



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

APR 5 2011

ASSISTANT SECRETARY

The Honorable Diane DeBacker
Commissioner of Education
Kansas State Department of Education
120 SE 10th Avenue
Topeka, Kansas 66612-1182

Dear Commissioner DeBacker:

I am writing in response to the Kansas State Department of Education's (KSDE's) request on behalf of the McPherson Unified School District (MUSD) to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Specifically, KSDE has requested on MUSD's behalf a one-year waiver to allow the district to pilot the use of assessments developed by the ACT in lieu of the State's assessments in grades 6 through 8 and high school and to use the results of these assessments in accountability determinations.

I have carefully reviewed KSDE's request and my staff has had several discussions with your staff and with MUSD Superintendent Randy Watson regarding the request. Through the documentation submitted as well as these discussions, I understand that MUSD is implementing a comprehensive reform entitled *Citizenship, College, and Career Readiness, C³*. Through this initiative, MUSD has made a commitment to implementing a more rigorous curriculum. Part of this initiative involves significantly modifying the district's instructional program and teaching MUSD students to, and assessing them on, college- and career-ready content standards to prepare them for post-secondary education and the work force. Toward that end, MUSD is working to fully align its curriculum to college- and career-ready standards and, during this transition, is using ACT-developed assessments in its middle and high schools to assess student mastery of these standards. KSDE has provided evidence from MUSD to show that the ACT-developed assessments are more rigorous with respect to college- and career-readiness than the State's own assessments. In particular, a significant percentage of students who scored proficient on the State's assessments did not achieve scores on the ACT reading and mathematics assessments predictive of earning a B or higher in corresponding credit-bearing college coursework.

I know that KSDE has adopted the Common Core State Standards (CCSS) and is a governing State in the SMARTER Balanced Assessment Consortium that received a Race to the Top Assessment grant to develop assessments aligned with the CCSS. Although the SMARTER Balanced consortium is diligently working to develop the new generation of assessments that will be aligned with the CCSS, this ambitious project will not be completed until the 2014–2015 school year. Accordingly, as the SMARTER Balanced consortium conducts the work necessary to develop those assessments, this is a time of transition within the State of Kansas. I understand

that KSDE would view MUSD's implementation of assessments other than the State's assessments — in particular, assessments that are more rigorous than the State's own assessments and are aligned with college- and career-ready standards — as a State pilot to help inform the State as it transitions toward full implementation of the assessments that are being developed by the SMARTER Balanced consortium. MUSD has also indicated that it will continue to evaluate the impact of implementing the ACT-developed assessments on teaching and learning within the district.

In recognition of the KSDE's focus on college- and career-ready standards, the data it provided indicating that the ACT-developed assessments implemented by MUSD are more rigorous than KSDE's statewide assessments, and the fact that MUSD's implementation of the ACT-developed assessments will be conducted as a State pilot that will inform the State's transition to full implementation of the CCSS and the aligned assessments being developed by the SMARTER Balanced consortium, including the corresponding changes in instruction necessary for students to achieve to these higher standards, I am pleased to grant, pursuant to my authority under section 9401 of the ESEA, a one-year waiver of the following statutory and regulatory requirements under Title I, Part A of the ESEA with respect to MUSD:

- ESEA section 1111(b)(1)(B) and 34 C.F.R. § 200.1(a)(1), which require the State to apply the same academic content and academic achievement standards to all public schools and public school children in the State;
- ESEA section 1111(b)(3)(A), (C)(i) and 34 C.F.R. § 200.2(b)(1), which require the State to use the same academic assessments to measure the achievement of all students and to determine adequate yearly progress (AYP);
- ESEA section 1111(b)(3)(C)(ii) and 34 C.F.R. § 200.2(b)(3)(i), which require that the assessments administered be aligned with the State's academic content and achievement standards;

The waiver of these provisions authorizes KSDE to permit MUSD to administer the ACT-developed EXPLORE in grades 6 through 8 and the ACT in high school in lieu of the State assessments for the 2010–2011 school year. MUSD must administer these assessments to all students in the tested grades except for those students with disabilities who qualify to take Kansas' assessments based on either alternate or modified academic achievement standards. In addition, in lieu of using KSDE's academic achievement standards to determine AYP for the 2010–2011 school year, MUSD must use, with respect to the ACT, the achievement levels established by ACT predictive of earning a B or higher in corresponding credit-bearing college coursework and, with respect to the EXPLORE, achievement levels that indicate a student is on track to meeting those ACT achievement levels. MUSD must also report assessment results based on these achievement levels on its district report card and to parents and teachers, as required by section 1111 of the ESEA.

Please note that, in granting the requested waiver, I am not waiving any of the provisions that require MUSD and its schools to be held accountable for the achievement of their students on the assessments that are administered. In particular, AYP determinations for MUSD and its schools will continue to be based on Kansas' approved annual measurable objectives (AMOs), as

required under the ESEA. I recognize the limitations of applying AMOs based on the results of the State's assessments to results of student performance in MUSD on the EXPLORE and the ACT. However, given the requirement under Title I, Part A of the ESEA that 100 percent of students be at least proficient in reading/language arts and mathematics by 2013–2014, I believe it is imperative that MUSD and its schools continue to be held accountable for their progress toward reaching that goal, even as the district implements more rigorous standards and assessments.

Finally, please be aware that I am granting this waiver on the condition that the results of the EXPLORE and the ACT, along with other data and evidence, including evidence documenting the alignment of MUSD's curriculum to ACT's college readiness standards, will be submitted for a rigorous, independent peer review. Staff from the Student Achievement and School Accountability (SASA) Programs in the Department's Office of Elementary and Secondary Education will contact you in the near future with additional information about the data and/or evidence KSDE will need to submit for this review. As this waiver is being granted for one year only, MUSD will not be permitted to continue implementing the ACT-developed assessments in lieu of the State's assessments in future years unless this condition is met and the waiver is extended upon consideration of the results of the peer review process.

I applaud the work you are doing toward the goal of holding all students in Kansas to more rigorous, college- and career-ready standards. If you have any questions, please contact Victoria Hammer of my staff at 202-260-1438.

Sincerely,



Thelma Meléndez de Santa Ana, Ph.D.

cc: Governor Sam Brownback
Judi Miller