



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Mike Morath
Commissioner of Education
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701-1494

FEB 18 2020

Dear Commissioner Morath:

I am writing in response to the Texas Education Agency's (TEA) request on December 20, 2019, to extend its waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State. TEA requested this waiver because, based on State data for the 2018-2019 school year, TEA has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in reading/language arts and mathematics in the 2019-2020 school year.

After reviewing TEA's request, I am declining to exercise my authority under section 8401(b) of the ESEA, for school year 2019-2020, a one-year waiver of section 1111(b)(2)(D)(i)(I) of the ESEA, so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in reading/language arts, mathematics and science. My reasons for denial are because TEA did not demonstrate a decrease in the percentage of students assessed with the AA-AAAS in reading/language arts, mathematics and science between 2017-2018 and 2018-2019. In addition, TEA did not demonstrate in its plan to reduce the percentage of students assessed with the AA-AAAS how it is addressing any disproportionality in the percentage of students participating in alternate assessments as required in 34 CFR 200.6(c)(4)(C). Finally, TEA also did not document substantial progress in implementing the prior year's plan and timeline regarding how the State is addressing any disproportionality in the percentage of students taking the alternate assessment, as required in 34 CFR 200.6(c)(4)(v)(C). TEA has, therefore, not demonstrated substantial progress in achieving the plan and timeline that was submitted when the State initially requested this waiver two years ago.

TEA may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F). The revised waiver request must address how the requirements are met in 34 CFR 200.6(c)(4), including the requirement of demonstrating substantial progress towards achieving each component of the prior year's plan and timeline. The revised waiver request must be submitted no later than 60 days from the date of this letter.

In order to help all States support implementation of the 1.0 percent participation threshold for AA-AAAS participation, the Department is supporting work by the National Center on Educational Outcomes (NCEO). I note that Texas has participated in some of these efforts and encourage your

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State's continued involvement. In 2019, NCEO has published several resources that may be helpful to stakeholders in your State. They may be found online at https://nceo.info/Assessments/alternate_assessments.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact my staff at ESEA.Assessment@ed.gov.

Sincerely,



Frank T. Brogan,
Assistant Secretary for
Elementary and Secondary Education

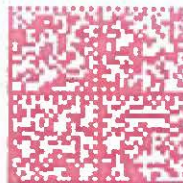
cc: Tyson Kane, Executive Director of Assessment

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