



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

September 30, 2016

The Honorable Michael W. Kirst
President
California State Board of Education
1430 N Street, Suite 5111
Sacramento, CA 95814

The Honorable Tom Torlakson
Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Dear President Kirst and Superintendent Torlakson:

I am writing in response to the California Department of Education's (CDE) request to the U.S. Department of Education (Department), dated June 2, 2016, for a waiver under section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), to implement its transition plan for administering new general and alternate science assessments aligned to the California Next Generation Science Standards. Specifically, with respect to its new general science assessments, CDE's transition plan includes piloting the new assessments in school year (SY) 2016–2017 with all students in fifth and eighth grades and at least one grade in high school, conducting a census field test with all students in those grades in SY 2017–2018, and conducting a full operational test in SY 2018–2019. With respect to alternate science assessments aligned with alternate academic achievement standards for students with the most significant cognitive disabilities, CDE proposes to conduct a pilot test on eligible students in the tested grades in SYs 2016–2017 and 2017–2018, conduct a census field test in SY 2018–2019, and administer a full operational alternate in SY 2019–2020. During the years in which it administers the pilot and field tests, CDE proposes to not administer its current science assessments (either the general or alternate assessments) and, consequently, will not report individual student or school level data to parents, educators, or the public until 2019 for all students (except those with the most significant cognitive disabilities, for whom it would not report until 2020).

The Department appreciates CDE's interest in ensuring that its science assessments are a tool for learning and do not take unnecessary time away from valuable instruction. As you know, the ESEA requires each State to annually administer, score, and report to parents, families, educators, and the public the results of the science assessments, but does not require science assessments to be included in

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the State's accountability system. Specifically, the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), does not require CDE to include science assessment results in its Federal accountability system in 2016–2017, nor is it required to include science assessment results in its Federal annual differentiated accountability system under the ESEA, as amended by ESSA. Whether to include science assessment results in accountability is a State decision.

After reviewing CDE's request, I have determined, pursuant to sections 8401(b)(4)(A)(i) and (iii) of the ESEA, as amended by ESSA, that the State has not demonstrated that the requested waiver would advance student achievement or maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of subgroups of students. CDE's proposed waiver request would not (1) ensure that the public, including districts, schools, parents and educators, has sufficient information on student academic achievement to help every student graduate high school college and career ready, or (2) ensure that State and local leaders have the information necessary to direct additional resources and supports to the schools and students most in need.

CDE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, as amended by ESSA, to meet the requirements under sections 8401(b)(1)(C) and (F) and resubmit the revised waiver request. If CDE decides to resubmit, it must do so no later than 60 days from the date of this letter.

The Department recognizes that transitioning to new, higher-quality assessments is a challenging but important undertaking. As such, an assessment system must provide valuable information to schools and parents, while minimizing duplicative testing, maximizing instructional time, and continuing to meet the requirements in the statute. Accordingly, CDE should consider ways to phase in its new assessments as it continues to meet the requirements under the ESEA, as amended by NCLB, including sections 1111(b)(3)(C)(i), (xii), and (xv) and 1111(h)(1)(C)(i) and (2)(B), which require a State to use the same assessment to measure the achievement of all students and provide individual student reports to parents, teachers, and principals and to include the results of science assessments on State and local report cards. These same requirements are continued in the ESEA, as amended by ESSA (sections 1111(b)(2)(B)(i), (x) and (xii) and 1111(h)(1)(C)(ii) and (2)(C)). There are other options available to CDE that would allow for the implementation of the new assessments while maintaining transparency, preserving instructional time for learning, ensuring parents, families, and educators have information about student performance, and complying with Federal law. For instance, CDE might consider embedding new assessment items within the current assessments, which would enable the State to both preserve transparency and adequately pilot the new assessments. The State might also consider scaling back its plan to pilot the assessments with all of its students in favor of conducting a small-scale, stand-alone pilot of the new assessments with a sample of students. CDE could consider a combination of these options in tandem with other options such as conducting cognitive labs to collect data on new items or item types. Engaging in some or all of these practices would help meet the requirements under the law and would not require a waiver. If CDE wishes to pursue any of these options, or additional ones that would ensure the requirements in the statute are followed, the Department stands ready to help.

Thank you for your commitment and continued focus on enhancing education for all of California's students. I appreciate your undertaking the challenging work of adopting and implementing rigorous science standards and assessments that better measure the progress of our students. Please be assured the Obama Administration shares your goals of preserving classroom time for learning and improving

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the quality and rigor of the assessments our students are taking. If you need additional information or clarification, please do not hesitate to contact Stephanie Washington or M. Jeanette Horner-Smith of my staff at OSS.California@ed.gov.

Sincerely,

/s/

Ann Whalen
Senior Advisor to the Secretary
Delegated the Duties of Assistant Secretary for
Elementary and Secondary Education

cc: Keric Ashley, Deputy Superintendent