



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Penny Schwinn  
Commissioner of Education  
Tennessee Department of Education  
Andrew Johnson Tower, 9<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243-0375

February 5, 2019

Dear Commissioner Schwinn:

I am writing in response to the request of the Tennessee Department of Education (TDOE) on December 13, 2018, for a waiver of section 3114(b) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). ESEA section 3114(b) limits how a State educational agency (SEA) allocates Title III funds by prohibiting an SEA from awarding a Title III subgrant if the amount of such subgrant would be less than \$10,000.

Under section 8401(c)(1) of the ESEA, I am unable to grant TDOE's request. Section 8401(c)(1) of the ESEA specifically restricts my ability to grant waivers related to the allocation or distribution of funds to local educational agencies (LEAs). Therefore, I must deny the requested waiver, as it relates to the allocation of Title III funds to LEAs.

While, under section 8401(b)(4)(B)(ii) of the ESEA, a State has the opportunity to revise and resubmit its waiver request generally, this does not apply in this case because the requirement TDOE is asking to waive the Department is prohibited by law from waiving. However, TDOE may resubmit the request to address another aspect of the statute, if it so chooses. If TDOE decides to resubmit a revised waiver request, it must do so no later than 60 days from the date of this letter.

I appreciate the work you are doing to provide a high-quality education for every student, including English learners, in Tennessee. If you have any questions, please contact my staff at: [OSS.Tennessee@ed.gov](mailto:OSS.Tennessee@ed.gov).

Sincerely,

/s/

Frank T. Brogan  
Assistant Secretary for  
Elementary and Secondary Education

cc: Eve Carney, Office of Consolidated Planning and Monitoring

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<http://www.ed.gov/>

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