



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 26, 2018

The Honorable James F. Lane
Superintendent of Public Instruction
Virginia Department of Education
P. O. Box 2120
Richmond, VA 23218

Dear Superintendent Lane:

I am writing in response to the Virginia State Department of Education's (VDOE) request on October 23, 2018, for a waiver of requirements of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). The VDOE requested the waiver to allow the VDOE to administer a menu of assessments for the purposes of measuring student academic performance and assessment participation rates for the high school grade span for Virginia's statewide accountability system under the ESEA. Under the requested waiver, VDOE would administer to students one of a number of end-of-course (EOC) tests or a nationally recognized high school assessment based on each student's course of study in lieu administering to each student the single Statewide academic assessments in reading/language arts, mathematics and science Virginia has identified for the high school grade span. Specifically, VDOE requested a waiver of ESEA sections 1111(b)(1)(B) and 1111(b)(2)(B)(i)(I) that require a State to hold all public school students to the same challenging State academic standards and use the same assessments to measure the achievement of all students.

After carefully reviewing VDOE's request under ESEA section 8401, I am declining to approve the request. Under ESEA section 8401(b)(1)(C), a waiver must advance student academic achievement in order to be approved. VDOE's waiver does not appear to do so. A basic principle of the ESEA is that the same challenging academic standards and aligned assessments apply to *all* public school students in the State. This ensures that expectations are the same for all students. In addition, it allows accountability determinations for schools to be comparable and the direction of supports and interventions to schools with the lowest-performing students. These requirements do not limit VDOE's flexibility to establish policies and practices that allow and encourage students to take accelerated courses of study without the requested waiver. Rather, the ESEA requirements are based on advancing student academic achievement by ensuring that all students, including low-performing students and student subgroups, are held to the same standards VDOE expects all students to meet and are assessed on the same assessments that measure attainment of those standards. Under ESEA section 8401(b)(1)(F), a waiver also must maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of subgroups of students. Holding students to different standards based on the EOC or nationally recognized high school

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assessment they take does not improve transparency because parents and the public cannot readily compare achievement results among subgroups or schools.

Accordingly, except where flexibilities explicitly approved by the U.S. Department of Education (Department) apply, for the 2018-2019 school year and all future school years, VDOE must comply with ESEA Title I requirements to administer the same State academic assessments in reading/language arts, mathematics and science to measure the achievement of all public elementary school and secondary school students in the Commonwealth. Based on VDOE's approved ESEA consolidated State plan and VDOE's submission of evidence for the Department's Peer Review of State Assessment Systems, we understand these assessments to be Algebra I, English II, and Biology for the high school grade span.

Under ESEA section 8401(b)(4)(B)(ii), VDOE may revise and resubmit its waiver request by no later than 60 days from the date of this letter. If you would like additional assistance or have questions, please contact Collette Roney of my staff at OSS.Virginia@ed.gov.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

cc: Lynn Sodat, Director, Office of Program Administration and Accountability
Shelley Loving-Ryder, Assistant Superintendent