



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

February 15, 2018

The Honorable Pedro Rivera  
Secretary of Education  
Pennsylvania Department of Education  
333 Market Street, Tenth Floor  
Harrisburg, PA 17126

Dear Secretary Rivera:

I am writing in response to the request of the Pennsylvania Department of Education (PDE) on November 17, 2017, 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 (ESSA), of the requirement that a State may not assess more than 1.0 percent of the total number of students in the State using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). PDE requested this waiver because, based on State data for the 2016-2017 school year, PDE will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017-2018 school year.

After reviewing PDE's request, I am declining to exercise my authority under ESEA section 8401 to grant the State educational agency 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 a subject. My reason for denial of the request is that PDE did not meet the requirement in 34 CFR 200.6(c)(4) that, in order to be eligible for such a waiver, the State must assess at least 95 percent of all students and 95 percent of children with disabilities on the reading/language arts, mathematics, and science assessments. In 2016-2017, PDE assessed less than 95 percent of children with disabilities.

If the data PDE previously reported is erroneous and PDE can demonstrate that it assessed at least 95 percent of all students and 95 percent of students with disabilities on the reading/language arts, mathematics, and science assessments, PDE 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 to address how it has met the requirements in 34 CFR 200.6(c)(4), including the requirement in 34 CFR 200.6(c)(4)(ii)(B) that the State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the ESEA who are enrolled in grades for which the State is required to administer statewide assessments. If PDE decides to resubmit, it must do so no later than 60 days from the date of this letter.

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.*

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I appreciate the work you are doing to provide a high-quality education for every student in Pennsylvania. If you have any questions, please contact Jim Butler of my staff at [OSS.Pennsylvania@ed.gov](mailto:OSS.Pennsylvania@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: Ann Hinkson-Herrmann, Director, Bureau of Special Education