

DRAFT FOR PUBLIC COMMENT

Dear Deputy Assistant Secretary Rosenblum:

I am writing to request a waiver, pursuant to section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), of the following requirements as a result of ongoing challenges related to the novel Coronavirus Disease 2019 (COVID-19):

State: Florida

Please check all that apply:

Accountability and school identification requirements in ESEA sections 1111(c)(4) and 1111(d)(2)(C)-(D): the requirements that a State measure progress toward long-term goals and measurements of interim progress; meaningfully differentiate, on an annual basis, all public schools, including by adjusting the Academic Achievement indicator based on a participation rate below 95 percent; and identify schools for comprehensive, targeted, and additional targeted support and improvement based on data from the 2020-2021 school year.

Report card provisions related to accountability in ESEA section 1111(h) based on data from the 2020-2021 school year. These include:

- Section 1111(h)(1)(C)(i)(I)-(IV) and (VI) (Accountability system description, other than the list of comprehensive, targeted, and additional targeted support and improvement schools).*
- Section 1111(h)(1)(C)(iii)(I) (Other Academic indicator results for schools that are not high schools).*
- Section 1111(h)(1)(C)(v) (School Quality or Student Success indicator results).*
- Section 1111(h)(1)(C)(vi) (Progress toward meeting long-term goals and measurements of interim progress).*
- Section 1111(h)(2)(C) with respect, at the local educational agency (LEA) and school levels, to all waived requirements in section 1111(h)(1)(C).*

Text box: *Consistent with the requirements of ESEA section 8401(b)(1)(C), describe how the waiving of such requirements will advance student academic achievement.*

Draft Response: The U.S. Department of Education's February 22, 2021, invitation for states to apply for a waiver articulates Florida's shared values for the role that assessments and accountability have in ensuring equity in opportunity for our students. In this year of recovery, assessments ensure equity and directly inform curriculum and instruction for Florida's millions of at-risk students, 71.9 percent of whom count on schools for at least one meal daily, 61.4 percent of whom come from low-income households, 14.5 percent of whom have a special need that impacts their learning, and 10.1 percent of whom are English learners. The results of assessments help identify students who need specialized supports, determine when students elevate out of specialized supports and return to fully inclusive instruction with their peers, and help teachers modify instructional delivery to support students' individual needs and help them meet their unique growth goals.

In order to assist school children, their parents and school districts during the COVID pandemic, before the beginning of the 2021-22 school year, Education Commissioner Richard Corcoran issued an Emergency Order, DOE Order No. 2020-EO-06. This order provided school districts financial incentives to re-open schools five days per week for in-person instruction by the end of August 2021 while also

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providing a means for school districts to continue to offer instruction virtually or through new hybrid modalities. This emergency order is described as “a plan that balanced the need to ensure the quality and continuity of the educational process and the comprehensive well-being of students and families with the need to comply with safety precautions as defined by the Florida Department of Health . . . DeSantis v. Florida Education Association, 306 So.3d 1202 (Fla. 1st DCA 2020) (internal quotations omitted). All of Florida’s school districts opened for in-person instruction in the 2021-22 school year, while also allowing virtual and new hybrid teaching modalities.

Demonstrating Florida’s continued commitment to administering statewide assessments this spring, on February 15, 2021, prior to the invitation to apply for a waiver, Commissioner Corcoran had already signed an Emergency Order, DOE Order No. 2021-EO-01. This emergency order waives state provisions, to afford districts and schools longer windows of time for spring 2021 state testing. This increased flexibility is available to ensure that school districts can safely continue to administer federally and state required assessments with social distancing.

DOE Order No. 2021-EO-01 was consistent with health and safety flexibilities that the state previously provided to support districts and schools, extending windows for fall and winter assessments as well as windows for the state’s English language proficiency assessment for English learners. To date, over one million statewide assessments have already been safely administered, statewide, since summer 2020. Moreover, schools safely administered nearly five million progress monitoring assessments in the fall and winter.

Although we have provided flexibilities to assess as many students as possible on the statewide assessments, it is probable that some schools and districts, including some of Florida’s most populous areas, will not meet the requirement to test 95 percent of students. Testing 95 percent of students remains Florida’s goal, and we believe many schools throughout the state will meet that goal, especially those schools where the vast majority of students have been attending school in-person since August 2020. However, given the reality that a significant number of schools may not meet the 95 percent testing requirement, Florida is applying for a waiver to the accountability and school requirements in ESEA sections 1111(c)(4) and 1111(d)(2)(C)-(D).

Regardless of whether or not this waiver is granted, Florida remains committed to reporting school performance data, disaggregated by student subgroups on our data portal for state, district, and school report cards at www.knowyourschoolsfl.org. Communities deserve as much transparency as possible about our students’ growth. Continuing to publish these data, with the important caveats regarding the percent of students tested and the conclusions to be drawn from these data, is vital to plotting a course of continued improvement. Additionally, by publishing these data, districts and schools will be empowered to use this information without the accountability consequences that typically follow in the absence of a waiver.

Consistent with the requirements of ESEA section 8401(b)(1)(F), in order to maintain or improve transparency in reporting to parents and the public on student achievement and school performance in school year 2020-2021, including the achievement of subgroups of students, I assure that:

The State will make publicly available chronic absenteeism data, either as defined in the State’s School Quality or Student Success indicator, if applicable, or EDFacts, disaggregated to the extent such data are

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available by the subgroups in ESEA section 1111(c)(2), on State and local report cards (or in another publicly available location).

The State will make publicly available data on student and/or teacher access to technology devices and high-speed internet, disaggregated by the subgroups in ESEA section 1111(c)(2), to the extent such data are collected at the state or LEA level.

Text box: *Provide any additional information about maintaining and improving transparency here, including whether the state or LEA collects information on access to technology and high-speed internet and other existing collections of opportunity to learn data (e.g., data used for the State’s School Quality or Student Success indicator(s), school discipline data, access to a well-rounded education (such as advanced courses, music, and the arts), access to support staff (e.g., nurses, social workers, psychologists), and/or access to qualified educators data, which could include teacher and staff turnover data).*

Draft Response: Currently, Florida’s Know Your Schools portal (www.knowyourschoolsfl.org) houses a wealth of information on our schools in an easy-to-use interface. For example, in addition to the measures of student academic performance, users can review data related to accelerated course enrollment, discipline, and chronic absenteeism disaggregated by race/ethnicity, English language learners, gender, and students with disabilities. We will continue to publish these data in this portal, which allows users to produce interactive charts to view potential disparities. Among other things, the portal also allows users to view data at the state, district, and school level related to the equitable access to quality educators, based on experience, teaching in-field, and effectiveness as measured by their evaluation. In addition, in this year of recovery, we’ve added a display to the portal that provides for the breakdown of enrollment by learning environment – specifically the number and percent of students attending in-person, in a traditional virtual setting or in an innovative setting. Over the last several years, Florida has prided itself as a leader in making a host of education data – at the state, district, and school level – accessible to users in an easy-to-use format through this portal. We are committed to continuing to report various data through this portal – including continuing to report chronic absenteeism. Florida collects and reports through its strategic plan the ratio of student services personnel (school counselors, social workers, and school psychologists) to students.

Florida does not collect data on student or teacher access to technology devices and high-speed internet.

Consistent with the requirements of ESEA section 8401(b)(1)(F), in order to ensure that schools will continue to provide assistance to the same populations served by Title I, Part A (e.g., subgroups in section 1111(c)(2)), I assure that:

Any school that is identified for comprehensive, targeted, or additional targeted support and improvement in the 2019-2020 school year (i.e., any school that was in that status as of the 2019-2020 school year), except for comprehensive support and improvement schools identified based on low graduation rates that meet the State’s exit criteria and as except as noted below, will maintain that identification status in the 2021-2022 school year, implement its support and improvement plan, and receive appropriate supports and interventions.

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Text Box: *Provide any additional information on how schools will continue to provide assistance to the same populations served by Title I, Part A here.*

Draft Response: The support remains as described in Florida’s ESSA State Plan approved September 2018. As noted above, many of Florida’s schools have been open for in-person instruction since August 2020. Sixty-seven percent of students are learning full-time in-person and 80 percent of students are full-time or part-time learning in-person. Schools have been receiving comprehensive support from the state through the pandemic and some schools appear to be making significant improvements. In the event that a school meets the percent tested requirement of at least 95 percent and demonstrates a level of improvement under the terms of the state’s ESSA plan, the Florida Department of Education will consider requests for removal of a school from comprehensive support.

The State will identify comprehensive, targeted, and additional targeted support and improvement schools using data from the 2021-2022 school year in the fall of 2022 to ensure school identification resumes as quickly as possible.

Consistent with the requirements of ESEA section 8401(b)(3)(A), prior to submitting this waiver, the State provided interested LEAs and the public with notice and a reasonable opportunity to comment and provide input on this waiver request and considered the feedback and input in finalizing this request. The comments and input received, as well as the State’s description of how it addressed the comments and input, are enclosed with this request.

Thank you for your consideration.

Sincerely,

Signed by: Chief State School Officer (or Authorized Representative)