



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

July 31, 2018

The Honorable Mike Morath
Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701

Dear Commissioner Morath:

I am writing in response to Texas' request on April 23, 2018, for a waiver of section 1111(c)(4)(B)(iv) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), of the requirement that a State must include a Progress in Achieving English Language Proficiency indicator in its accountability system as a component of its annual meaningful differentiation among all public schools in the State. Texas requested this waiver because two domains of the Texas English Language Proficiency Assessment System (TELPAS) were changed between the school year (SY) 2016-2017 administration and the SY 2017-2018 administration, making it difficult to measure progress between the two years.

I have reviewed Texas' request and after carefully considering the information, I am declining to approve TEA's request because it does not meet the statutory requirements for a waiver outlined in ESEA section 8401(b). Namely, the State has not demonstrated the requested waiver would advance student achievement as required under ESEA section 8401(b)(1)(C) nor does it describe how the waiver will 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). ESEA section 1111(c)(4)(B)(iv) requires the State to annually measure progress in achieving English language proficiency in all public schools in the State, for all English learners in each of the grades 3-8 and once in high school, with progress being measured against the results of the assessments taken in the previous grade. Waiving this requirement would undermine the intent of the statute that States set high expectations that apply to all students and hold schools accountable for reaching those expectations.

Texas 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 Texas decides to resubmit, it must do so no later than 60 days from the date of this letter.

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<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.

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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 Erin Shackel and Dan Behrend at OSS.Texas@ed.gov.

Sincerely,

/s/

Frank Brogan
Assistant Secretary

cc: Penny Schwinn, Deputy Commissioner, Academics
Megan Aghazadian, Deputy Commissioner of Operations
Jamie Crowe, Executive Director, Performance Reporting
Alejandro Delgado, Director of Policy and Planning