The Honorable Diane DeBacker  
Commissioner of Education  
Kansas State Department of Education  
120 Southeast 10th Avenue  
Topeka, KS 66612

Dear Commissioner DeBacker:

I am writing in response to Kansas' June 7, 2013 request to extend approval of its ESEA flexibility request through the end of the 2013–2014 school year. Currently, Kansas’ ESEA flexibility request is approved through the end of the 2012–2013 school year, subject to the condition that Kansas submit a final teacher and principal evaluation and support system guidelines that include the State’s method for including student growth as a significant factor all by the end of the 2012–2013 school year. The U.S. Department of Education (ED) approved Kansas’ request subject to that condition based on its determination that the State would be able to fully meet the ESEA flexibility principles in the 2012–2013 school year while it piloted the use of student growth as a significant factor in its teacher and principal evaluation and support systems. On March 21, 2013, I sent you a letter indicating that Kansas additionally needed to determine the process for using teacher and principal evaluation and support system results for continual improvement of instruction, along with the measures of student achievement that it will include as part of the teacher and principal evaluation and support systems (in addition to the Statewide assessments).

Kansas has provided sufficient information regarding the process for using teacher and principal evaluation and support system results for continual improvement of instruction. However, the State has not yet met its other obligations with respect to its guidelines for teacher and principal evaluation and support systems. In particular, although Kansas has provided a method for including student growth in these systems; it did not pilot this method for including student growth. Rather, the Kansas State Department of Education convened a task force to inform the decision about the method for including student growth. At this time, Kansas has not demonstrated that the method it has selected actually results in including student growth as a significant factor and that the system as proposed meaningfully differentiates among teachers. In addition, it is not clear based on the documentation that Kansas submitted and has publically available on its website that it will ensure that the measures its local educational agencies will use in determining performance levels (in addition to the Statewide assessments) will be valid measures.

As a result, I have determined that Kansas has failed to meet the condition that was placed on the approval of its ESEA flexibility request, as well as its additional obligation to determine the measures that it will include in its teacher and principal evaluation and support systems (as well as to the Statewide assessments). However, in light of Kansas' on-going efforts to meet the condition and its

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.
Kansas’ request to extend approval of its ESEA flexibility request through the end of the 2013–2014 school year. This is subject to the condition that Kansas complete the actions listed below. Furthermore, pursuant to the authority in 34 C.F.R. § 80.12, I am placing Kansas on high-risk status.

In order to have the condition on the approval of its ESEA flexibility request lifted and its high-risk designation removed, Kansas must:

- Submit to ED, no later than 30 calendar days from the date of this letter, a high-quality plan that includes the following:
  - A description of the process and steps that Kansas will take to pilot its teacher and principal evaluation and support systems in the 2013–2014 school year
  - The data that Kansas will collect as part of the 2013–2014 school year pilot and provide to ED to demonstrate that Kansas’ final guidelines include student growth as a significant factor, including, at a minimum: 1) comparisons between each component of the teacher and leader evaluation and support system (i.e., 1st student growth rating, 2nd student growth rating, 3rd student growth rating, and the instructional practice rating) and the summative evaluation rating; 2) comparisons between each individual student growth rating (i.e., 1st student growth rating, 2nd student growth rating, 3rd student growth rating) and the overall student growth rating; and 3) the distribution of ratings for each component of the system;
  - Kansas’ criteria and process for approving locally-selected measures of student growth
  - The date by which the revised documents will be available on its website—including updated versions of the documents that specify acceptable measures of student growth and revised documentation regarding its process for review of the systems of LEAs that elect not to use the State “example” matrix.
- Following ED’s Part B monitoring, which is scheduled for September 2013, provide updates to ED on a monthly basis on its progress in carrying out its high-quality plan.
- By May 1, 2014, the State must submit to ED an amended request that incorporates final guidelines for teacher and principal evaluation and support systems that meet the requirements of ESEA flexibility, including the use of student growth, as defined in ESEA Flexibility, as a significant factor in determining a teacher’s or principal’s summative evaluation rating. Along with the amended request, Kansas must provide ED the data described above and outlined in its high-quality plan.

Please note, in addition, that should Kansas request renewal of its ESEA flexibility request beyond the 2013–2014 school year, ED would not be able to grant that request for renewal until the issues that resulted in Kansas’ continued condition and high risk status are resolved. If those issues cannot be resolved prior to the start of the 2014–2015 school year, Kansas may not be able to continue with its implementation of ESEA flexibility beyond the 2013–2014 school year.

Kansas may request reconsideration of its high-risk designation by submitting to me in writing, no later than 10 business days from the date of this letter, a detailed discussion setting forth the basis for its belief that this designation is improper, including the specific facts that support its position. If Kansas chooses to request such reconsideration, that request must be submitted via e-mail to me, with a copy to Victoria Hammer, as well as by U.S. mail or commercial delivery. If I do not receive a request for reconsideration by August 16, 2013, Kansas’ high-risk status will be considered final and will be lifted only upon completing the actions set forth above.

Kansas 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, as well as their implementation of all other Federal education programs. 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.

If you have any questions regarding this letter or the implementation of Kansas’ ESEA flexibility request, please do not hesitate to contact Victoria Hammer or Christie Imholt of my staff at victoria.hammer@ed.gov or christina.imholt@ed.gov. Thank you for your continued commitment to ensuring that all students in Kansas receive a high quality education.

Sincerely,

Deborah S. Delisle
Assistant Secretary

cc: Brad Neuenswander, Deputy Commissioner