



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JAN 30 2014

The Honorable Melody Schopp
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501-2294

Dear Secretary Schopp:

I am writing in response to the South Dakota Department of Education's (SDDE) request to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA). Specifically, SDDE has requested a one-year waiver for 2013–2014 to allow all its schools (with the exception of the Hutterite Colony schools) to field test, with respect to all students in the tested grades, assessments in mathematics and reading/language arts aligned to college- and career-ready standards developed by the Smarter Balanced Assessment Consortium (SBAC) in lieu of the State's assessments in grades 3 through 8 and high school. In addition, SDDE has requested a one-year waiver to allow it to administer alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities developed by the National Center and State Collaborative (NCSC) in pilot schools in which students would take the field test in one subject and South Dakota's alternate assessment based on alternate academic achievement standards in the other subject. SDDE has also requested flexibility in making accountability determinations.

I am pleased to grant, pursuant to my authority under section 9401 of the ESEA, a one-year waiver of the following statutory and regulatory requirements under Title I, Part A of the ESEA, as amended, and their associated regulatory provisions:

- ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i), which require the State educational agency (SEA) to apply the same academic achievement standards, and to use the same academic assessments, for all public school children in the State. SDDE requested these waivers so that any individual student within South Dakota will be required to take only one assessment in each content area in 2013–2014 — that is, the full form of the field test of the new SBAC assessments aligned to college- and career-ready standards (with the exception of the Hutterite Colony schools), the field test of the NCSC alternate assessment in pilot schools, or the current State alternate assessment in the case of students with the most significant cognitive disabilities who do not take the NCSC field test.
- ESEA section 1111(b)(3)(C)(xii), which requires the provision of individual student interpretive, descriptive, and diagnostic reports that include information regarding achievement on State assessments to parents, teachers, and principals as soon as is practically possible after an assessment is given. SDDE requested this waiver to permit SDDE and its local educational agencies (LEAs) to refrain from producing or providing these reports for a student's performance on a field test.
- ESEA sections 1111(h)(1)(C)(ii) and 1111(h)(2)(B), which require an SEA and LEA, respectively, to report on performance against annual measurable objectives (AMOs). SDDE requested these waivers to

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

permit SDDE and its LEAs to refrain from reporting performance against AMOs for any schools or LEAs, because all schools are participating in the field test of the new SBAC assessments aligned to college- and career-ready standards.

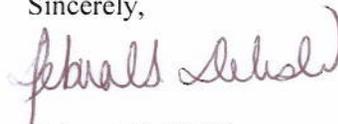
This waiver is granted to the SDDE on the condition that it will implement the following assurances:

- The SDDE and its LEAs will ensure that all students with the most significant cognitive disabilities in the tested grades who do not take the NCSC field test in a particular subject will take the current State alternate assessment in that subject, as required by the ESEA.
- The SDDE and its LEAs will report performance against AMOs for a subject that is not being field tested in a school that participates in the field test, for all schools that do not participate in the field test, and for all LEAs (except single-school LEAs that participate in the field test of a tested subject).
- The SDDE and its LEAs will meet all reporting obligations with respect to reporting the actual achievement of students in the Hutterite Colony schools and students with the most significant cognitive disabilities who take the current State assessments or its alternates.
- The SDDE has properly notified all LEAs and schools that they will participate in the SBAC field test as well as those that will participate in the pilot of the NCSC field test.
- The SDDE will ensure that parents of students have been notified of the school's participation in the respective field tests, including by ensuring that the notification to parents includes a discussion of the implications of the school's participation in the field tests and, for parents of students with the most significant cognitive disabilities, a notification of whether the parents' child will participate in the NCSC field test.
- In the 2014–2015 school year, the SDDE will administer the new reading/language arts and mathematics assessments aligned to college- and career-ready standards, as well as its State science assessments, to all students in the grades required to be tested in accordance with the ESEA.

Please be aware that this waiver of requirements related to South Dakota's standards and assessment system under the ESEA is not a determination that the system complies with Federal civil rights requirements, including Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of the *Rehabilitation Act of 1973*, Title II of the *Americans with Disabilities Act*, and requirements under the *Individuals with Disabilities Education Act*. This waiver does not apply to statutory and regulatory requirements regarding science assessments under Title I, Part A of the ESEA.

I hope you find this flexibility helpful. I look forward to working with you and your staff as you implement this flexibility and as you continue working to improve education in South Dakota.

Sincerely,



Deborah S. Delisle

cc: Abby Javurek-Humig