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Secretary  
Education and Workforce  
Development Cabinet

Jason E. Glass, Ed.D.  
Commissioner of Education and Chief Learner

**KENTUCKY DEPARTMENT OF EDUCATION**  
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September 23, 2021

The Honorable Ian Rosenblum  
Deputy Assistant Secretary for Policy and Programs  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Deputy Assistant Secretary Rosenblum:

The Kentucky Department of Education (KDE) formally requests a waiver of the requirements of section 1111(d)(2)(A) of the Every Student Succeeds Act (ESSA) relating to the annual identification of schools for targeted support and improvement (TSI).

Kentucky's *Revised Consolidated State Plan Under the Every Student Succeeds Act* (state plan) states that a school will be identified for TSI status if "one or more of the same subgroups are performing as poorly as all students in any of the lowest performing five percent of Title I schools or non-Title I schools (by level – elementary, middle, or high school) based on the school performance, for three consecutive years." This federal classification is to be identified annually, beginning with the 2022-23 school year. This definition is also codified in Kentucky state statute KRS 160.346.

In the spring of 2020, Kentucky received a waiver from federal testing and accountability requirements. This previous waiver also waived the requirements for the identification of federal classifications, including TSI, in the fall of 2020. Due to these waivers, Kentucky is unable to identify schools for TSI status in the fall of 2022 because it does not have three consecutive years of accountability data.

Additionally, Kentucky submitted the "Addendum to the ESEA Consolidated State Plan due to the COVID-19 Emergency." This addendum allows Kentucky to roll forward the dates of identification for Additional Targeted Support and Improvement (ATSI) and Comprehensive Support and Improvement (CSI) schools. Neither of these classifications will be identified in the fall of 2021.

Finally, the unprecedented challenges of administering a statewide assessment during the 2020-21 school year are likely to cause the results of the state assessment to be incomplete and unreliable.

Therefore, Kentucky requests a waiver of the requirements to identify TSI schools due to the current lack of data posed by the previous year's accountability waiver and to align the next TSI cohort with future identification cycles. Under this waiver, TSI schools would next be identified in the fall of 2024, following three consecutive years of accountability data (2021-22, 2022-23, and 2023-24).

Kentucky remains committed to maintaining an accountability system that ensures equity for all students. In July 2020, the Kentucky Board of Education adopted a resolution affirming its commitment to racial equity in Kentucky public schools. This commitment is evident through our accountability system. While new TSI schools would not be identified in 2021 under this waiver, Kentucky's commitment to equity and service will continue to ensure that students from traditionally underserved backgrounds have their physical, emotional, and instructional needs met during the 2021-22 school year.

### **Required Waiver Request Components**

Section 8401(a)(3) of the ESEA as amended by the ESSA allows the Secretary of the United States Department of Education (Secretary) to waive, with the exceptions outlined in Section 8401(c) "any statutory or regulatory requirements of this Act for which a waiver request is submitted." Section 8401(b)(1) of the ESEA as amended by the ESSA establishes that "a State educational agency, acting on its own behalf or on behalf of a local educational agency in accordance with subsection (a)(2), or Indian tribe that desires a waiver shall submit a waiver request to the Secretary, which shall include a plan that—

- (A) identifies the Federal programs affected by the requested waiver;
- (B) describes which Federal statutory or regulatory requirements are to be waived;
- (C) describes how the waiving of such requirements will advance student academic achievement;
- (D) describes the methods the State educational agency, local educational agency, school, or Indian tribe will use to monitor and regularly evaluate the effectiveness of the implementation of the plan;
- (E) includes only information directly related to the waiver request; and
- (F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested and, if the waiver relates to provisions of subsections (b) or (h) of section 1111, describes how the State educational agency, local educational agency, school, or Indian tribe will maintain or improve transparency in reporting to parents and the public on student achievement and school performance, including the achievement of the subgroups of students identified in section 1111(b)(2)(B)(xi)."

The required elements of a waiver request are detailed below.

#### *Federal Programs Affected by this Waiver*

This waiver affects Kentucky's implementation of the state's School Support and Improvement Activities for schools identified for Targeted Support and Improvement (20 U.S. Code § 6311(d)(2)).

#### *Federal Statutory or Regulatory Requirements to be Waived*

This waiver seeks to exempt Kentucky from the requirements under 20 U.S. Code § 6311(c)(4)(C)(iii) which requires the KDE to "include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the state, based on all indicators" in the state's accountability system.

In conjunction, this waiver also seeks to exempt Kentucky from the requirements under 20 U.S. Code § 6311(d)(2)(A)(i-ii) which requires the KDE to “notify each local education agency in the state of any school served by the local education agency in which any subgroup of students is consistently underperforming, as described in subsection (c)(4)(C)(iii); and ensure such local education agency provides notification to such school with respect to which subgroup or subgroups of students in such school are consistently underperforming as described in subsection (c)(4)(C)(iii).”

*Description of How the Waiver will Advance Student Academic Achievement*

This waiver supports the advancement of student academic achievement by maintaining the integrity of Kentucky’s accountability system. Due to the lack of testing data collected during the 2019-20 school year and the unprecedented challenges posted by testing during the 2020-21 school year, the good-faith identification of TSI schools is not possible. By waiving the identification requirement until Kentucky can faithfully execute the expectations outlined in its state plan and state statutes, Kentucky is able to maintain a high quality accountability system that promotes equity and trust.

*Methods to Monitor and Evaluate the Effectiveness of the Waiver Implementation*

Kentucky will continue to collect and monitor relevant data related to school quality and student performance. Kentucky maintains a statewide data management system through a partnership with Infinite Campus (IC). This ensures that officials at the KDE have access to real time information and data about student performance. Kentucky will continue to maintain existing systems and structures to support our schools and districts.

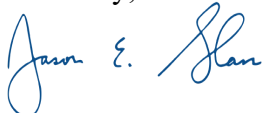
*Plan for Continued Services to Students*

Currently, Kentucky does not have any actively identified TSI schools. Kentucky maintains a robust system of support for low performing schools or schools with consistently low performing subgroups. Schools who are at risk of falling into TSI status in the future may voluntarily opt for early intervention from the KDE. This intervention includes, but is not limited to, support by the KDE’s Continuous Improvement Coaches who provide just-in-time professional learning related to instructional strategies and effective management systems. Additionally, schools may request two-day review instructional audits designed to provide feedback and actionable next steps to improve instruction.

*Public Comment Assurance*

The KDE assures that this waiver request underwent a public notice with reasonable time for the public and local education agencies to provide comment in the manner in which the agency customarily provides similar notice and opportunity to comment to the public. The comments and input received during the comment period, as well as a description of how the state addressed the comments and input, are attached.

Sincerely,



Jason E. Glass, Ed.D.  
Commissioner of Education & Chief Learner