



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 31, 2018

The Honorable Frank Edelblut
Commissioner of Education
New Hampshire Department of Education
101 Pleasant Street
Concord, New Hampshire 03301

Dear Commissioner Edelblut:

I am writing in response to the New Hampshire Department of Education's (NHDOE's) waiver request of section 1111(b)(2)(B)(v)(I)(aa) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), which requires a State educational agency (SEA) to assess students in grades 3 through 8 each year in reading/language arts and mathematics. NHDOE requested this waiver due to the requirements in the recently passed New Hampshire (NH) House Bill 166. NH House Bill 166 requires each local educational agency (LEA) to administer the statewide assessments only once in elementary, middle and high school in reading/language arts and mathematics. In the alternate years, each LEA would have the option of using the statewide assessments or administering locally selected assessments. NHDOE requests permission to implement the waiver beginning in the 2017-2018 school year.

After careful review, I am denying your waiver request, pursuant to my authority under ESEA section 8401(b)(4)(A)(i) and (iii). 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 parents and the public on student achievement and school performance, as required under ESEA sections 8401(b)(1)(C) and (F). Ensuring that all students are being held to the same, high standards is an essential part of the ESEA. Applying those standards to all students is fundamental to ensuring a comparable, statewide assessment system that evaluates the progress being made ensuring that New Hampshire's students have mastered the knowledge and skills that NHDOE determined that students need to be successful in life. Removing any check on the quality of the assessments an LEA administers, which may cover different content and have different achievement standards, will not improve academic achievement or improve transparency to parents and the public, both of which are requirements for granting a waiver.

NHDOE may revise its waiver request, consistent with ESEA section 8401(b)(4)(B)(ii), to meet the requirements under section 8401(b)(1)(C) and (F) and resubmit the revised waiver request. In doing so, NHDOE would also need to request a waiver of ESEA sections 1111(b)(1)(B)(i) and 1111(b)(2)(B)(i), which require an SEA to use the same academic achievement standards and assessments, respectively,

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for all public school children in the State. If NHDOE decides to resubmit, it must do so no later than 60 days from the date of this letter.

Please know that a waiver is not needed to enable NHDOE to administer assessments that are consistent with both NH House Bill 166 and the ESEA. ESEA section 1111(b)(2)(E) provides flexibility for an SEA in cases where the SEA does not have the authority, under State law, to adopt challenging State academic standards and academic assessments aligned with such standards. Under this provision, and 34 C.F.R. § 200.4 which implements this requirement, NHDOE may permit LEAs to administer locally selected assessments in certain grades, as long as the State adopts and implements policies and procedures that ensure that each LEA's locally selected assessments are aligned to the statewide academic content and academic achievement standards and related requirements. This requires the State to establish technical criteria for evaluating the LEA's assessments, particularly regarding the validity and reliability, technical quality and alignment with the LEA's academic standards, and the inclusion of all students in the grades assessed. In essence, NHDOE must review and approve each LEA's academic standards and academic assessments to ensure that they meet or exceed the State's technical criteria and all other applicable requirements as described in ESEA section 1111(b)(2)(B) and the implementing regulations.

New Hampshire continues to have an affirmative responsibility to ensure that all students in grades three through eight and once in high school are assessed annually in reading/language arts and mathematics, and once in each of three grade spans in science as required in the ESEA. I know that you agree that it is critically important to measure student achievement and to hold all students to the same high expectations. The assessment requirements in the law are focused on ensuring that parents and educators have the information they need to help every student be successful and on protecting equity for all students.

We appreciate our continued relationship with NHDOE and remain committed to working with you. If you need additional assistance, please contact Tawanda Avery of my staff at: OSS.NewHampshire@ed.gov.

Sincerely,

/s/

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

cc: Heather Gage, Director, Division of Learner Support
Sandie MacDonald, Administrator, Bureau of Assessment and Accountability