



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

July 20, 2020

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

Dear Commissioner Morath:

I am writing in response to the Texas Education Agency's (TEA's) request to the U.S. Department of Education (the Department) on May 29, 2020, for a waiver of the requirements in sections 1111(b)(1)(B) and (b)(2)(B)(i) of the Elementary and Secondary Education Act of 1965 (ESEA), which requires a State to hold all students to the same academic standards and administer the same aligned assessments to all students. TEA requested a waiver to expand the exception in ESEA sections 1111(b)(2)(C)(i) through (iii) that permit 8<sup>th</sup>-grade students to take the high school end-of-course mathematics assessment in place of the grade-level assessment. TEA requested that any Texas middle school student who takes the high school course before high school take the associated high school end-of-course assessment in reading/language arts, mathematics or science and to use the results in the State's accountability system. TEA will then administer a nationally recognized high school assessment to the student in high school and use the results of that assessment in the State's accountability system.

After reviewing TEA's request, I am pleased to grant, pursuant to my authority under ESEA section 8401(a)(3), a waiver of section 1111(b)(2)(B)(i)(I) of the ESEA as well as the corresponding regulation 34 C.F.R 200.2(b)(1)(i). This waiver will permit any middle school student taking high school level courses in reading/language arts, mathematics, and science to take the high school assessment for that course. This waiver is in effect from the 2020-2021 school year through the 2023-2024 school year. By granting this waiver, the Department and TEA have mutually agreed that:

- The TEA will apply the rules established as section 1111(b)(2)(C)(i) through (iii) of the ESEA, as amended by ESSA, and 34 C.F.R 200.5 (b)(1) through (3) to any student who does not take the reading/language arts, mathematics or science assessment typically administered in the grade in which the student is enrolled.
- If a student does not take the assessment typically administered in the grade in which he or she is enrolled:
  - The student will take the end-of-course subject area assessment the State administers to high school students to comply with assessment requirements established in section 1111(b)(2)(B)(v)(I)(bb) of the ESEA;
  - The student's performance and participation on the high school assessment will be used in the year in which the student takes the assessment for the purposes of measuring academic achievement and participation as it pertains to the school-based accountability system required under the ESEA; and

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- In high school, the student will take a more advanced, nationally recognized high school assessment (that meets the requirements in 34 C.F.R. 200.3(d)) and the student's performance on and participation in that assessment will be used for the purposes of measuring academic achievement and participation as it pertains to the school-based accountability system required under the ESEA.
- TEA will submit evidence of the nationally recognized high school tests offered to these students for the Department's assessment peer review after the 2020-2021 school year.

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 my staff at [esea.assessment@ed.gov](mailto:esea.assessment@ed.gov).

Sincerely,

A handwritten signature in black ink that reads "Frank T. Brogan". The signature is written in a cursive style with a large initial "F" and a long, sweeping underline.

Frank T. Brogan  
Assistant Secretary  
for Elementary and Secondary Education

cc: Alejandro Delgado, Deputy Chief of Staff