



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
9th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

BILL LEE
GOVERNOR

PENNY SCHWINN
COMMISSIONER

Asst. Secretary Brogan
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

March 25, 2020

RE: Waiver Request as allowed by Section 8401 of the Elementary and Secondary Education Act

Assistant Secretary Brogan:

The Tennessee Department of Education (TDOE) is requesting Secretary DeVos to utilize the waiver authority pursuant to Section 8401 of the Elementary and Secondary Education Act (20 U.S.C §7861) as the state continues to address both the COVID-19 outbreak and the state of emergency resulting from recent tornadoes across Tennessee. As a result, many schools and districts have been closed since March 3rd, while communities recover from these crises.

On March 24, the governor announced that school closures would be extended through April 24 to mitigate the growing number of confirmed cases of COVID-19 throughout the state — a decision that could be reevaluated and extended further depending on how the situation develops. Districts are working tirelessly to develop and implement continuity of instruction plans; however, many of the remaining factors required in reporting, while appearing minor, can affect the scope of their actions.

In this time of tumult, the TDOE seeks to provide stability and predictability in public reporting for our districts and schools in recovering from these crises. Thus, Tennessee is seeking flexibilities and waivers for reporting requirements for local education agency and state report cards outlined in the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act. The TDOE seeks to ensure the public that no data will be changing based on results from the current school year.

At the invitation of Secretary Betsy DeVos, we requested waivers for some reporting requirements within Section 1111(h) on March 20, 2020. In addition to those requirements, we are requesting waivers for additional components found in annual public reporting:

Annual Report Cards:

- The state is seeking a **one-year waiver to exclude annual local education agency report card requirements for the 2019-20 school year** as required in §1111(h)(2) with respect to all requirements in section §1111(h)(1)(C) as well as §1111(h)(2)(C).
- With Tennessee addressing needs from both COVID-19 and a natural disaster and with all schools closing, the state is seeking a **one-year waiver to exclude annual state report card requirements for the 2019-20 school year** as required in §1111(h)(1).

We are not seeking a waiver from dutifully collecting and the data, but only a one-year waiver on reporting, to provide consistency and stability in a promise that the Report Card will remain consistent. The TDOE intends to still collect and monitor the quality of available data that would have been reported within this waiver, removing only the public reporting requirements found in §1111(h).

Due to the evolving nature and scope of the current crises Tennessee is facing, we did not provide public notice prior to submission of this waiver request. We will actively communicate this request and provide appropriate follow-up communication with stakeholders. We hope that putting their minds at ease about changes to any data submissions for the school year will allow them to make decisions in the best interests of students.

School and district leaders currently have to balance decisions regarding the safety of their students and their students' education. This balance may be upset by leaders' fear of repercussions in public reporting. These waiver requests represent the best faith efforts of the TDOE to remove incentives for schools and districts to make decisions that may not be in the best interests of student health and safety.

In addition, requiring schools and districts to report, review and appeal any discrepancies in these metrics would place an additional burden on them during a time when they are already tasked with responding to an unprecedented need to provide regular meals and continuity of instruction for our students in the midst of a global pandemic and state-wide shutdowns. Waiving these requirements for one year would ease this burden so that our schools and districts could devote their full attention and resources to meeting the most pressing needs of our students.

Thank you for consideration of these requests. Tennessee is committed first to ensuring that all students are safe and fed during these crises; we are also committed to ensuring that the TDOE supports the recovery of impacted districts and schools so we can continue to focus on the provision of an excellent education and setting all students on a path to success.

Please feel free to contact Eve Carney, by telephone at 615-532-1245 or at Eve.Carney@tn.gov if there are questions regarding this request or if additional information is needed.

Best,



Dr. Penny Schwinn, Ph.D.
Commissioner

CC: Eve Carney, Chief Districts and Schools Officer
Mike Hardy, Chief Strategy Officer
Drew Harpool, Chief Financial Officer
Sam Percy, Chief Operations Officer