



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MAY 15 2019

The Honorable Matthew L. Blomstedt  
Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509

Dear Commissioner Blomstedt:

I am writing in response to the Nebraska Department of Education's (NDE's) December 21, 2018, letter to Secretary Betsy DeVos requesting a waiver of the reporting requirements in sections 1111(h)(1)(C)(ix)(I) and (III), and 2104(a)(4) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), for data from school years (SYs) 2017-2018 and 2018-2019.

I have reviewed NDE's request and, pursuant to my authority under ESEA section 8401(b), I am denying NDE's request for a waiver of ESEA section 1111(h)(1)(C)(ix)(I) and (III). After reviewing the request, I have determined that the State has not demonstrated that the requested waiver would advance student achievement or maintain or improve transparency in reporting to the public on student achievement and school performance, as required under ESEA section 8401(b)(1)(C) and (F).

ESEA section 1111(h)(1)(C)(ix)(I) and (III) requires a State educational agency (SEA) to report on its State report card information, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, on the number and percentage of (1) inexperienced teachers, principals and other school leaders, and (2) teachers who are not teaching in the subject or field for which the teacher is certified or licensed. Under ESEA section 1111(h)(2)(C), local educational agency (LEA) report cards also must include this information, as applied to the LEA and each of its schools.

In its request, NDE indicates that it has encountered some challenges with respect to the nuances of reporting on inexperienced teachers, principals and other school leaders and out-of-field teachers on State and LEA report cards. NDE suggests that a waiver would allow it to refine its data collection process, which would in turn result in more accurate reporting. NDE nonetheless submitted data regarding inexperienced and out-of-field educators to the Department as part of the SY 2017-2018 ED Facts data collection. While NDE indicated that data currently collected may not fully reflect all the nuances involved in reporting this information, the fact that NDE has reported these data in the ED Facts collection suggests that NDE has data that it could also include on State and LEA report cards. Although I appreciate NDE's desire to ensure that it reports the most accurate data possible, under these circumstances a waiver of these reporting

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.*

requirements would undermine rather than improve transparency by limiting the information available to parents and families on a key indicator of educational equity. Moreover, NDE has not demonstrated how the requested waiver would advance student achievement given that parents would not have information on these topics to help inform educational decisions regarding their children.

Pursuant to ESEA section 8401(b)(4)(B)(ii), NDE may revise its waiver request to meet the requirements under ESEA section 8401(b)(1)(C) and (F) and resubmit a revised waiver request. If NDE decides to resubmit, it must do so no later than 60 days from the date of this letter.

With respect to NDE's request for a waiver of ESEA section 2104(a)(4), I am declining to approve this request because NDE does not need a waiver of this requirement. Neither the SEA nor its LEAs are required to include the information in ESEA section 2104(a)(4) on report cards. Rather, this provision provides that an SEA must, *where available*, annually submit information to the Secretary regarding retention rates of effective and ineffective teachers, principals or other school leaders, using any methods or criteria the State has or develops under section 1111(g)(2)(A). The law also provides flexibility for States to not report any data that was not collected or reported prior to the enactment of ESSA. Therefore, although the Department requests this information from each State through an annual survey conducted through EDFacts, an SEA is not required to include it if the information is not available or the State has not collected this information previously. Accordingly, NDE does not require a waiver of this requirement.

Finally, please be aware that Nebraska's approved State plan indicates that NDE will meet the requirement in ESEA section 1111(g)(1)(B) to publicly report on its progress in ensuring that low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field or inexperienced teachers through an annual report process. Given the difficulties that NDE expressed in this waiver request with reporting on data elements relevant to the reporting of data on disproportionate rates, NDE may not be able to annually report on this educator equity data as described in its State plan. If that is the case, NDE will need to amend its State plan so that the State plan remains an accurate description of how NDE is implementing the ESEA.

I appreciate your commitment and continued focus on enhancing education for all of Nebraska's students my staff at [Nebraska.OESE@ed.gov](mailto:Nebraska.OESE@ed.gov).

Sincerely,

/s/

Frank T. Brogan  
Assistant Secretary  
for Elementary and Secondary Education