



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Candice McQueen  
Commissioner of Education  
Tennessee Department of Education  
6th Floor, Andrew Johnson Tower  
710 James Robertson Parkway  
Nashville, TN 37243

August 1, 2018

Dear Commissioner McQueen:

I am writing in response to the Tennessee Department of Education (TDOE)'s request for a waiver of sections 1113(a)(2)(B) and 1113(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act, on behalf of five local educational agencies (LEAs): Arlington, Bartlett, Collierville, Germantown and Lakeland. Under the requested waiver, these five LEAs would be allowed to make all schools eligible for Title I, as long as no school's poverty average is more than 10 percentage points below the lowest eligible Title I school in each LEA, in accordance with the restriction in section 8401(c)(10). In addition, these LEAs would be allowed to allocate Title I funds to eligible Title I schools without regard to the 125 percent rule in section 1113(c)(2)(A) and instead allocate a per-pupil amount that is established by the LEA as long as a lower-poverty school does not receive more per-pupil than a higher-poverty school.

TDOE requested this waiver because the five LEAs, which were newly created out of an existing LEA and first received Title I funds in 2014-2015 based on allocations calculated by TDOE under the Title I regulations, experienced a substantial increase in their Title I allocations in the 2017-2018 school year. The circumstances that led to this waiver request are due primarily to the creation of these LEAs from an existing LEA and this decision's effect on the operation of the ESEA's hold-harmless provisions under the four statutory Title I formulas in the U.S. Department of Education's (ED) calculations with respect to how these provisions affect the allocations of LEAs in the first few years for which Census poverty data are available for them. (The Title I allocations determined by ED for the 2017-2018 school year were the first in which there were Census poverty data for the five LEAs.)

Under the authority in section 8401 of the ESEA, I am approving this waiver, which will remain in effect from the 2017-2018 school year through the 2020-2021 school year. This waiver will allow additional schools and students in five LEAs in Tennessee to benefit from Title I and allow the LEAs to more effectively and fully use their Title I allocations.

In implementing this waiver, if there are any eligible private school students who reside in a public school's attendance area once the school receives Title I funds through this waiver, the ESEA requires the LEA to provide them with equitable services in accordance with Title I requirements in the same

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manner it is required to do so for eligible private school students who reside in other school attendance areas.

Additionally, please note that ESEA section 8401(e) requires an LEA that receives a waiver to describe, as part of, and pursuant to, the required annual reporting under ESEA section 1111(h):

- (1) The progress of schools covered under the provisions of such waiver toward improving student academic achievement; and
- (2) How the use of the waiver has contributed to such progress.

Thank you for your efforts on behalf of students in Tennessee. If you have any questions about this waiver, please contact Nkemjika Ofodile-Carruthers of my staff at: [OSS.Tennessee@ed.gov](mailto:OSS.Tennessee@ed.gov).

Sincerely,

/s/

Frank Brogan  
Assistant Secretary

cc: Eve Carney, Executive Director, Office of Consolidated Planning and Monitoring, TDOE