



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Kirsten Baesler
State Superintendent
North Dakota Department of Public Instruction
600 East Boulevard Avenue, Department 201
Bismarck, ND 58505

May 10, 2018

Dear Superintendent Baesler:

I am writing in response to the North Dakota Department of Public Instruction's (NDDPI) request on December 12, 2017, and amended on January 26, 2018, 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, of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State. NDDPI requested this waiver because, based on State data for the 2016-2017 school year, NDDPI has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017-2018 school year for reading/language arts and mathematics.

After reviewing NDDPI's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, the following waiver for school year 2017-2018, a 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 and mathematics.

As part of this waiver, NDDPI assures that the State educational agency:

- Will continue to meet all other requirements of section 1111 of the ESEA and implementing regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Assessed in the prior school year (2016-2017) at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which an assessment is required in reading/language arts and mathematics.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State, and it will make such information publicly available.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 C.F.R. 200.6(d) (with the exception of incorporating principles of

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universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

- Will implement, consistent with the plan submitted in NDDPI's waiver request, the system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

I appreciate the work you are doing to improve your schools and provide a high-quality education for students. If you have any questions, please contact Megan Oberst or Jameel Scott of my staff at OSS.NorthDakota@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: Geraldine Teevens, Director of Special Education, NDDPI
Laurie Matzke, Assistant Superintendent, NDDPI
Robert Marthaller, Assistant Superintendent, NDDPI