



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 25, 2023

The Honorable Mark Holodick  
Secretary of Education  
Delaware Department of Education  
The Townsend Building  
401 Federal Street, Suite 2  
Dover, DE 19901-3639

Dear Secretary Holodick:

I am writing in response to the Delaware Department of Education's (DDOE's) request on July 15, 2022, and amended on August 23, 2022, to extend its waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) of the requirement that a State may not assess more than 1.0 percent of the total number of students in the State using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). Based on State data for the 2021-2022 school year, DDOE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2022-2023 school year.

After reviewing DDOE's request, I am declining to exercise my authority under section 8401(b) of the ESEA, for school year 2022-2023, for a one-year waiver of section 1111(b)(2)(D)(i)(I) of the ESEA. DDOE did not assess at least 95 percent of all students in science and mathematics, nor did it assess at least 95 percent of students with disabilities in R/LA, mathematics, and science during the 2021-2022 school year.

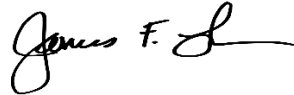
If the data reported by DDOE are erroneous and the State can demonstrate that it has met the 95 percent assessment participation requirement in 34 CFR § 200.6(c)(4)(ii), DDOE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii). The revised waiver request must address how the requirements are met in 34 CFR § 200.6(c)(4), including the requirement of demonstrating substantial progress towards achieving each component of the prior year's plan and timeline. The revised waiver request must be submitted no later than 60 days from the date of this letter.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202  
<http://www.ed.gov/>

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

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 "James F. Lane". The signature is written in a cursive style with a long horizontal stroke at the end.

James F. Lane, Ed.D.  
Senior Advisor, Office of the Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Theresa Bennett, Director Office of Assessment  
Michelle Jackson, Education Associate, Special Populations