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February 4, 2021

The Honorable Philip H. Rosenfelt
Acting Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-6100

RE: Request for a Waiver of Statutory and Regulatory Requirements of the Elementary and Secondary Education Act (ESEA) on behalf of all LEAs in New York State

Dear Acting Secretary Rosenfelt:

We are writing in support of the federal testing waivers that the New York State Education Department requested for 2020-2021.

Due to circumstances related to the pandemic and the varying educational models being offered throughout 700-plus New York school districts, standardized tests will not adequately reflect the teaching and learning that has taken place in New York State schools since March 2020.

The underlying purposes of assessments mandated by the *No Child Left Behind Act* and successor legislation were to establish national and statewide baseline measurements of student achievement for comparability purposes, to identify students that were falling behind, and to increase accountability for results. So much has changed for schools and students in the last 11 months that these goals for the assessments cannot reasonably be achieved this school year.

We support the waiver requests for the following reasons:

1. We need to trust our teachers and school leaders to measure student progress during this pandemic, as opposed to relying upon mandated federal assessments. Because of the differences in the delivery of instruction, we should allow local educators the leeway to implement models of measurement that truly reflect their district's particular set of circumstances. We trust school leaders and teachers to diligently track individual student performance without administering a federally mandated assessment. The USDOE October 24, 2015 "Testing Action Plan" states that standardized assessments are only one of the measures that should be used. Now more than ever before due to COVID, we need to rely on those other measures.
2. The pandemic has caused immeasurable stress on students and families. From unemployment and food insecurity and anxiety to separation/isolation from friends

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and relatives, the mental health impact of the pandemic is real. To ask children to add the additional stress of lengthy standardized testing to what they are already going through is an unnecessary exercise for assessment results that may not be valid. What would standardized tests be measuring this year?

3. The New York State Education Department has concluded that the assessments cannot be administered remotely, that students would need to be in school to take part. To date, a small minority of schools have been able to proceed with fully in-school instruction. We do not know what circumstances will prevail come spring, when the assessments are scheduled to be given. With the social distancing and other requirements needed to protect students and staff from the coronavirus, the necessary variations would likely render assessment results invalid for comparison. The arrangements needed to conduct in-school assessments for all students would add disruption to regular instruction in a school year that has already suffered too many disruptions.
4. Greater flexibility when administering the New York State English as a Second Language Achievement Test is necessary. The waiver will allow students to still “exit ELL status when appropriate.” As explained in the waiver request, “removal of the federal requirements for ELP testing would allow the New York State Education Department to offer the most flexibility to LEAs to ensure that students can test to best inform educational programming decisions.” We support the objective of allowing more local flexibility in decision making.
5. The pandemic has created disruptions in schooling and in the lives of students away from school, and those have affected student learning in ways beyond the ability of schools and educators to entirely offset. It would be wrong to apply accountability designations that would not reflect the true strength of all their efforts.

Accordingly, we support our State Education Department’s request for a waiver from ESSA requirements regarding school and district accountability designations and thank the Board of Regents, the Commissioner of Education and the New York State Education Department staff for advocating on behalf of the children, families and educators who will be impacted.

Sincerely,
Charles S. Dedrick, Ed.D.
NYSCOSS Executive Director