



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

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

August 26, 2019

Dear Commissioner Morath:

I am writing in response to Texas' request on April 11, 2019, for a waiver of section 1111(b)(2)(B)(i) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), that requires all students in the State to be administered the same grade-level assessment in mathematics and reading/language arts in grades 3 through 8 and once in high school. Texas requested to waive this provision, for school year (SY) 2018-2019, to allow a student in grades earlier than grade 8 taking an advanced mathematics course or a student earlier than high school taking an advanced English course to take the assessment aligned to the student's advanced course rather than the student's grade-level assessment.

After carefully reviewing this request, I am declining to approve it. I do not believe the Texas Education Agency (TEA) has sufficiently demonstrated that a waiver of the provision to assess all students on the same grade-level assessments is warranted for SY 2018-2019. The U.S. Department of Education (the Department) does not find TEA has demonstrated the requested waiver would advance student achievement as required under ESEA section 8401(b)(1)(C) nor does it describe how the waiver will maintain or improve transparency in reporting to parents and the public on student achievement and school performance as required under ESEA section 8401(b)(1)(F). TEA has stated that it cannot require a student to take an assessment that is more advanced than English II or Algebra I. As a result, for a student who takes English II or Algebra I in middle school, the State has no more advanced assessment it can require the student take in subsequent grades, including high school and those students are not included in the State's accountability system in high school. Accordingly, for SY 2018-2019, TEA cannot ensure that all students were assessed or that schools were held accountable for the students' performance in Texas' accountability system.

In the proposed plan, starting in SY 2019-2020 Texas indicated that it intends to require a student taking an accelerated course to be administered the assessment aligned to the course as well as the grade-level assessment. If a student takes the high school math or reading/language arts assessment used for Federal accountability purposes while in middle school, Texas will require the student to be administered a more rigorous assessment while in high school. While this plan appears to be in line with other similar waivers that the Department approved for students taking advanced courses in middle school, Texas did not implement this option during SY 2018-2019. Due to the fact that TEA has been out of compliance with this requirement for multiple years, Texas must submit a plan by September 30, 2019, for how it will appropriately assess all students on the statewide assessments and include them in the State's accountability system for the 2019-

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2020 school year. If Texas is unable to resolve this matter for the 2019-2020 school year, the Department may take additional action.

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) and resubmit the revised waiver request. If TEA decides to resubmit, it must do so no later than 60 days from the date of this letter.

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: OESE.TitleI-a@ed.gov and ESEA.Assessment@ed.gov.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary for
Elementary and Secondary Education

cc: Megan Aghazadian, Deputy Commissioner of Operations
Jamie Crowe, Executive Director-Performance Reporting
Alejandro Delgado, Director, Policy and Planning
Cory Green, Associate Commissioner, Department of Contracts, Grants and Financial Administration
Tyson Kane, Executive Director