



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Sheila A. Alles  
Interim State Superintendent of Schools  
Michigan Department of Education  
608 West Allegan Street  
Lansing, Michigan 48909

January 29, 2019

Dear Superintendent Alles:

I am writing in response to the Michigan Department of Education's (MDE's) request to the U.S. Department of Education (the Department) for a waiver of the requirements in section 1111(b)(3)(A) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), to permit MDE to exclude recently arrived English learners' results on the statewide reading/language arts assessment from the proficiency measure of the Academic Achievement indicator in the State's accountability system until year four of their enrollment in U.S. schools.

I have reviewed MDE's request and, pursuant to my authority under ESEA section 8401(b), I am denying MDE's request. After reviewing MDE's request, I have determined that the State has not demonstrated the requested waiver would advance student achievement or how it will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, as required under section 8401(b)(1)(C) and (F).

Under ESEA section 1111(b)(3)(A), a State may either: (i) exclude recently arrived English learners from one administration of the statewide reading/language arts assessment, assess those students in their second year and include such students' results in the proficiency measure of the Academic Achievement indicator in their second year; or (ii) assess and report the performance of recently arrived English learners on the reading/language arts assessment in each year of enrollment and, for the purposes of accountability, exclude assessment results for the first year of enrollment, include a measure of student growth on these assessments in the second year of enrollment, and include students' results in the proficiency measure of the Academic Achievement indicator in the accountability system beginning in the third year of enrollment. A State may apply one of these exceptions or both (i.e., apply the first exception to some recently arrived English learners and the second exception to a different group of recently arrived English learners). A State may also choose not to apply either exception, in which case it must assess and include in accountability each recently arrived English learner like all other English learners.

MDE suggests that waiving section 1111(b)(3)(A) of the ESEA to extend the timeline by which recently arrived English learners must be included in accountability would provide schools and educators the time necessary to help recently arrived English learners increase their English

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language proficiency in their first years in the United States. However, this waiver is focused most directly on the State’s school accountability determinations. Excluding certain English Learners from accountability could have the effect of making fewer supports and resources available for schools that may have low-achieving recently arrived English learners. Approving this waiver could therefore undermine the statute’s requirements that a State set high expectations that apply to all students, including recently arrived English learners, and hold schools accountable for reaching those expectations. Moreover, Michigan has not articulated how its waiver request would maintain or improve transparency in reporting to parents and the public with respect to recently arrived English learners’ performance on the reading/language arts assessment. Michigan’s proposal to include English language proficiency assessment results in the State’s Progress in Achieving English Language Proficiency indicator in year one of an English learner’s enrollment would seem insufficient to address these concerns regarding transparency in performance on the reading/language arts assessment.

I appreciate the unique challenges that schools face in Michigan serving a large population of recently arrived English learners students who are, as you state in your waiver request, often enrolling in schools in Michigan in higher grades, with limited education, low language proficiency levels, and under difficult personal circumstances and am grateful to the educators in your State for their exemplary work teaching those students so that they can both learn English and achieve in the academic content areas. Additionally, I appreciate Michigan’s work with local educational agencies (LEAs) and community organizations that serve recently arrived English learners as described in your waiver request. Pursuant to ESEA section 1111(b)(3)(A), flexibility is provided for assessing and holding schools accountable for assessment results of recently arrived English learners that are designed to account for the unique challenges faced by these students and their educators.

MDE 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), and resubmit the revised waiver request. If MDE 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 Michigan’s schools. If you have any questions, please contact my staff at: [OSS.Michigan@ed.gov](mailto:OSS.Michigan@ed.gov).

Sincerely,

/s/

Frank Brogan  
Assistant Secretary  
Office of Elementary and Secondary  
Education

cc: Andrew Middlestead, Director, Office of Educational Assessment and Accountability