



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 12, 2018

The Honorable Lamont Repollet
Acting Commissioner
New Jersey Department of Education
100 River View Plaza
P.O. Box 500
Trenton, NJ 08625

Dear Acting Commissioner Repollet:

I am writing in response to New Jersey's request on January 11, 2018, for a waiver of sections 8101(23)(A)(i) and (25)(A)(i) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). ESEA sections 8101(23)(A)(i) and (25)(A)(i) stipulate that the denominator for a school's four-year and extended-year adjusted cohort graduation rate consist of the number of students who form the original cohort of entering first-time students in grade 9 plus the students who joined that cohort after the date of the determination of the original cohort and subtracting those students who have transferred out, emigrated to another country, transferred to a prison or died. New Jersey also requested to waive ESEA sections 8101(23)(A)(ii) and 8101(25)(A)(ii), which stipulate that the numerator for a school's four-year and extended-year adjusted cohort graduation rates consist of only students in the cohort who earned a high school diploma within four years (four-year rate) and one or more additional year beyond the fourth year (extended-year rate). The New Jersey Department of Education (NJDOE) requested this waiver to allow recently arrived English learners, at the request of the local educational agency (LEA), to be reassigned to the grade 9 cohort for the following year.

I appreciate the information that NJDOE submitted on January 11, 2018, as part of this waiver request. After carefully reviewing this information in the context of NJDOE's request, I am declining to approve NJDOE's request because it does not meet the statutory requirements for a waiver outlined in ESEA section 8401(b). Namely, NJDOE does not sufficiently demonstrate how the request will advance student academic achievement (section 8401(b)(1)(C)).

First and foremost, the purpose behind a four-year adjusted cohort graduation rate is to operationalize the goal that all students achieve so that they can graduate from high school with a regular high school diploma—i.e., the diploma awarded to the preponderance of students in the State that is fully aligned with State standards (or a higher diploma)—within the standard number of years. The ESEA definitions of a four-year adjusted cohort graduation rate and regular high school diploma are a protection for students to ensure that they receive the instruction necessary to enable them to graduate on time. Recognizing that some students may take longer than four years to graduate with a regular high school

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diploma, the ESEA provides States with the flexibility to calculate and report an extended-year adjusted cohort graduation rate(s) for students who graduate with a regular high school diploma in more than four years, which should address NJDOE's concern that some English learners, even with the best supports, may need additional time to earn a regular high school diploma. Moreover, adding these students to the following year's cohort would affect school-level accountability but not the additional supports and services these students need. Therefore, it is unclear how NJDOE's request to reassign certain English learners to a later graduation rate cohort will advance academic achievement.

Separate and apart from student accountability, graduation rates, including the four-year adjusted cohort rate and any extended-year rates, are an important component of a State's accountability system. Because NJDOE has chosen to include students, including English learners, who receive a diploma in five years as part of an extended-year adjusted cohort graduation rate and give credit to schools in its accountability system for helping these students receive a diploma, NJDOE has accounted for the issues it has identified with respect to school accountability and a waiver should not be needed.

NJDOE also does not sufficiently demonstrate how it will monitor and regularly evaluate the effectiveness of the implementation of a waiver, if granted (section 8401(b)(1)(D)). In NJDOE's request, it proposes to use LEA-determined criteria to determine if an English learner has a literacy level two or more grade levels below his/her native language and if the student is not on track to graduate based on credit accrual. As these are not statewide criteria, NJDOE has not sufficiently demonstrated that it will be able to accurately monitor and regularly evaluate the effectiveness of the implementation of its waiver. Furthermore, NJDOE does not sufficiently demonstrate how it will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including for the English learner subgroup, because it is unclear how using a five year cohort for these English learners will improve transparency for the reporting of the four-year cohort graduation rate (section 8401(b)(1)(F)). For these reasons, I am declining to approve NJDOE's request to waive 8101(23)(A)(i) and (25)(A)(i) as well as 8101(23)(A)(ii) and (25)(A)(ii) of the ESEA, as amended by ESSA.

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

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. Furthermore, I am happy to provide you with technical assistance that will address your goal of improving supports for recently arrived English learners. If you have any questions, please contact Katherine Cox or Megan Oberst of my staff at: OSS.NewJersey@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: Karen Campbell, Title I Director