



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 11, 2023

The Honorable Penny Schwinn
Commissioner of Education
Tennessee Department of Education
710 James Robertson Parkway
Nashville, TN 37243

Dear Commissioner Schwinn:

I am writing in response to the Tennessee Department of Education's (TDOE's) request on February 6, 2023, for a waiver of sections 1111(b)(1)(B) and 1111(b)(2)(B)(i) of the Elementary and Secondary Education Act of 1965 (ESEA). TDOE requested this waiver to permit middle school students to take a high school end-of-course (EOC) assessment in mathematics or reading/language arts (R/LA), in lieu of the State's grade-level assessment, when the student is enrolled in the corresponding course for high school credit. On February 6, 2023, TDOE also submitted a second waiver request pertaining to its high school mathematics assessment. A response to that request will be provided in separate correspondence.

After reviewing TDOE's request, I am granting, pursuant to my authority under ESEA section 8401(a)(3), a waiver of sections 1111(b)(1)(B) and 1111(b)(2)(B)(i) of the ESEA. This waiver will be in effect for the 2022-2023 and 2023-2024 school years to permit the following:

- Students taking advanced mathematics in 6th grade may take the 7th grade mathematics assessment in lieu of the 6th grade mathematics assessment.
- Students taking advanced mathematics in 7th grade may take the 8th grade mathematics assessment in lieu of the 7th grade mathematics assessment.
- Students who take either Algebra I or Integrated Math I in 7th grade will take the corresponding State EOC assessment in lieu of the 7th grade mathematics assessment. These students will take a more advanced mathematics assessment in high school.
- Students who take either Geometry or Integrated Math II in 8th grade will take the corresponding State EOC assessment in lieu of the 8th grade mathematics assessment. These students will take a more advanced mathematics assessment in high school.
- Students taking advanced R/LA in 6th grade may take the 7th grade R/LA assessment in lieu of the 6th grade R/LA assessment.
- Students taking advanced R/LA in 7th grade may take the 8th grade R/LA assessment in lieu of the 7th grade R/LA assessment.
- Students who take high school English I in 8th grade will take the corresponding State EOC assessment in lieu of the 8th grade R/LA arts assessment. These students will take the high school English II EOC in high school.

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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.

By granting this waiver, the Department and TDOE have mutually agreed that:

- TDOE will apply the rules established in ESEA section 1111(b)(2)(C)(i) through (iii) and 34 CFR 200.5(b)(1) through (3) to any student who does not take the assessment typically administered in the grade in which the student is enrolled.
- Specifically, if a student does not take the assessment typically administered in the grade in which he or she is enrolled:
 - The student will take the related subject and/or grade-level assessment the State administers to the student to comply with assessment requirements established in section 1111(b)(2)(B)(v)(I)(bb) of ESEA.
 - The student's performance and participation on the assessment will be used in the year in which the student takes the assessment for the purposes of measuring academic achievement and participation as it pertains to the school-based accountability system required under ESEA.
 - In high school, the student will take a more advanced, State-administered assessment and the student's performance on and participation in that assessment will be used for measuring academic achievement and participation as it pertains to the school-based accountability system required under ESEA.
 - TDOE will report the patterns of test taking outlined above to the Department's EDFacts reporting system in a manner consistent with EDFacts requirements for reporting middle school advanced testing.

This waiver is granted for the 2022-2023 and 2023-2024 school years. Any extension of this waiver is contingent on TDOE sufficiently resolving the issues identified in the Department's recent Performance Review of TDOE's implementation of several ESEA programs,¹ specifically the issues further clarified in the Department's September 27, 2022, letter.²

I appreciate your work 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.

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: Eve Carney, Deputy Commissioner, TDOE
David Laird, Assistant Commissioner of Assessment and Accountability, TDOE
Sam Percy, Deputy Commissioner, TDOE
Deborah Thompson, Assistant Commissioner of Federal Programs and Oversight, TDOE

¹ See <https://oese.ed.gov/files/2021/11/TDOE-Performance-Monitoring-Review-Report-2.pdf>

² See <https://oese.ed.gov/files/2023/02/tn-fy22-condition-ltr-2022.pdf>