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MEMORANDUM

TO: **Interested Parties**
FROM: **Penn Hill Group**
DATE: **March 10, 2021**
SUBJECT: **ED's Optional Template for States' Submission of Waiver Requests**

Background

On February 22, the U.S. Department of Education (ED or the Department) released a [letter to chief State school officers](#) announcing the waivers that ED would grant to States with respect to the implementation of Elementary and Secondary Education Act (ESEA) assessment, accountability, and reporting requirements for the 2020-2021 school year. That letter also stated that States seeking waivers of other statutory provisions pertaining to ESEA assessment requirements should apply for those waivers through the process delineated in the ESEA waiver authority and that ED would work with each State to provide additional flexibilities based on its individual circumstances. We summarized that letter in a memo on February 23.

In the letter, the Department also pledged to follow up shortly with an optional template that States could use in submitting their waiver requests for approval. On March 8, ED released that [template](#), which we summarize here.

The template provides two boxes for State educational agency (SEA) officials to check, indicating that the SEA requests a waiver from a specific ESEA requirement. Four other boxes are for assurances that the SEA will take certain actions as a condition of receiving the waivers. These six elements of the template are as follows.

Waiver of Accountability and School Identification Requirements

An SEA may request a waiver of the requirements that, for the 2020-2021 school year, it measure schools' progress toward the State's long-term goals and measures of interim progress (elements of its ESEA accountability system); meaningfully differentiate the performance of all public schools (including by adjusting the academic achievement performance schools with less than a 95 percent assessment participant rate); and identify schools for comprehensive, targeted, and additional targeted support and improvement (CSI, TSI, and ATSI) based on 2020-2021 school year data.

Note that although States must still administer statewide academic assessments, this waiver will effectively excuse them from having to assess 95 percent of all students and of all students in each student subgroup.

Waiver of Report Card Requirements

SEAs receiving this waiver will not be required to include, in their State, local educational agency (LEA) and school-level report cards, the following information based on data from the 2020-2021 school year:

- A description of the State’s accountability system (with the exception of the identification of its CSI, TSI, and ATSI schools);
- Information on the performance of elementary and middle schools on the State’s “other academic indicator”;
- Information on the performance of students on the State’s “school quality or student success” (SQ/SS) indicator or indicators; and
- Information on the progress of all students and of student subgroups toward the State’s long-term goals and measures of interim progress.

All of the other statutory requirements for report cards will remain in force.

Note also that, in order to receive a waiver through the ESEA general waiver authority, under which these waivers would be granted, a State must describe how the requested waiver will advance student achievement. The template provides a space for the SEA to provide that description.

Assurance of Reporting Data on Chronic Absenteeism

The template requests the SEA to assure that it will publicly report chronic absenteeism data, as defined in the State’s SQ/SS indicator (if applicable) or in ED’ s *EDFacts* system, disaggregated by student subgroup if those data are available. The template asks that this reporting be done through the report cards or in another publicly available location.

Assurance of Reporting Data on Technology Access

The template asks the SEA to assure that it will publicly report available data on the access of students or teachers (or both) to technology devices and high-speed internet, with the student data disaggregated by subgroup, if such data are collected at the State or LEA level.

This section of the template also requests that the SEA provide information on State and LEA collection of information on access to technology and high-speed internet as well as “opportunity to learn” data, school discipline data, and information on access to a well-rounded education, to support staff, and to qualified educators.

Assurance on Continued Identification of and Support for Current CSI, TSI, and ATSI Schools

The template asks the SEA to assure that any of its schools identified for CSI, TSI, or ATSI for 2019-2020 (with the exception of high schools that were identified for CSI based on a low graduation rate but that have now met the State’s exit criteria) will maintain that status, continue to implement its improvement plan, and continue to receive supports and interventions in the 2021-2022 school year.

The template also asks the SEA to describe how schools will continue to provide assistance to populations that are served under Title I.

Assurance on Identification of New Schools in the Fall of 2022

The template asks the SEA to assure that it will identify new schools for CSI, TSI, and ATSI in the fall of 2022, using data from the 2021-2022 school year.

Additional Information

Finally, the template reminds States that, under the ESEA waiver authority, a State, before submitting a waiver request, must provide LEAs and the public with an opportunity to comment on the request and must consider the input received. Any input received (as well as a description of how the State addressed that input) must be enclosed with the request.

We note that this ED template is optional for SEAs to use. An SEA may also use its own submission format so long as it abides by the ESEA waiver requirements as set forth in section 8401 of the Act.