



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 6, 2021

The Honorable Betty A. Rosa  
Commissioner  
New York State Education Department  
89 Washington Avenue  
Albany, NY 12234

Dear Commissioner Rosa:

I am writing in response to the New York State Department of Education's (NYSED's) request on February 12, 2021, for a waiver of section 1111(b)(2)(B)(i) of the Elementary and Secondary Education Act of 1965 (ESEA) that the State administer the same academic assessments to all public elementary and secondary school students in the State. NYSED requested this waiver so that it would not administer its statewide reading/language arts, mathematics, and science assessments, as well as the English language proficiency (ELP) assessment, in the 2020-2021 school year, though NYSED will pursue administering the ELP assessment where possible. I appreciate the information that NYSED submitted in its request and shared in conversation between our staff.

The Department remains committed to supporting all States in assessing the learning of all students. Obtaining data on student learning includes high-quality statewide assessments, which can help identify where opportunity gaps are persistent and have been exacerbated – particularly during the pandemic – and, along with other data, can help States direct resources and support to close those gaps. At the same time, we must also recognize that we are in the midst of a pandemic that requires real flexibility.

NYSED has not demonstrated, however, specific circumstances that would warrant granting a waiver of the annual statewide assessment requirements and, specifically, not administering statewide assessments at all. As a result, and after carefully considering NYSED's request, I am declining to approve the State's request because it does not meet the statutory requirements for a waiver outlined in section 8401(b)(1) of the ESEA. Namely, NYSED does not sufficiently demonstrate how the request will advance student academic achievement (section 8401(b)(1)(C)). It also does not describe how schools will continue to provide assistance to the same populations served by the Title I, Part A program, particularly low-achieving students, or describe how the State will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of the subgroups of students identified in section 1111(h)(1)(C)(ii) of the ESEA (section 8401(b)(1)(F)).

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[www.ed.gov](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.*

The Department believes that, consistent with the ESEA, States should do the best they can to maximize the number of students who are assessed with comparable, reliable, and valid statewide summative assessments. Still, we recognize that some schools and school districts will face circumstances where they are not able to successfully administer statewide summative assessments to all students. Certainly, we do not believe that, if there are places where students are unable to attend school safely in person because of the pandemic, they should be brought into school buildings for the sole purpose of taking a test. The Department has provided flexibility for States to administer assessments in ways that support students and educators during this unprecedented period as part of our commitment to effectively address existing and increased gaps in opportunity exacerbated by the pandemic.

In cases where students are unable to take the statewide summative assessment, we hope that States and school districts use other assessments to measure student learning and progress and to provide information to parents and educators. These interim, diagnostic, or formative assessments do not replace statewide summative assessments, but they can serve to provide valuable information to meet our goal of maximizing the number of students for whom we have quality data this year.

NYSED may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements of section 8401(b)(1) and resubmit the revised waiver request. If NYSED decides to resubmit, it must do so no later than 60 days from the date of this letter.

If you have any questions, please contact my staff at: [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,



Ian Rosenblum  
Deputy Assistant Secretary for Policy and  
Programs  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Jason Harmon, Assistant Commissioner  
Office of Accountability, NYSED