



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 21, 2015

The Honorable Mitchell D. Chester
Commissioner
Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148

Dear Commissioner Chester:

I am writing regarding the Massachusetts State Board of Education's recent decision to continue to permit local educational agencies (LEAs) in Massachusetts the choice to administer one of two academic assessments during the 2015–2016 school year and the impact of that decision on the State's Title I, Part A grant award under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (ESEA). Specifically, I understand that the State Board approved LEAs to administer assessments in reading/language arts and mathematics in grades 3–8 from either the Massachusetts Comprehensive Assessment System (MCAS) or the Partnership for Assessment of Readiness for College and Careers (PARCC).

I know that we agree that it is critical that States administer a single Statewide assessment in reading/language arts and in mathematics so that educators, students, and parents have clear, consistent feedback about how students are doing. A single Statewide assessment in each subject serves a critical equity purpose, ensuring that all students are being held to the same high standards regardless of their zip code or background. In fact, a single Statewide assessment in reading/language arts and mathematics has been a significant part of the strong, sustained plan in Massachusetts that has made it one of the highest-performing States in the nation. The recently reauthorized version of the ESEA, known as the Every Student Succeeds Act (ESSA), maintains the requirement for each State to administer a single Statewide assessment.

Massachusetts's original ESEA flexibility request in 2011 was approved by the U.S. Department of Education (ED) based, in part, on an assurance that the State would require all of its LEAs to administer the same Statewide academic assessments in reading/language arts and mathematics aligned to the State's college- and career-ready standards to all students in the State no later than the 2014–2015 school year and each year thereafter. For the 2014–2015 school year, contrary to this assurance, Massachusetts permitted LEAs to choose to administer either MCAS or PARCC assessments in grades 3–8. On October 9, 2014, in extending Massachusetts's request for ESEA flexibility through the 2014–2015 school year, ED indicated that such a choice was a violation of section 1111(b)(3)(C)(i) of the ESEA, which requires the State to administer the same assessments to all students. ED indicated that Massachusetts would need to come into compliance by the 2015–2016 school year, and each school year thereafter, through the administration of a single Statewide assessment system. In response, Massachusetts submitted a high-quality plan to administer in the 2015–2016 school year the same assessments to all students in grades 3–8 in reading/language arts and mathematics aligned to the State's college- and career-ready standards.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Section 1111(b)(3)(C)(i) of the ESEA requires the State to administer the same assessments to all students. The State Board's decision on November 17, 2015, appears to make Massachusetts's compliance with this condition unlikely. Therefore, pursuant to the authority in 2 C.F.R. §§ 200.207 and 3474.10, I have determined to place Massachusetts's Title I, Part A award on "high-risk" status immediately.

In order to remove the high-risk status for Title I, Part A, Massachusetts must provide evidence, by May 31, 2016, that it selected and administered the same Statewide assessments in reading/language arts and mathematics to all students in grades 3–8 in the 2015–2016 school year, and the State commits to doing so each year thereafter. If the State fails to administer the same academic assessments in reading/language arts and mathematics to all students in grades 3–8 in the 2015–2016 school year, ED may withhold a portion of the State's Title I, Part A administrative funds, consistent with section 1111(g)(2) of the ESEA.

Massachusetts may request reconsideration of its "high-risk" designation for Title I, Part A by submitting to me in writing, no later than 10 business days from the date of this letter, a detailed description setting forth the basis for its belief that this designation is improper, including the specific facts that support its position. If Massachusetts chooses to request such reconsideration, that request must be submitted via e-mail to me, with a copy to Millicent Bentley-Memon and Chuenee Boston at: OSS.Massachusetts@ed.gov, as well as by U.S. mail or commercial delivery. If I do not receive a request for reconsideration by January 6, Massachusetts's "high-risk" status for Title I, Part A will be considered final, and will be lifted only upon completing the actions set forth above.

Massachusetts continues to have an affirmative responsibility to ensure that it and its LEAs 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. 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 Massachusetts's ESEA flexibility request or Title I, Part A program, please contact Millicent Bentley-Memon or Chuenee Boston of my staff at: OSS.Massachusetts@ed.gov.

Thank you for your commitment and continued focus on enhancing education for all of Massachusetts's students.

Sincerely,

/s/

Ann Whalen
Delegated the authority to perform the functions
and duties of Assistant Secretary for Elementary
and Secondary Education

cc: Matt Pakos, Massachusetts Department of Education

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.