



4000-01-U

DEPARTMENT OF EDUCATION

Notice of Waivers Granted Under Section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: In this notice, we announce waivers related to assessments, accountability and school identification, and related reporting requirements that the U.S. Department of Education (Department) granted under section 8401 of the ESEA because of widespread school closures due to the novel Coronavirus disease 2019 (COVID-19).

FOR FURTHER INFORMATION CONTACT: Patrick Rooney, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W202, Washington, DC 20202. Telephone: (202) 453-5514. Email: Patrick.Rooney@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Section 8401(g) of the ESEA requires the Secretary to publish, in the *Federal Register*, and disseminate to interested

parties, a notice of the Secretary's decision to grant a waiver under section 8401(a) of the ESEA. Moreover, we recognize the significant public interest in waivers related to the widespread school closures due to COVID-19. This notice fulfills the Department's obligation to provide notice to the public under section 8401(g) of the ESEA.

Waiver Data

The Department waived, for State educational agencies (SEAs) from each of the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia, and for the Bureau of Indian Education (BIE), the following requirements related to State assessments, accountability and school identification, and related reporting requirements:

- Assessment requirements in ESEA section 1111(b)(2): The requirements to administer all required assessments in school year 2019-2020.
- Accountability and school identification requirements in ESEA section 1111(c)(4) and (d)(2)(C)-(D): The requirements that a State annually meaningfully differentiate all public schools and the requirements to identify schools for comprehensive and targeted support and improvement and additional targeted support and improvement based on data from the 2019-2020 school year.

- Report card provisions related to assessments and accountability in ESEA section 1111(h) based on data from the 2019-2020 school year, namely:
 - Section 1111(h) (1) (C) (i): Accountability system description.
 - Section 1111(h) (1) (C) (ii): Assessment results.
 - Section 1111(h) (1) (C) (iii) (I): Other academic indicator results.
 - Section 1111(h) (1) (C) (iv): English language proficiency assessment results.
 - Section 1111(h) (1) (C) (v): School quality or student success indicator results.
 - Section 1111(h) (1) (C) (vi): Progress toward meeting long-terms goals and measurements of interim progress.
 - Section 1111(h) (1) (C) (vii): Percentage of students assessed and not assessed.
 - Section 1111(h) (1) (C) (xi): Number and percentage of students with the most significant cognitive disabilities taking an alternate assessment.
 - Section 1111(h) (2) (C): With respect to all waived requirements in section 1111(h) (1) (C) as well as 1111(h) (2) (C) (i)-(ii) information showing how students in a local educational agency (LEA) and each school,

respectively, achieved on the academic assessments compared to students in the State and LEA.

Reasons: Due to the extraordinary circumstances created by the COVID-19 pandemic and resulting school closures, the Department provided flexibility to all SEAs and the BIE regarding the assessment and accountability requirements and related reporting requirements under the ESEA. Given the widespread, extended school closures, many States have been unable to administer their statewide assessments to all students in the spring of 2020. As statewide accountability systems rely on fair, reliable, and valid assessment results, States that do not administer their assessments will also not be able to annually meaningfully differentiate among public schools or identify schools for support and improvement, as required under section 1111(c)(4) and (d)(2)(C)-(D) of the ESEA or report results on State and local report cards related to student performance on the assessments or accountability determinations, as required under ESEA section 1111(h).

Waiver Applicants: SEAs from all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and BIE requested and received these waivers.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large

print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Frank T. Brogan,
*Assistant Secretary for Elementary and
Secondary Education.*

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