



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 15, 2022

The Honorable Tiffany Sanderson
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501-2291

Dear Secretary Sanderson:

I am writing in response to a request by the South Dakota Department of Education (SD DOE) on March 7, 2022, for a waiver of certain requirements in the Elementary and Secondary Education Act of 1965 (ESEA). Specifically, SD DOE requested a waiver of annual statewide assessment, accountability, school improvement, and reporting requirements for the Miller School District for the 2021-2022 school year. SD DOE requested the waivers due to a building fire on February 2, 2022, that has significantly disrupted instructional time in Miller School District.

I have reviewed SD DOE's request and, pursuant to my authority under ESEA section 8401(b), I am declining to approve SD DOE's request. After carefully reviewing SD DOE's request, I have determined that the State has not demonstrated how the waiver would advance student achievement or enable the Miller School District to 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)(C) and (F).

The ESEA requires a State to establish academic achievement standards that apply to all public schools and public school students in the State and to implement high-quality, annual student academic assessments that are aligned to those standards to measure the achievement of all public school students in the State. Such assessments provide critical information for educators and parents so that they can understand and address specific academic needs of their students. I recognize that the February 2022 fire has led to significant challenges, including school closures and displacement of teachers and students to alternative schooling sites. However, Miller School District has sufficient time to administer the assessments during SD DOE's window for the administration of its State assessments and it is our understanding that an alternative paper-based format of the State test is available (which does not require technology to administer the tests). Therefore, I do not believe waiving a central tenet of the ESEA is warranted in this circumstance.

I appreciate that Miller School District lost up to nine days of instruction due to the fire. I also appreciate that the disruption from the fires extended longer. Not administering State assessments leaves SD DOE and the parents and educators in Miller School District without vital data about student achievement for the 2021-2022 school year. Having comparable, actionable data is more important this year than ever before to help understand the impact of the COVID pandemic.

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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.

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

I appreciate the work that you and your staff are doing to provide a high-quality education for all students in South Dakota's schools. If you have any questions, please contact my staff at: ESEA.Assessment@ed.gov.

Sincerely,

/s/

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: Matthew Gill, SD DOE Director of Assessment