UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 17, 2012

The Honorable Diane DeBacker
Commissioner of Education
Kansas State Department of Education
120 South East Tenth Avenue
Topeka, Kansas 66612

Dear Commissioner DeBacker:

Thank you for submitting Kansas's request for ESEA flexibility. We appreciate the hard work required to transition to college- and career-ready standards and assessments; develop a system of differentiated recognition, accountability, and support; and evaluate and support teacher and leader effectiveness. The U.S. Department of Education (Department) is encouraged that Kansas and many other States are designing plans to increase the quality of instruction and improve student academic achievement.

As you know, Kansas's request was reviewed by a panel of six peer reviewers during the week of March 26–30, 2012. During the review, the expert peers considered each component of Kansas's request and provided comments in the form of Peer Panel Notes that the Secretary will use to inform any revisions to your request that may be needed to meet the principles of ESEA flexibility. The Peer Panel Notes, a copy of which is enclosed with this letter, also provide feedback on the strengths of Kansas's request and areas that would benefit from further development. Department staff also have carefully reviewed Kansas's request, taking into account the Peer Panel Notes, to determine consistency with the ESEA flexibility principles.

The peers noted, and we agree, that Kansas's request was particularly strong in proposing innovative methods for providing recognition and rewards to high-performing schools and teachers, which are likely to increase opportunities for teacher leadership and professional growth and articulating a clear desire to reform the State's accountability system in a way that will facilitate positive changes in teaching and learning.

At the same time, based on the peer reviewers' comments and our review of the materials Kansas has provided to date, we have identified certain components of your request that need further clarification, additional development, or revision. In particular, significant concerns were identified with respect to the following:

PLAINTIFFS'
EX. 98

- The Academic Performance Index (API) to be used for determining performance targets for assessments administered in the 2012-2013 school year;
- Identifying and addressing the needs of individual subgroups;
- Implementing the turnaround principles in all priority schools on the required timeline; and
- Developing and ensuring local educational agencies implement teacher and leader support and evaluation systems consistent with the requirements of ESEA flexibility.

The enclosed list provides details regarding these concerns, as well as other key issues raised in the review of Kansas's request, that we believe must be addressed before the Secretary can approve your request for ESEA flexibility. We encourage Kansas to consider the all of the peers' comments and technical assistance suggestions in making revisions to its request, but we encourage you to focus primarily on addressing the concerns identified on the enclosed list.

Although the Peer Panel Notes for Kansas provide information specific to your request, Kansas also may benefit from comments and technical assistance suggestions made by other peer panels regarding issues common to multiple State educational agencies' (SEA) requests. For this reason, Department staff will reach out to Kansas to provide relevant technical assistance suggestions and other considerations that may be useful as you revise and refine your request.

We remain committed to working with Kansas to meet the principles of ESEA flexibility and improve outcomes for all students. We stand ready to work with Kansas as quickly as possible. In order to ensure prompt consideration of revisions or additional materials, we are asking SEAs to submit those materials by May 1. However, given the number and level of concerns raised by the peer reviewers, Kansas may wish to take additional time to revise its request and submit revisions later than this date. Department staff will be in touch to set up a call as early as this week to discuss the timeline and process for providing revisions or materials.

You and your team deserve great credit for your efforts thus far, and we are confident that we will be able to work together to address outstanding concerns. If you have any additional questions or want to request technical assistance, please do not hesitate to contact Victoria Hammer, at 202-260-1438.

Sincerely,

Michael Yudin
Acting Assistant Secretary

Enclosure

SUMMARY OF ADDITIONAL INFORMATION REGARDING KANSAS'S ESEA FLEXIBILITY REQUEST

CONSULTATION

- Please provide more information on the steps the Kansas State Department of Education (KSDE) took to meaningfully engage diverse stakeholders, including organizations representing English Learners, students with disabilities, and Indian tribes, on the development of the waiver request or describe how KSDE will meaningfully engage these stakeholders as it continues to develop its request and implement flexibility. *See Consultation Question 2.*

PRINCIPLE 1: COLLEGE- AND CAREER-READY EXPECTATIONS FOR ALL STUDENTS

- Please provide additional information on the following activities related to the transition to college- and career-ready standards. In particular, provide further information on the information provided in the March 12, 2012 addendum (*e.g.*, by providing more details on the element of high quality plan including key milestones and activities, detailed timelines, party or parties responsible, evidence, resources, and significant obstacles) on the following activities:
  - Analyzing the extent of alignment between KSDE current content standards and the Kansas Common Core State standards to determine similarities and differences (*e.g.*, the process used to make the "determination that the input being provided from Kansas was being incorporated into the Common Core Standards"). *See 1.B.*
  - Describe how the projects described in the March 12, 2012 addendum will ensure that students with disabilities will have the opportunity to achieve the Kansas Common Core State Standards. *See 1.B.*
  - Providing professional development and other supports to prepare teachers to teach all students, particularly English learners and students with disabilities, to ensure that all students have access to Kansas Common Core State Standards. *See 1.B.*
  - Providing professional development and supports to prepare principals to provide strong, supportive instructional leadership based on the new standards. *See 1.B.*
  - Developing and disseminating high-quality instructional materials aligned with the Kansas Common Core State standards. In particular, provide additional detail on how the State will ensure that instruction will support teaching and learning of the new standards for all students, particularly English learners and students with disabilities. *See 1.B.*
  - Working with Kansas's institutes of higher education (IHE) and other teacher and principal preparation programs to better prepare incoming teachers and principals. *See 1.B.*
  - Transitioning from assessing some students with disabilities using alternate assessments based on modified academic achievement standards to assessing these students using the State's high-quality assessments by 2014-2015. *See 1.B.*

PRINCIPLE 2: STATE-DEVELOPED DIFFERENTIATED RECOGNITION, ACCOUNTABILITY, AND SUPPORT

- Please address concerns regarding KSDE's new differentiated recognition, accountability, and support system:
  - Provide additional information regarding how the support and assistance described provided from the State's new accountability system will be coordinated and student performance positively impacted. *See 2.A.i.*

- Explain how KSDE will ensure strong accountability for improving subgroup graduation rates. *See 2.A.i.a.*
- Provide more information on how KSDE will communicate the new accountability system to teachers, parents, and other stakeholders to support improvements in teaching and learning. *See 2.A.i.*
- Provide more information on partnering with educational service centers and contractual partners noted on page 29. *See 2.A.i.a.*
- Please explain how KSDE will ensure that the performance of higher performing students does not mask the performance of underachieving students in the new Academic Performance Index (API). *See 2.A.i.a and 2.A.i.b.*
- Please address concern regarding lack of information about the performance of individual subgroups over time to identify whether there are subgroup performance issues. *See 2.A.i.b.*

- Please address concerns regarding the ambitious but achievable annual measurable objectives (AMOs) KSDE proposes:
  - For school 2012-2013 and beyond, please provide AMOs for the State, LEAs, and schools that are ambitious but achievable, set separately for reading/language arts and mathematics, and applied to each ESEA subgroup.
  - If KSDE chooses to use its API to set AMOs consistent with ESEA flexibility, please address the following concerns
    - Provide AMOs separately for reading/language arts and mathematics. *See 2.B.*
    - Provide the AMOs to be applied to schools above the 20th percentile. *See 2.B.*
    - Provide the AMOs for the State, local educational agencies (LEA), and individual subgroups, both below and above the 20th percentile. *See 2.B.*
    - Provide further information on how the concept of a "natural ceiling or plateau" constitutes ambitious but achievable and does not lower expectations. *See 2.B.*
    - Provide further information on how KSDE will ensure that these AMOs will be easily transparent to all stakeholders, particularly teacher, principals, and parents. *See 2.B.*
    - Provide further information on how these targets will ensure continued attention to improving the performance of underachieving students. *See 2.B.*

- Please address concerns regarding KSDE's reward schools:
  - Demonstrate that a reasonable number of schools that KSDE has identified as reward schools using its proposed method meets the definition of reward schools in ESEA Flexibility. *See 2.C.i* and refer to the document titled *Demonstrating that an SEA's list of Reward, Priority, and Focus Schools Meet ESEA Flexibility Definitions.*

- Please address concerns regarding KSDE's priority Schools:
  - Demonstrate that KSDE has identified the required number of priority schools using its proposed method that meet the definition of priority schools in ESEA Flexibility. Refer to the document titled *Demonstrating that an SEA's list of Reward, Priority, and Focus Schools Meet ESEA Flexibility Definitions.*
  - Address concern regarding District Needs Assessment. *See 2.D.iii.a.*
  - Describe the steps that KSDE will take to ensure meaningful consequences for priority schools that do not make progress after full implementation of interventions. *See 2.D.iii.b.*
  - Address concern regarding timeline for implementing meaningful interventions aligned with the turnaround principles in the required number of schools no later than the 2014-2015 school year. *See 2.D.iv.*

- Demonstrate that KSDE's proposed exit criteria for priority schools will result in significant progress in improving student achievement and narrowing achievement gaps. *See 2.D.v.*

- Please address concerns regarding KSDE's focus schools:
  - Explain how KSDE will differentiate the work in priority schools from that in focus schools to ensure that the needs of the schools are appropriately addressed. *See 2.E.iii.*
  - Address concern regarding lack of interventions targeted specifically toward high schools. *See 2.E.iii.*
  - Describe the steps KSDE will take to ensure meaningful consequences for focus schools that do not make progress after full implementation of interventions. *See 2.E.iv.*
  - Demonstrate that KSDE's proposed exit criteria for focus schools are rigorous and will result in significant progress in improving student achievement and narrowing achievement gaps. *See 2.E.iv.*

- Please address concerns regarding KSDE's other Title I schools:
  - Address concern that KSDE will ensure that "not making progress" schools will address the needs of individual subgroups of students. *See 2.F.i.*
  - Address concern regarding lack of detail as to how each district will continue to monitor the progress of all students, especially English Learners and students with disabilities. *See 2.F.ii.*

- Please address concerns regarding SEA, LEA, and school capacity:
  - Address concern regarding lack of information on the review and approval of external providers give KSDE's use of them across its request (both at the SEA and LEA levels). *See 2.G.i.*
  - Provide additional information how KSDE will build its own, its LEAs, and its schools capacity. *See 2.G.i.*
  - Describe how KSDE will hold LEAs accountable for improving school and student performance. *See 2.G.iii.*

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

- Please address concerns regarding KSDE's plans for developing and adopting guidelines for local teacher and principal evaluation and support systems:
  - Explain how KSDE plans to work with teachers and administrators, or as appropriate, their designated representatives, in order to implement the evaluation and support plans outlined in the request. *See 3.A.i.*
  - Address concerns regarding use of student growth as a significant factor in teacher and leader evaluation and support systems. *See 3.A.i and 3.B.*

- Please address concerns regarding the KSDE ensuring LEA's implement teacher and principal evaluation systems:
  - Address concerns regarding review of LEA-developed evaluation systems. *See 3.B.*
  - Address concerns regarding lack of clarity on how KSDE will implement systems of support, appropriate professional development opportunities, and evaluate the KSDE Educator Evaluation Protocol (KEEP) and locally-designed models. *See 3.B.*
  - Please describe how KSDE will ensure that LEAs create teacher and principal evaluation and support systems that include as a significant factor data on student growth for all students, consistent with the definition for student growth in ESEA flexibility. *See 3.B.*