



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 9, 2023

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

Dear Commissioner Morath:

I am writing in response to the Texas Education Agency's (TEA) request on December 21, 2022, for a one-year extension of the State's waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), which stipulates that a State may not assess more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). TEA requested this waiver extension because, based on State data for the 2021-2022 school year, TEA has concluded that it will assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA), mathematics, and science.

After reviewing TEA's waiver extension request, I am declining to exercise my authority under section 8401(b) of the ESEA to grant a one-year (school year 2022-2023) waiver of section 1111(b)(2)(D)(i)(I) of the ESEA, so that the State may assess more than 1.0 percent of the total number of students in the State who are assessed in R/LA, mathematics, and science using an AA-AAAS. TEA has not demonstrated progress in reducing the AA-AAAS participation rate in R/LA, mathematics, and science between the 2018-2019 and 2021-2022 school years.

If the data reported by TEA are incorrect and the State can demonstrate that it has made progress in reducing the percentage of students taking the AA-AAAS between the 2018-2019 and 2021-2022 school years, TEA may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii). The revised waiver request must address how the State met the requirements in 34 CFR § 200.6(c)(4), including the requirement to demonstrate 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.

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.

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,

A handwritten signature in black ink, appearing to read "James F. Lane". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Julie Cole, Director of Policy and Publications, Student Assessment Division, TEA