



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Karen Salmon
State Superintendent of Schools
Maryland State Department of Education
200 West Baltimore Street
Baltimore, MD 21201

May 22, 2018

Dear Secretary Salmon:

I am writing in response to the Maryland State Department of Education's (MSDE's) request on February 27, 2018, for a waiver under section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) related to MSDE's implementation of new general science assessments.

MSDE requested a one-year waiver of certain ESEA requirements to support its transition to new general science assessments aligned with the State's new academic content standards, the Next Generation Science Standards. During school year (SY) 2016-2017, MSDE administered a statewide field test of its new general science assessments to all students in grades 5 and 8; during SY 2017-2018, MSDE will administer a statewide field test of its new science assessment to all students in high school for which science tests are administered. MSDE is seeking a retroactive waiver to not administer its legacy science assessments in grade 5 and grade 8 in SY 2016-2017 as well as a waiver to not administer its legacy science assessment in high school in SY 2017-2018. MSDE has not reported assessment results to parents, educators, or the public for grades 5 and 8 in SY 2016-2017 and proposes to not report assessment results to parents, educators, or the public for high school in SY 2017-2018. MSDE will hold districts and schools accountable for participation in the field test and will report participation rates to the U.S. Department of Education (the Department).

After reviewing MSDE's request, I find that the waiver for administering the high school science general assessment in SY 2017-2018 will benefit school children in Maryland, so I am approving MSDE's request for SY 2017-2018. However, I am declining to exercise my authority under ESEA section 8401 to grant MSDE a retroactive waiver for administering the science assessment in grades 5 and 8 in SY 2016-2017. I am denying the grades 5 and 8 request because MSDE did not administer the science assessments as required by law prior to submitting any requests for a waiver of those requirements. Additionally, MSDE has not reported grades 5 or 8 science assessment results for 2016-2017. Therefore, MSDE is out of compliance with sections 1111(b)(3)(A) and (C)(v)(II) of the ESEA, as amended by the No Child Left Behind Act, which require annual assessments in science not less than one time in grades 3-5 and grades 6-9, and as well as sections 1111(b)(3)(C)(xii) and (xv) and 1111(h) of the ESEA, which require a State to issue reports to parents, teachers, and principals and to include science assessments on State and local education agency report cards. MSDE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA and resubmit the revised waiver

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request. If MSDE decides to resubmit, it must do so no later than 60 days from the date of this letter. Due to the fact that the State was out of compliance with the assessment requirements in Title I, Part A, the Department will place a condition on MSDE's FY 2018 Title I, Part A grant award. To satisfy this condition, MSDE must administer science assessments not less than one time in grades 3-5 and grades 6-9 in SY 2017-2018 and report the results of those assessments to parents, teachers, and principals and on State and local educational agency report cards and provide documentation to the Department.

For the high school science general assessment in SY 2017-2018, I am waiving the following statutory requirements of the ESEA, as amended by the Every Student Succeeds Act:

- Sections 1111(b)(1)(A) and (C) and 1111(b)(2)(B)(ii) and (v)(II), which require the State to establish student academic achievement standards in science and implement high-quality, yearly student academic assessments in science that are aligned with those standards to measure student achievement and to inform instruction.
- Sections 1111(b)(2)(B)(x) and (xii) and 1111(h)(1)(C)(ii) and (2)(C), which require the State and local educational agencies to provide individual student reports to parents, teachers and principals and to include the results of science assessments on State and local report cards.

Please note that this waiver is only applicable for the 2017-2018 SY during the administration of the statewide field test of Maryland's new science general assessment in high school.

Please note that a failure to administer high school science assessments in the 2018-2019 SY that meet all requirements would result in MSDE being out of compliance with Title I of the ESEA and the Individuals with Disabilities Education Act, which could result in a number of enforcement actions, including withholding of funds.

We appreciate our continued relationship with MSDE and remain committed to working with you. If you have any questions, please contact Dr. Ashley Briggs of my staff at: OSS.Maryland@ed.gov.

Thank you for your continued commitment to ensuring that all students have access to a high-quality education.

Sincerely,

/s/

Jason Botel
Principal Deputy Assistant Secretary,
Delegated the Authority to Perform the Functions
and Duties of the Position of Assistant Secretary
of Elementary and Secondary Education

cc: Mary Gable, Assistant State Superintendent, Maryland State Department of Education
Doug Strader, Assessment Director, Maryland State Department of Education