



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 12, 2018

The Honorable Robert G. Hasson, Jr.
Commissioner of Education
Maine Department of Education
23 State House Station
Augusta, Maine 04333-0023

Dear Commissioner Hasson:

I am writing in response to the Maine Department of Education's (MDOE's) request on December 19, 2017, for a waiver of section 1111(b)(2)(D)(i)(I) 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 may not assess more than 1.0 percent of the total number of students in the State using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). Maine DOE requested this waiver because, based on State data for the 2016-2017 school year, Maine DOE will need to assess more than 1 percent of students using an AA-AAAS in the 2017-2018 school year.

After reviewing the Maine DOE's request, I am declining to exercise my authority under ESEA section 8401 to grant the State educational agency waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in reading/language arts, mathematics or science. My reason for denial of the request is that the Maine DOE did not meet the requirement in 34 CFR 200.6(c)(4) that, in order to be eligible for such a waiver, the State must assess at least 95 percent of children with disabilities on the reading/language arts, mathematics and science assessments. In 2016-2017, based on data provided by the State in the Consolidated State Performance Report (CSPR), Maine DOE assessed less than 95 percent of all children with disabilities in each subject.

Additionally, the Maine DOE did not meet all the requirements of 34 CFR 200.6(c)(4) since it did not provide sufficient evidence of a plan and timeline regarding how the State will address subgroup disproportionality in the percentage of students taking an AA-AAAS. The plan and timeline must also establish how the State would regularly monitor and evaluate each local educational agency (LEA) they anticipate will exceed the 1.0 percent AA-AAAS participation rate to ensure that the LEA provides sufficient training to members of Individualized Education Plan (IEP) teams, so that these team members understand and implement the guidelines established by the State for participation in the AA-AAAS, and thus ensure that all students are appropriately assessed.

If the participation data the Maine DOE previously reported via the CSPR is not accurate and the Maine DOE can demonstrate that it assessed at least 95 percent of children with disabilities on the reading/language arts, mathematics and science assessments, and that it has addressed the additional

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points raised above, the Maine DOE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F). The revised waiver request must address how the requirements are met in 34 CFR 200.6(c)(4), including the requirement in 34 CFR 200.6(c)(4)(ii)(B) that the State has measured the achievement of at least 95 percent of children with disabilities. The revised waiver request must be submitted no later than 60 days from the date of this letter.

I appreciate the work you are doing to provide a high-quality education for every student in Maine. If you have any questions, please contact Mario Nunez of my staff at OSS.Maine@ed.gov.

Sincerely,

/s/

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

cc: Andrew Hudacs, Maine DOE Acting Director of Assessment