



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

The Honorable Michael Kirst
President
California State Board of Education

The Honorable Tom Torlakson
State Superintendent of Public Instruction
California Department of Education

1430 N Street
Sacramento, CA 95814-5901

Dear President Kirst and Superintendent Torlakson:

The U.S. Department of Education (Department) is working to support State-led efforts to reform schools across the country. I know how deep your commitment has been to raising standards in California. Your students and your State will benefit for generations from the investment the State is making in the implementation of college- and career-ready standards. We want to support you and the teachers and students of California during this transition.

I am writing about California's plans to facilitate the transition to college- and career-ready standards, as prescribed under Assembly Bill (AB) 484, which was signed into law on October 2, 2013. The Department has determined that AB 484 conflicts with provisions of Title I of the Elementary and Secondary Education Act of 1965 (ESEA) that require annual assessment of all students in grades three through eight and high school in reading/language arts and mathematics — specifically, ESEA sections 1111(b)(3)(A) and 1111(b)(3)(C)(vii) and their implementing regulations. In addition, AB 484 violates some of the State's key responsibilities to California's children and families.

To help States transition to their implementation of college- and career-ready assessments, the Department has offered flexibility to States to avoid double testing students. This flexibility protects a core principle of the law: that States must provide a reading/language arts and a mathematics assessment to every student in the tested grades in the State. However, it allows States to use either the State's current assessment or the field test for new assessments in development — either of which will provide value to students and families. Where students participate in the State assessment, schools would continue to have data for 2013–2014 — informing parents how their children and their children's schools are performing; helping teachers and principals improve instruction; and ensuring accountability for school performance. Students who participate in the field test will generate a different kind of critical data: data that will help support the development of college- and career-ready assessments that will raise the bar

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for all students in 2014–2015. These students will also benefit from early exposure to these more rigorous, next-generation assessments.

By failing to administer a reading/language arts and mathematics assessment to all students in the tested grades, California would be unable to provide this important information to students, principals, teachers, and parents. In addition, because its new policy violates federal law, California now risks significant enforcement action by the Department for its violation of Title I of the ESEA, including losing the \$15 million that California is able to reserve in Title I State administrative funds and additional Title I funds in the amount that California spent on assessments last year. The Department may also designate California as a “high-risk grantee,” potentially hampering its ability to receive federal discretionary funds or flexibilities available to other states for which California may apply in the future (including flexibilities from requirements under the No Child Left Behind Act).

In addition, depending on how the State implements AB 484, California and its districts could find themselves out of compliance with other provisions of Title I of the ESEA as well as a wide range of additional federal programs that require Statewide assessment results, putting additional funds at risk. These additional programs include those targeting students most at risk, including, but not limited to: the School Improvement Grants (SIG) program; Title III of the ESEA; Part B of the Individuals with Disabilities Education Act (IDEA); and programs for rural schools and migrant education, in addition to programs focused on professional development and other supports for teachers, such as Title II of the ESEA. California received more than \$3.5 billion from these programs in 2012–2013. For those school districts that resolved federal civil rights investigations under Title VI of the Civil Rights Act of 1964 by promising to use annual assessments for various purposes, the burden of administering annual assessments will shift to the districts.

Statewide participation in reading/language arts and math assessments is a fundamental requirement of the ESEA. We are concerned that failure to comply with this requirement would have a negative impact on students, particularly at-risk students such as English Learners, students with disabilities and low-income students. The Department stands ready to work with California to assist in bringing the State into compliance with the requirements of ESEA and supporting the success of all students in California.

Sincerely,

Deborah S. Delisle