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

March 16, 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.

Tennessee counties experienced seven EF3 and EF4 tornadoes on March 2 and 3 which destroyed numerous homes, schools, and lives—the second deadliest tornado outbreak in Tennessee history. We are continuing to support our district and school leaders in recovering from this natural disaster, but many schools are not yet able to resume a normal school schedule, and the impact on communities is significant. On March 3, Governor Bill Lee declared a state of emergency for this natural disaster.

While in this state of emergency, Tennessee continues to have a growing number of districts that have suspended classes over the past week with the number of confirmed cases of COVID-19 continuing to increase daily. Last week alone, schools serving over 50% of the state's 973,659 students have suspended classes. Today, Governor Bill Lee announced that all public schools in Tennessee would close through the end of March—a decision that would be reevaluated and possibly extended later in the month. Districts are working to develop and implement continuity of instruction plans; however, many of our largest urban and suburban districts, serving over 500,000 of Tennessee's students, also serve most of the state's highest poverty schools whose students, which in many instances, do not have appropriate access to technology in their homes, making instructional continuity more challenging.

To ensure that the TDOE is equipped to serve our districts and schools in recovering from these crises while continuing to meet our state requirements, Tennessee is seeking available flexibilities and waivers for assessment, accountability determinations, and accountability components, as well as other requirements of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act.

Assessment:

As this is an evolving situation expected to intensify in the weeks and months to come, Tennessee is requesting flexibility and approval to apply either of the following waivers as determined by the needs of the state:

- With Tennessee addressing needs from both COVID-19 and a natural disaster and with all schools closing, we are seeking a one-year waiver to exclude assessments for the 2019-20 school year from accountability determinations and reporting. This will require Tennessee to adjust or extend the assessment window as appropriate to accommodate as many students as possible. With the health crisis still evolving, it is indeterminable at this time what adjustments may be necessary.
- With Tennessee addressing needs from both COVID-19 and a natural disaster and with all schools closing, we are seeking a one-year waiver on all assessments currently outlined in our approved ESSA state plan.

Accountability determinations:

- The state is seeking a targeted, one-year waiver to identify schools for comprehensive and targeted support and improvement as required in §1111(c)(4)(C)(iii) in the four counties impacted by the tornadoes: Davidson, Wilson, Benton, and Putnam counties.

As this is an evolving situation expected to intensify in the weeks and months to come, Tennessee is requesting flexibility and approval to apply either of the following waivers noted below as determined by the needs of the state:

- The state is seeking a one-year waiver on the identification of schools for comprehensive and targeted support and improvement as required in §1111(c)(4)(C)(iii) for all impacted schools.
- The state is seeking a one-year waiver on Tennessee's current accountability framework pursuant to §1111(c) as detailed in the state's approved ESSA state plan.

Accountability components:

- The state is seeking a statewide waiver for the 95 percent assessment student participation rate as required in § 1111(c)(4)(E) of ESSA not to be considered when calculating the Academic Achievement indicator for end of year assessments.
- One-year waiver to exclude chronic absenteeism from the school quality and student success indicator in its accountability system—which in Tennessee is the chronically out of school indicator.

Fiscal and other requirements:

The TDOE does not expect that districts will expend their Title I, A allocations according to the requirements during the period of availability due to the current medical and natural disasters noted above. As such, we are requesting the following:

- A waiver to extend the period of availability for Tennessee's the Title I, part A award (S010A190001) to September 30, 2022. With extended school closures, this waiver would allow districts time and flexibility to reset and reevaluate how best to support students following the current crisis.

- A waiver of the 15% carryover cap for Title I, part A funds and is also requesting to exclude any district waiver requested for the 2019-20 school year from the carryover limitation (no more than one in a three-year period).
- Consideration for other maintenance of effort flexibilities that may be forthcoming to states and districts during the current COVID-19 outbreak.

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.

School and district leaders currently have to balance decisions regarding the safety and education of their students. This balance may be impacted by leaders' fear of repercussions in accountability, assessment, and funding. These waiver requests represent the best faith efforts of the TDOE to assuage these fears so district leaders can make the decisions that are in the best interest of students, teachers, and families without fear of repercussion.

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