

## **Overview of Maine’s Request for ESEA Flexibility**

On September 6, Maine will submit a waiver application to the U.S. Department of Education (USDE) requesting that the state be granted flexibility with regard to certain requirements of the Elementary and Secondary Education Act (ESEA), the federal education law more commonly known as No Child Left Behind. This summary describes Maine’s waiver application, including the specific provisions of the law for which Maine intends to propose alternatives.

### **What is “ESEA Flexibility”?**

Each of the states has been invited by Secretary of Education Arne Duncan and the USDE to submit applications to waive certain provisions of ESEA. This invitation was extended to states in the fall of 2011 and, to date, 33 states and the District of Columbia have had their flexibility applications approved.

The USDE provided states with this flexibility “in order to move forward with State and local reforms designed to improve academic achievement and increase the quality of instruction for all students in a manner that was not originally contemplated by the No Child Left Behind Act of 2001.” Importantly, the USDE did not provide states with a “blank check” with regard to waiving the provisions of ESEA, but rather it provided broad guidelines for state applications, proposing to waive certain portions of the federal law while retaining others. States, therefore, must submit waiver applications that meet the requirements of the flexibility guidance put forward by the USDE.

### **What does the USDE guidance require Maine to do in order to have its waiver application approved?**

The USDE requires states to put forward waiver applications that address three broad principles.

1. Each state must demonstrate that it “has college- and career-ready expectations for all students in the State by adopting college- and career-ready standards in at least reading/language arts and mathematics, transitioning to and implementing such standards statewide for all students and schools, and developing and administering annual, statewide, aligned, high-quality assessments, and corresponding academic achievement standards, that measure student growth in at least grades 3-8 and at least once in high school”
2. Each state must “develop and implement a system of differentiated recognition, accountability, and support for all Local Education Agencies (LEAs) in the State and for all Title I schools in these LEAs.” In other words, each state must use the standards-based assessment system established under Principle 1 to establish how well the state’s schools and school districts are doing, identify those schools and districts where student achievement and growth may be lagging, and implement interventions and provide supports and resources to significantly improve learning in these schools and districts.
3. Each state must work with its school districts to “develop, adopt, pilot, and implement, with the involvement of teachers and principals, teacher and principal evaluation and support systems” that meet certain criteria. The intent of this provision is to better provide teachers and leaders with timely and constructive feedback to help them improve student outcomes.

## **Given the time and expense it will require to adopt and implement these new provisions, why is Maine seeking an ESEA waiver?**

In January of this year, Education Commissioner Stephen Bowen released a [Strategic Plan](#) for the Maine Department of Education that was developed in consultation with educators from across the State. In the plan's preface, Commissioner Bowen argued that Maine's system of public schooling, built on an industrial-age factory-era model, was simply not able to meet the needs of today's learners. What was needed, the commissioner argued, was a system of education built to meet the needs of every learner.

Building a new system of school and district accountability under an ESEA waiver is a critical step Maine needs to take if it intends to build a more effective education system. Educators across Maine, whose insights drove the development of the Department's strategic plan, see the current accountability provisions of No Child Left Behind as significant barriers to transformation. Rather than providing educators with the tools necessary to meet the needs of all students, the current NCLB framework, with its overemphasis of single-snapshot-in-time testing, its failure to recognize learning growth, its inscrutable processes for the recognition of schools, and its unworkable system of mandated interventions, stands in the way of meaningful change.

Maine's goal with its ESEA flexibility proposal, therefore, is to take the first step in the development of a new state accountability system, one that supports the kind of learner-centered systems change that schools and districts across Maine are already embracing. Such a system must represent a dramatic improvement over the current NCLB model, must provide schools and districts with more and better data with which to improve student outcomes, must ensure that struggling schools and districts are provided with the support they need, and must focus on educator effectiveness as a key element in meeting the needs of all students.

## **How and why did Maine develop its ESEA waiver application?**

After careful conversations with educators, students, parents, and business and community members across the state, Maine has decided to take advantage of this waiver opportunity. We believe the flexibility provided – especially the ability to more meaningfully define proficiency while also considering growth and the ability to provide a broader range of school-based supports with fewer restrictions – will better inform and support school improvement across the state. For more than a decade, the determination of a school's accountability status was made solely on the percentage of its students failing to meet a uniform statewide proficiency goal, which has been increasing every year.

There are at least two flaws in this current system of determination. First the annual school proficiency target that must be met in order to exit any designated accountability status continues to increase every year. So while schools might demonstrate year-to-year overall progress, exiting the system is virtually impossible because the goal they are trying to meet keeps moving. A second flaw in the current accountability system is using only student proficiency to determine a school's status. In other words, the progress and growth in student learning occurring from one year to the next is not taken into consideration.

Since the beginning of May, four workgroups consisting of teachers, principals, superintendents, and DOE staff members have worked tirelessly and shared their wisdom and insight to develop Maine's ESEA waiver request.

1. The Steering Committee consisting primarily of the executive directors from our professional organizations, a district English Language Learner administrator, and Maine DOE staff – including the Commissioner – provided overall guidance and informed the ongoing engagement with stakeholders.

2. The Annual Measurable Objectives Workgroup developed the methodology for determining overall student and growth and for placing schools into one of several school performance levels as required by USDE.
3. The Interventions and Supports Workgroup helped design a system of comprehensive and responsive improvement activities and resources organized by school designation category.
4. The Maine Educator Effectiveness Council which was established by the Legislature this spring and comprised of additional stakeholders with experience and expertise has been working toward its charge of proposing a system of performance evaluation and professional development. The Council's foundational work this summer provides sufficient evidence to the USDE that a collaborative process is under way to ensure a thoughtful and informed system is in place to evaluate and support teachers and leaders.

**In its application, how does Maine propose to meet the requirements of the three principles?**

**Principle 1: College- and career-ready expectations for all students**

The Maine Department of Education is deeply committed to establishing clear, ambitious, and rigorous learning standards that, when met, will provide students with a solid foundation that will enable them to be successful in the colleges and careers of their choice upon graduation. Maine's *Learning Results* standards were recently revised with the notion of college and career readiness in mind. These are developed for eight specific content areas as well as a set of five guiding principles that illustrate the types of skills such as problem-solving and communication that students will need to demonstrate across all disciplines.

Beginning with the 2012-2013 school year, the Maine *Learning Results* standards in English Language Arts and mathematics will be replaced completely by those from the Common Core State Standards – a nationally developed comprehensive set of learning expectations aligned with college and career expectations. In addition, Maine is a partner state participating in the development of 21<sup>st</sup> century science standards. The Maine DOE has been working for the past several years with K-12 and higher education officials as well as colleagues from other departments and national organizations to develop a thorough and thoughtful set of resources for schools and districts to help guide Common Core implementation. These resources will be available on the Department website.

**Principle 2: Identifying, recognizing, and supporting Maine schools**

Under the ESEA Flexibility opportunity, Maine is proposing to identify, recognize, and support schools in a differentiated system that acknowledges their past performance, holds them accountable for growth, and provides customized support and interventions tailored to their unique needs. Maine is establishing the goal of improving the proficiency of all students in the required tested years (grades 3 through 8 and grade 11) in both reading and mathematics. Maine is committed to reducing the percentage of students *not* proficient by half over the next six years.

Since Maine itself does not have a statewide accountability system, it is important to note that the requirements of the accountability system described here apply only to schools that receive

federal Title I program funds. Nevertheless, in an effort to ensure schools and communities have the most meaningful information, Maine will continue to publish report cards for all schools and districts indicating how well their students are performing and progressing on important outcome measures such as proficiency, graduation, participation, and attendance rates for all students, and for each subgroup for which there are at least 20 students.

### School-based annual learning targets

Rather than establish an arbitrary proficiency rate for all schools that continuously increases and potentially penalizes schools that make progress but fail to meet the statewide uniform goal, Maine will establish annual proficiency rates for every school based on the past performance of its students so that ambitious, yet achievable improvement is expected across the state. To best illustrate this point, consider the following two schools:

- In 2011-2012, 40 percent of all 8<sup>th</sup> graders in school A were proficient in math (i.e. they met or exceeded their grade level expectations as determined by the NECAP math test that year). Put differently, 60 percent of 8<sup>th</sup> graders in that school were determined to *not be proficient* based on the state assessment. The goal for School A during the next six years will be to reduce this percentage by half to 30 percent by the 2017-2018 so that 70 percent of the students in 8<sup>th</sup> grade will be proficient. Furthermore, beginning with the 2012-2013 school year and every year after that, an additional 5 percent of students will be expected to be proficient (30 percent divided by six years). This will become the schools annual target for 8<sup>th</sup> grade math in the “all students” category.
- In 2011-2012, 76 percent of all 8<sup>th</sup> graders in school B were proficient in math (i.e. they met or exceeded their grade level expectations as determined by the NECAP math test that year). In this school 24 percent of 8<sup>th</sup> graders were determined to be *not proficient* based on the state assessment. The goal for School B during the next six years will be to reduce this percentage by half to 12 percent by 2017-2018 so that 86 percent of the students in 8<sup>th</sup> grade will be proficient. Furthermore, beginning with the 2012-2013 school year and every year after that, an additional 2 percent of students will be expected to be proficient (12 percent divided by six years). This will become the schools annual target for 8<sup>th</sup> grade math in the “all students” category.

### Accountability determination based on growth

In addition to establishing annual growth expectations that are ambitious, achievable, and based on past performance, the process of determining which Maine schools are performing unsatisfactorily or have large achievement gaps will be more thoughtful and meaningful. Specifically, Maine will use a *School Accountability Index (SAI)* to determine which schools are not progressing well enough and will require specific supports and interventions. The SAI will be determined for every school and will contain the following measures:

- Percentage proficiency relative to the school’s six-year proficiency target as determined by the state assessment (reading and mathematics in grades 3-8 and 11)
- Annual progress toward school-based proficiency targets as determined by the state assessment (for students in grades 4-8 this change will actually represent the progress for the same group of students because they participate in the state assessment beginning in grade 3)

- Student Percentile Growth: a commonly used accurate measure incorporating each student's annual growth compared to other students with a similar performance history (available only to students in grades 4-8 because it requires assessment data from two consecutive years)
- Five-year cohort graduation rate (applicable only to schools serving students in grade 12)

Regardless of a school's grade configuration, its SAI will be reported on a scale of 0 to 100 with each of its applicable variables (performance, progress, growth, and graduation rate) carrying equal weight.

### Priority schools

Maine's Title I receiving schools with the 5 percent lowest SAI scores will comprise the group of schools receiving the most comprehensive and intensive supports and will be designated as "priority" schools. In order for Maine's ESEA Flexibility request to receive approval, it must identify at least 5 percent of its Title I schools in this category. As there are approximately 450 Maine schools receiving Title I funds, this means that the schools representing the 23 lowest SAI scores will receive this priority school determination.

Priority schools will be required to conduct a comprehensive school self-assessment supported and facilitated by a Maine DOE school improvement specialist. The results of this thoughtful and collaborative process will be used to inform the development of a multi-year school improvement plan – which will be signed by the principal, superintendent, and school board chair – which must propose implementing research-based best practices that align with the seven ESEA turnaround principles determined by the U.S. Department of Education representing the following categories: ensuring both (1) strong leadership and (2) effective teaching are in place, (3) redesigning the school day, (4) strengthening instruction, (5) using data, (6) improving the school environment, and (7) engaging families and the community. A more complete list of the proposed required and optional interventions and supports for Maine schools appears at the end of this section. Priority schools will receive additional funding, engage in continuous school improvement and will be monitored and supported by Maine DOE for at least two years and will be required to demonstrate progress toward their school learning targets.

It's important to note that any Title I eligible or receiving high school with a four-year cohort graduation rate less than 60 percent must – under federal guidelines – be designated as a priority school. In addition, any school remaining in the federal School Improvement Grant (SIG) program will be considered a priority school. These are requirements for USDE approval of any state waiver request.

### Focus schools

While the Maine DOE takes whole school accountability very seriously, it also is very concerned about the persistent achievement gap among various groups of students.

The process for identifying the Title I schools in this category involves two steps. First an achievement gap index for reading and one for mathematics is calculated in grades 3-8 and 11 for each subgroup. The gap index is determined by calculating both the proficiency rate in the current year compared to the target for the school and the year-to-year progress for every

subgroup. This will result in two sets of gap indices for every student subgroup – one in reading and one in mathematics.

Next, two within-school gap index scores will be calculated by finding the difference between the highest-performing subgroup and the lowest-performing subgroup – one for reading and one for mathematics. The 10 percent of Title I schools with the highest within-school gap index scores will receive specific supports and interventions and will be designated as focus schools.

Maine's focus schools will also be required to conduct a research-based school self-assessment and craft a multi-year school improvement plan. The plan, in order to receive Maine DOE approval and targeted additional funds, must also specify how the proposed activities it outlines will result in improved learning outcomes for all students and how it will narrow the achievement gap. A more complete list of the proposed required and optional interventions and supports for Maine schools appears in the table at the end of this section. Focus schools will receive additional funding, engage in continuous school improvement, will be monitored and supported by the Maine DOE for at least two years, and will be required to demonstrate progress toward their school learning targets. The annual improvement plan must be signed by both the district's superintendent and the school board chair.

Maine's Title I schools not identified as either focus or priority will receive one of two possible designations. Schools *not* meeting all of their annual learning targets will be called "progressing toward target schools." Those meeting *all* of their annual learning targets will be called "meeting target schools."

### Reward schools

A new feature of Maine's Title I accountability system is the addition of two separate categories of "reward" schools. Maine will recognize Title I schools with index scores in the top 5 percent that also have met all of their annual learning targets and have no significant within-school gaps. These will be known as "high performance reward" schools.

In addition, Maine will also recognize any Title I school that has exceeded its annual learning target in at least one category (math and reading proficiency for whole school and any eligible subgroup) and that has made progress on all other applicable learning measures assessed for every subgroup, including the five-year high school cohort graduation rate. These schools will be known as "high progress" schools. High progress school status can be granted to any Title I school, including schools designated as priority or focus.

Maine's high progress and high performance reward schools will be recognized in a variety of ways. First, the Maine DOE will announce its annual list of reward schools in a press conference and prominently display this list on its website. Second, profiles of reward schools will be featured in the weekly Commissioner's Update electronic newsletter and in the Maine DOE Newsroom. Third, every reward school will receive a special seal that it can use to display on its website and stationary. Fourth, educators from reward schools will be invited to share their successful school improvement work with colleagues during some of the state and regional Maine DOE-sponsored events and conferences. Finally, representatives from the group of reward schools will be invited to join the group of advisors who will meet periodically during the year to help inform and provide feedback to the DOE's accountability and school improvement team.

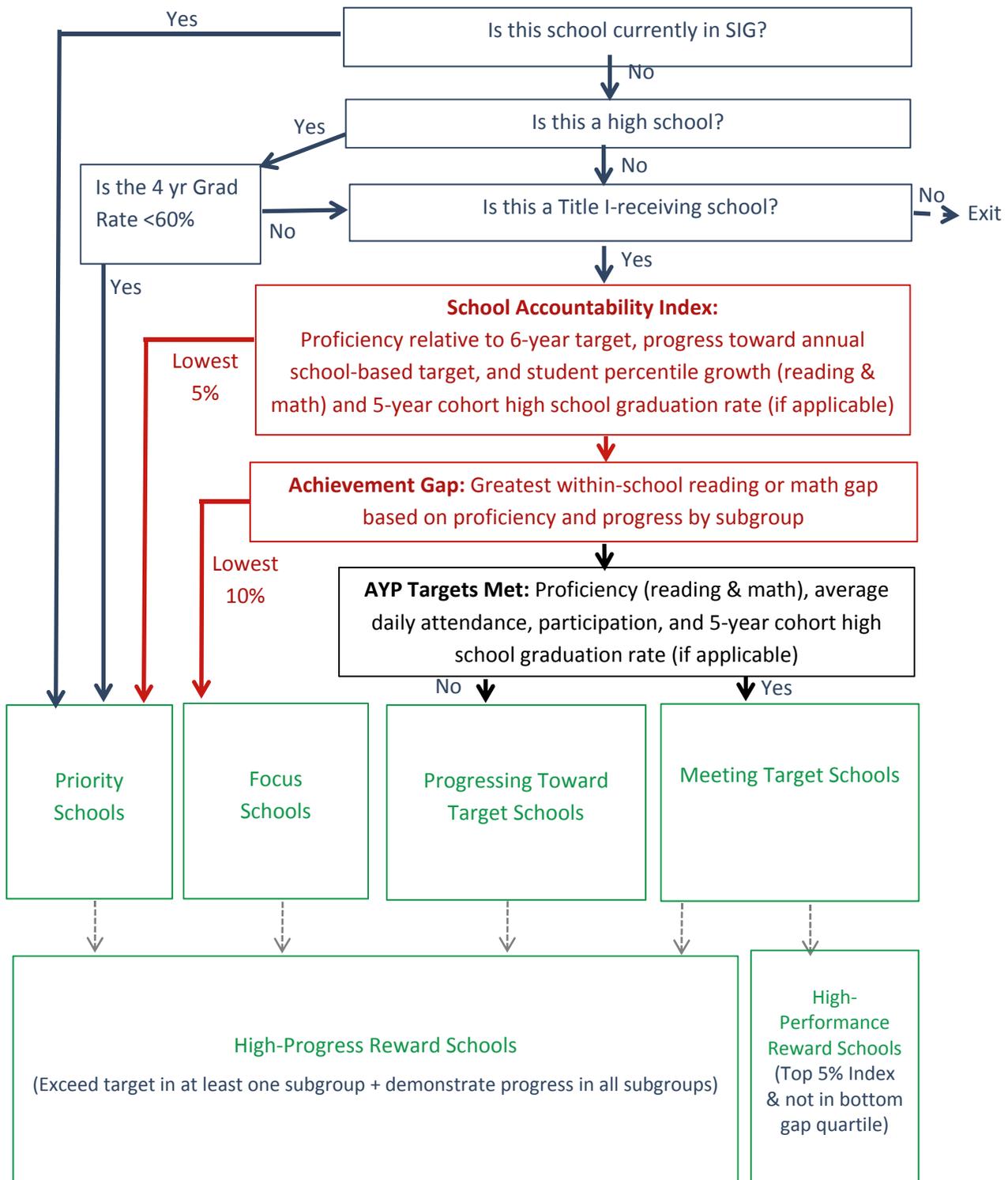
### Providing interventions and supports

Maine is deeply committed to ensuring its schools ongoing improvement efforts are well-informed and supported. To that end, a myriad of activities and resources will be made available not just to focus and priority schools, but to all public schools regardless of their Title I status. These will be more fully explained in Maine's ESEA Flexibility application but are summarized in the following table:

Table 1. Interventions and supports by accountability designation

	<b>Priority</b>	<b>Focus</b>	<b>Progressing</b>	<b>Meeting</b>	<b>Title I eligible</b>	<b>All Public</b>
<b>Self-Assessment</b>	√	√	Optional	Optional	Optional	Optional
<b>Improvement Plan</b>	√	√	Optional	Optional	Optional	Optional
<b>Alignment with 7 ESEA Turnaround Principles</b>	√	Optional	Optional	Optional	Optional	Optional
<b>Additional funds</b>	√	√	N/A	N/A	N/A	N/A
<b>Convert to Schoolwide Title I status</b>	√	√	Optional	Optional	Optional	N/A
<b>School-based improvement team</b>	√	√	Optional	Optional	Optional	Optional
<b>DOE Specialist Assigned</b>	√	√	N/A	N/A	N/A	N/A
<b>Affinity / Special Issue Networks</b>	√	√	Optional (as available)	Optional (as available)	Optional (as available)	Optional (as available)
<b>Regional Networks</b>	√	Optional (as available)				
<b>Specialized DOE support (RTI, Content, etc.)</b>	√	√	Optional	Optional	Optional	Optional
<b>Transformational Leaders Network</b>	√	√	Optional (as available)	N/A	N/A	N/A
<b>Quarterly progress reports</b>	√	√	N/A	N/A	N/A	N/A
<b>Annual reporting</b>	√	√	N/A	N/A	N/A	N/A
<b>DOE-sponsored school improvement events</b>	√	√	Optional	Optional	Optional	Optional
<b>DOE web-based improvement resources</b>	√	√	Optional	Optional	Optional	Optional

The following diagram summarizes the determination process and differentiated identification of schools in the system proposed by Maine under the auspices of the ESEA Flexibility opportunity.



### **Principle 3: Supporting effective instruction and leadership**

Maine policymakers took great strides this year toward measuring and improving the effectiveness of teachers and school leaders, with passage of LD 1858, *An Act to Ensure Effective Teaching and School Leadership*. That legislation lays the groundwork for Maine's plan to meet the requirements of Principle 3 of the ESEA Flexibility Request.

Prior to passage of LD 1858, local control of most education matters meant that there was little coordinated, clear policy regarding educator effectiveness. While state law provided that superintendents were responsible for evaluating staff, there was no specific requirement for evaluation of all teachers or school leaders, much less standards for doing so. The state's only "definition" of an effective teacher was laid out in the "Ten Initial Standards for Educator Certification," the basic requirements to become a teacher. Past the stage where a teacher earned professional licensure, there were no statewide policies or efforts to ensure effective teachers or administrators.

LD 1858 enacted a new chapter in Maine's Education Law, Title 20-A of the Maine Revised Statutes. This new chapter, "Chapter 508, Educator Effectiveness," requires each of the state's school districts to develop and implement a "performance evaluation and professional growth (PE/PG) system" for all teachers and principals. Each "system" must meet state standards and be approved by the Maine Department of Education. This system requires:

- A clear set of professional practice standards that educators will be expected to meet
- Multiple ways of measuring an educator's effectiveness, including evaluation of professional practices and a look at the educator's impact on student achievement
- Opportunities for educators to improve their effectiveness by understanding where they fall short of expectations, and a clearly spelled-out professional improvement plan designed to enable them to meet expectations

LD 1858 lays out the basic structure of the PE/PG system, creates a process for fleshing out the details of the state standards and sets forth a timeline for development and implementation of systems on the local level.

#### Key elements of the system

The basic structure of the new Maine PE/PG system is set forth in Chapter 508 of Title 20-A. Under Chapter 508, a PE/PG system consists of the following elements:

1. Standards of professional practice by which the performance of educators must be evaluated;
2. Multiple measures of educator effectiveness (in addition to professional practice evaluations) including but not limited to student learning and growth;
3. A rating scale consisting of four levels of effectiveness (at least two levels for "effective" educators and one level for "ineffective" educators), based on multiple measures, with professional growth opportunities and employment consequences tied to each level;
4. A process for using information from the evaluation process to inform professional development;
5. Implementation standards that include trained evaluators, evaluation on a regular basis, training of educators to enable them to participate in the system in a meaningful way,

peer review components and a local steering committee to review and refine the local system; and

6. Opportunities for educators rated as “ineffective” to implement a professional improvement plan.

These basic structural components are designed to ensure that systems are transparent, fair and meaningful, and to ensure that the PE/PG systems meet the criteria for ESEA Flexibility requests.

### Timeline for implementation

LD 1858 lays out a process for developing and implementing PE/PG systems over a four-year period. This period complies with the ESEA flexibility request requirements and provides a reasonable length of time for further state policymaking as well as local adoption, piloting and adjustment.

- In the first year following passage of LD 1858 (2012-2013), stakeholders and policymakers at the state level will work together to flesh out details of the required systems.
- In the second year, 2013-2014, local school districts must develop local systems that comply with the state requirements. There is likely to be some flexibility within the state standards to allow variations among districts so this year would be the time for local policymakers, parents, administrators and educators to create the best system for local conditions.
- In school year 2014-2015, local districts will pilot their systems, either by using them only in certain schools, with a portion of educators, or with all educators but without “counting” the results. The pilot will allow people to see how the system works and make adjustments to ensure that it meets expectations.
- In school year 2015-2016, local systems must be fully implemented.

### Fleshing out the details

LD 1858, enacted in law as Chapter 508, earned a unanimous favorable vote of the Legislature’s Joint Standing Committee on Education and Cultural Affairs, demonstrating the clear support of key policymakers for the basic structure and purpose of the system. The Education Committee also directed a stakeholder group to recommend ways to flesh out the details of the system and to work with the Department and the Legislature to put the finishing touches on the system over the upcoming year.

The Maine Educator Effectiveness Council (MEEC) is the 16-member stakeholder group created in LD 1858. It includes teachers, administrators, state policymakers, school board members and representatives of the business community, the general public, and teacher preparation programs. Members were nominated by professional associations and other stakeholder groups and appointed by the Commissioner of Education.

MEEC was assigned the general task of recommending standards for implementing a system of evaluation and support of teachers and principals consistent with the requirements of Title 20-A, chapter 508. MEEC recommendations will be sent to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2012. Based on the work of the Council, the Department of Education will also begin a rulemaking process to place the details of the new

systems into Department rule. The proposed rule and the MEEC recommendations will be reviewed by the Legislature in the First Regular Session of the 126<sup>th</sup> Legislature, beginning in January 2013. The Department will work diligently to have final legislative approval of the rule before the end of the 2012-2013 school year.

### MEEC discussions to date

The Council has met regularly since the end of May, formulating its governing structure and work plan, and making some significant decisions about the structure of the developing systems. More work is ahead, but the group has demonstrated its commitment to work hard, to air concerns and to work toward consensus on all issues.

One overarching issue that the Council will continue to struggle with is the need to find the right balance between uniformity and flexibility. With its history of local control of education matters, Maine leans toward supporting local flexibility. An additional concern leaning toward flexibility is that many school districts, including those participating in the state's Maine Schools for Excellence initiative, have already spent significant resources creating robust evaluation and support systems, and the Council is reluctant to force them to throw out the work already done. But with the desire for greater coordination and equity across the state, there is also a desire for creating more uniformity of PE/PG systems.

One of the Council's earliest decisions concerns the sets of professional practice standards for teachers and principals. The Council acknowledged that many districts already have systems in place or in development which may or may not share common features. While aware and supportive of local governance and the valuable work underway, the Council also seeks to encourage greater uniformity. For example, the Council will likely recommend that districts use one particular set of the professional practice standards. However, because there are a handful of such standards currently in use with sufficient level of alignment between them, districts would also be able to select from among a small set of other standards as long as they are closely aligned with those recommended by the Council.

Further work will be done by MEEC during the coming months. Their meetings are open to the public and there will be opportunities to comment through the rulemaking and Legislative processes.

### **Where do I go to offer feedback or seek more information?**

The process so far has involved considerable public engagement, including a survey with more than 1,500 responses, several public forums, four working groups with participation by multiple stakeholders, a public website and participation in the Maine DOE Newsroom discussion.

A final survey seeking feedback on this overview can be found at:  
[www.maine.gov/doe/accountability](http://www.maine.gov/doe/accountability).

On this web page, you will also find this overview and numerous documents, including the agendas and notes from all work group meetings.

We appreciate the feedback!