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# New York State Education Department Submits Federal Waivers for State Assessment and Accountability Requirements to U.S. Department of Education

### Waivers Would Allow the State to Forego Testing in 2020-21

The New York State Education Department today submitted two federal waiver requests related to state assessment and accountability requirements, State Education Commissioner Betty A. Rosa announced. The waiver requests address the unique circumstances caused by the ongoing pandemic that have resulted in many students receiving some or all of their instruction remotely. The full text of the submitted waiver requests is posted on NYSED's ESSA webpage.

"I am thankful for the feedback received from our partners in education and for their support to seek these important waivers," said Chancellor Lester W. Young, Jr. "The primary focus of the Board of Regents and the Department at this time is to ensure our schools are able to complete the academic year safely while focusing on teaching during this difficult time. Anything less is a disservice to our students."

"We heard from educators and parents from across the state on this important decision," said Commissioner Betty A. Rosa. "The feedback was overwhelmingly positive and strengthens our resolve that our schools and students would be best served by waiving testing and accountability requirements. We continue to work with schools to protect the health and wellbeing of everyone in our schools during this challenging time."

The first request seeks to waive state testing requirements at the elementary, middle, and high school levels. This waiver would also allow the Department to administer the New York State English as a Second Language Achievement Test (NYSELSAT) only to those English Language Learners who may safely participate. The request also includes exempting the administration of USDE required end-of-course exams for certain grades, including Regents Exams in English language arts (ELA), math and science. The New York State Education Department requests a waiver from the statutory requirements: that each state must administer a set of high-quality student academic assessments in mathematics and reading or language arts, in grades 3 through 8 and at least once in grades 9 through 12, and in science not less than one time each during grades 3 through 5; grades 6 through 9; and grades 10 through 12.

The Department's second waiver request seeks to eliminate the requirement to assign a Level 1 to 4 to each accountability subgroup for each indicator for which a school or district is accountable or identify

schools for improvement in fall 2021 based on 2020-21 school year results. Separate from the waiver, NYSED will seek an amendment to New York's approved ESSA plan that would allow certain schools that are currently identified for improvement but made progress based on 2018-19 school year results to petition for removal from improvement status based on modified 2020-21 school year exit criteria.

Upon approval of either of both or either of these waivers by USDE, NYSED will seek an additional waiver from certain ESSA reporting requirements pertaining to assessments and accountability.

## Public Comment

As required by ESSA, on January 25 the Department posted the draft texts of the waivers on its website for public comment. The public comment period ended on February 5. The public was invited to share its opinion in two ways: either by submitting formal written comments to the Department via email or by completing a short, four question survey.

At the close of the public comment period, the Department had received 468 formal public comments and 39,493 responses to the survey. The public comments were submitted primarily by persons who identified themselves as members of the following groups: parents, teachers, and school staff members. The surveys were submitted primarily by persons who identified themselves as: teachers, parents, and community members.

Both the public comments and the survey results overwhelmingly support the Department's submission of both waiver requests. Among the public comments received, 84 percent supported not administering any State assessments this school year while only 16 percent supported administering some or all State assessments. Similarly, among survey respondents, 88.5 percent supported not administering any State assessments this school year while only 4.4 percent supported administering all State assessments.

There was even greater public support for the proposed accountability waiver. Of the public comments received in regard to the accountability determinations, 100 percent supported not making accountability determinations based on data from the 2020-21 school year. Similarly, among survey respondents, 92.4 percent supported not making determinations based on results from this school year.

The primary reasons public comments support not administering State assessments include: students are not prepared for the tests due to the effects of the pandemic; there are equity issues that would arise if tests were administered; and administering tests would negatively affect the mental health of students. Among the much smaller group of persons who supported administering the assessments, the main reasons cited are the need to maintain the quality of learning standards and to have updated data that reflects current academic gaps and achievement.

## Next Steps

By law, the Secretary of Education has 120 days to act upon the requests, but the Department is hopeful for an expedited response as the USDE is aware of the time sensitive nature of these requests, which is similar to those being made by a number of other states. If the waivers are approved by the USDE, the Department will propose to the Board of Regents that it adopt such amendments to Commissioner's Regulations to implement the waivers.

New York State Board of Regents

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