



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Mike Morath
Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, TX 78701

March 29, 2018

Dear Commissioner Morath:

I am writing in response to the Texas Education Agency's request on December 21, 2017, for a limited 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 States may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State who are assessed in a subject. Texas requested this waiver because, based on State data for the 2016-2017 school year, TEA has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017-2018 school year in reading/language arts, science and mathematics.

After reviewing Texas's request, I am pleased to grant, pursuant to my authority under section 8401(b) of the ESEA, as amended by the ESSA, the following waiver for school year 2017-2018:

- A limited waiver of section 1111(b)(3)(C)(ii) of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), so that the State's assessment system may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in reading/language arts, mathematics and science.

As part of this waiver, Texas assured that the State educational agency:

- Will continue to meet all other requirements of section 1111 of the ESEA and implementing regulations with respect to all State-determined academic content standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Assessed in the prior school year (2016-2017) at least 95 percent of all students and 95 percent of students with disabilities who are enroll in grades for which an assessment is required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State, and it will make such information publicly available.

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- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR 200.6(d) (with the exception of incorporating principles of universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.
- Will implement, consistent with the plan submitted in Texas’s waiver request, the system improvements and monitoring in future administrations to avoid exceeding the cap.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact Erin Shackel and Dan Behrend at OSS.Texas@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: Deb Sauberer, Executive Director, Office of Academics, Student Assessment Division
Penny Schwinn, Deputy Commissioner, Academics
Julie Guthrie, Director of Policy and Publications, Student Assessment Division