



Better School Boards Lead to Better Student Performance

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September 8, 2017

Dr. Lisa Long
New York State Education Department
Office of Accountability, 4th Floor
55 Hanson Place
Brooklyn, NY 11217

Dear Dr. Long:

On August 25, 2017, the New York State Education Department released for public comment three Every Student Succeeds Act waiver requests related to middle school students taking Regents exams, English Language Learners and students with disabilities.

The New York State School Boards Association (NYSSBA) hereby submits its response to that request on behalf of its membership, which consists of school boards charged with the governance and operation of approximately 678, or 93%, of all public school districts and boards of cooperative educational services (BOCES) within the State.

Students with Disabilities

This waiver request seeks permission to allow school districts to assess a small number of students with significant cognitive disabilities and who are not eligible for the New York State Alternative Assessment (NYSAA) with assessments below their grade level according to specified criteria. The waiver request further provides that these students would be considered Level 1 (nonproficient) for accountability purposes.

NYSSBA supports that aspect of the waiver request that would allow such students to be assessed with tests that are more aligned with their instructional level as opposed to their chronological grade-level. Without the waiver, unnecessary stress is placed on these students when they are given a chronological grade-level test educators know at the outset the student will not be able to meaningfully participate in and/or complete. Moreover, allowing the use of instructional level tests will yield meaningful results that school districts can use to better address the students' academic needs.

NYSSBA is, however, concerned with the provision in the waiver request that indicates that such students would automatically be considered Level 1 (nonproficient) for accountability purposes. If a determination is made that based on the severity of their disability, these students should be tested differently, it is inappropriate to negate their efforts by deeming them nonproficient for accountability purposes even when they might have scored at a proficient level on the very test it was determined they should be assessed by. Accordingly, NYSSBA cannot support this aspect of the waiver request.

English Language Learners/Multilingual Learners

This waiver request seeks permission to exempt newly arrived English Language Learner/Multilingual Learner (ELL/MLL) students enrolled in grades 3-8 from taking the English language arts (ELA) exam for one year. It further seeks to, in Year 2, have such students take the ELA exam to establish a baseline for measuring growth. In Year 3 and beyond, both achievement and growth in ELA would be used for school accountability.

NYSSBA supports this waiver request because it recognizes that newly arrived students present unique educational needs and challenges. The impact of their language limitations on their ability to perform academically is one of the more common factors contributing to the designation of schools as underperforming. This waiver request serves to help the integration of such students, many with no prior formal education, in a reasonable manner as they adapt to a new country and language. It further provides more meaningful assessment results for schools to use in developing programs for such students.

Middle School Students Taking Regents Exams

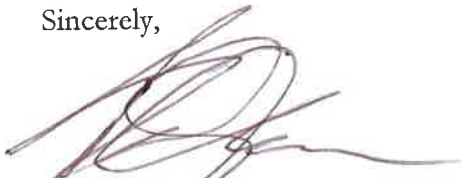
This waiver request seeks permission to continue the practice permitted under the state's previously held ESEA flexibility waiver which allowed the state to use the results of middle school students who take a math or science Regents exam, in lieu of the grade level exam, for the purposes of determining school accountability and participation.

NYSSBA supports this waiver request because it enhances the ability of school districts to offer their students opportunities for advanced coursework while avoiding double testing of high achieving students.

On behalf of its members, NYSSBA appreciates the opportunity to provide comments on the waiver requests.

Please contact us if you would like additional information regarding our comments.

Sincerely,



Timothy G. Kremer
Executive Director