



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 13, 2021

The Honorable Mohammed Choudhury  
State Superintendent of Education  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201-2595

Dear Superintendent Choudhury:

I am writing in response to the Maryland State Department of Education's (MSDE's) request on August 5, 2021, to the U.S. Department of Education (Department) to waive the requirement in section 1111(b)(1)(A) of the Elementary and Secondary Education Act of 1965 (ESEA) that each State educational agency must set at least three levels of academic achievement for the required assessments in reading/language arts (R/LA) and mathematics. This request follows a waiver that was granted to MSDE regarding the ESEA accountability, school identification, and related reporting requirements for the 2020-2021 school year (see <https://oese.ed.gov/files/2021/05/MD-Accountability-Waiver-Response.pdf>).

Subsequent to receiving the accountability waiver, MSDE implemented a plan to administer shortened forms of its R/LA and mathematics assessments in spring 2021 and early fall 2021. This is the first year that MSDE is administering its new R/LA and mathematics assessments and, as a result, MSDE has not yet conducted standards-setting to establish cut scores for the achievement levels. Historically, MSDE has used four levels of achievement – two below proficiency and two above proficiency. MSDE indicated that it plans to set four achievement levels for these new assessments, which is consistent with the requirement in ESEA section 1111(b)(1)(A) that States report at least three levels of achievement. MSDE postponed the administration of State assessments to fall 2021 and is administering a shortened version of the R/LA and mathematics assessments to maximize instructional time this fall and to reduce the time between when the assessments are administered and when results are provided to educators and parents. Due to the reduced length of the R/LA and mathematics assessments (which are new for the 2020-21 school year), MSDE requested to report only two achievement levels, proficient and not proficient.

The Department remains committed to supporting all States in assessing the learning of all students. I appreciate MSDE's revised assessment plans for the 2020-2021 school year, which provided flexibility in order to obtain data on student learning. High-quality statewide assessments 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.

After carefully reviewing this request, I am declining to approve this waiver. While I appreciate that MSDE committed to developing four achievement levels, which is its long-standing practice, for the State assessments administered in spring 2022 and future school years, MSDE has not demonstrated

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how this waiver for the assessments administered in fall 2021 would 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).

As I mentioned in my [letter](#) to States on February 22, 2021, it remains vitally important that parents, educators, and the public have access to data on student learning and success. Transparency about student performance, including reporting student performance on at least three levels of achievement, is necessary to help inform decisions about student supports for the 2021-2022 school year and beyond. The Department recognizes that the assessment MSDE is administering this fall is shorter than the usual assessment you administer. We encourage you to clearly and prominently communicate any necessary caveats or cautionary notes you think necessary regarding the appropriate interpretation and use of the data to ensure that parents and the public understand what the information means and its limitations. For example, you may want to indicate that the shortened test this fall may result in a less-precise estimate of student performance for students scoring at the highest, or advanced, achievement level.

MSDE 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 MSDE 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: [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

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: Dr. Carol Williamson, Deputy Superintendent for Teaching and Learning  
Dr. Jennifer Judkins, Assistant State Superintendent for Assessment