to the percentage of proficient and advanced scores that can count for accountability purposes, not the percentage of students who can be tested at their instructional grade level.

Thank you for the opportunity to provide feedback. We'd welcome any questions you might have about these recommendations.

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