



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 24, 2018

The Honorable Michael W. Kirst
President
California State Board of Education
1430 N Street, Suite 5111
Sacramento, CA 95814

The Honorable Tom Torlakson
Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Dear President Kirst and Superintendent Torlakson:

I am writing in response to the California Department of Education's (CDE) request for a waiver of sections 1111(b)(1)(B) and 1111(b)(2)(B) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). Specifically, CDE requested a waiver of annual statewide assessment requirements for Piner-Olivet Union School District and Santa Rosa City Schools for the 2017-2018 school year. CDE requested the waivers in March 2018 due to wildfires that disrupted instructional time in these local educational agencies (LEAs) in fall 2017.

I have reviewed CDE's request and, pursuant to my authority under ESEA section 8401(b), I am declining to approve CDE's request. After carefully reviewing CDE's request, I have determined that the State and the two LEAs have not demonstrated how the waiver would advance student achievement or enable the affected LEAs 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). ESEA sections 1111(b)(1)(B) and 1111(b)(2)(B) require 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 fall 2017 wildfires led to significant challenges, including school closures, displacement of teachers and students and disrupted instructional time in Piner-Olivet School District and Santa Rosa City Schools. However, because the events were limited in duration and occurred in October 2017, and that the testing window in California is in spring 2018, I do not find it necessary for these districts to waive a central tenet of the ESEA. In addition, LEAs in California can select their own testing windows and the affected LEAs had the option of selecting a testing window as late in the school

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<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.

year as possible. While I appreciate that up to 17 lost days of instruction is significant and that the emotional trauma from the fires extended longer but I do not think a waiver is warranted in this situation. Not administering State assessments leaves CDE and the LEAs with no data about student achievement for the 2017-2018 school year.

In addition, CDE did not meet the requirement in ESEA section 8401(b)(3) regarding providing notice and a reasonable opportunity to comment on the request. CDE may revise its waiver request, consistent with ESEA section 8401(b)(4)(B)(ii), to meet the requirements under sections 8401(b)(1)(C) and (F) and 8401(b)(3), and resubmit the revised waiver request. If CDE 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 California's schools. If you have any questions, please contact Nkemjika Ofodile-Carruthers of my staff at: OSS.California@ed.gov.

Sincerely,

/s/

Frank Brogan

Assistant Secretary for Elementary and
Secondary Education

cc: Keric Ashley, Deputy Superintendent
Michelle Center, Director, Assessment Development and Administration Division
Marguerite Ries Federal Policy Liaison, Government Affairs Division