UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

NOV 4 2013

The Honorable Denise Juneau
Superintendent
Montana Office of Public Instruction
P. O. Box 202501
Helena, MT 59620

Dear Superintendent Juneau:

I am writing in response to the Montana Office of Public Instruction's (OPI) request on behalf selected schools to waive certain statutory and regulatory requirements of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA). Specifically, OPI has requested on behalf of the selected schools a one-year waiver to allow the district to field test assessments in mathematics and reading/language arts aligned to college- and career-ready standards developed by the Smarter Balanced Assessment Consortium in lieu of the State's assessments in grades 3 through 8 and high school and also requested flexibility in accountability determinations.

I am pleased to grant, pursuant to my authority under section 9401 of the ESEA, a one-year waiver of the following statutory and regulatory requirements under Title I, Part A of the ESEA, as amended, and their associated regulatory provisions:

- ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i), which require the State educational agency (SEA) to apply the same academic achievement standards, and to use the same academic assessments, for all public school children in the State. OPI requested these waivers so that any individual student within Montana will be permitted to take only one assessment in each content area in 2013–2014 — either the current State assessment or the field test of the new assessments aligned to college- and career-ready standards.

- ESEA section 1111(b)(3)(C)(xii), which requires the provision of individual student interpretive, descriptive, and diagnostic reports that include information regarding achievement on State assessments to parents, teachers, and principals as soon as is practically possible after an assessment is given. OPI requested this waiver to permit OPI and its local educational agencies (LEAs) to refrain from producing or providing these reports for a student's performance on a field test.

- ESEA section 1111(h)(1)(C)(ii) and 1111(h)(2)(B), which require an SEA and LEA to report on performance against annual measurable objectives (AMOs). OPI requested these waivers to permit OPI and its LEAs to refrain from reporting performance against AMOs for any school that participates in the field test of the new assessments aligned to college- and career-ready standards.

- ESEA section 1116(a)(1)(A), which requires an LEA to use the State's academic assessments and other academic indicators to make adequate yearly progress (AYP) determinations for schools. OPI requested this waiver to permit an LEA within Montana that has one or more schools participating in the field test to refrain from making AYP determinations for each of those schools.

This waiver is granted to the OPI on the condition that it will implement the following assurances:

- The OPI and its LEAs will ensure that all students in the tested grades will participate in the field test.

- Since all Montana LEAs and schools will participate in the field testing, there will be no new AYP determinations based on the 2013–14 school year, but the previous year AYP determinations will be used for an additional year, and schools and districts will be held accountable accordingly.

- Since all Montana LEAs and schools with tested grades will participate in the field test, there will be no new reporting of performance against AMOs based on the State assessment. There will be new reporting on participation rates in the field testing for reading/language arts and mathematics for students in all schools and LEAs.

- With the exception of the alternate State approved assessment for children with disabilities (as required in their Individual Education Plans) all students in Montana LEAs and schools will participate in the in the field test. Therefore, there will be no reporting obligations for the OPI and its LEAs with respect to reporting the achievement of students who take the current State assessments other than the students taking the State approved alternate assessment.

- The OPI has properly notified all LEAs and schools that will participate in the field test of that participation.

- The OPI will ensure that parents of students in each school participating in the field test have been notified of the school's participation, including by ensuring that the notification to parents includes a discussion of the implications of the school's participation in the field test and a notification of whether the parents' individual child will participate in the field test.

- In 2014–2015, the OPI will administer the new reading/language arts and mathematics assessments align to college- and career-ready standards, as well as its State science assessments, to all students in the grades required to be tested in accordance with the ESEA.

- The OPI will resume making AYP determinations for all schools and all single-school LEAs based on assessments administered in the 2014–2015 school year.

Please be aware that this waiver of Montana's standards and assessment system under the ESEA is not a determination that the system complies with Federal civil rights requirements, including Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of the *Rehabilitation Act of 1973*, Title II of the *Americans with Disabilities Act*, and requirements under the *Individuals with Disabilities Education Act*. This waiver also does not apply to statutory and regulatory requirements regarding science assessments under Title I, Part A of the ESEA.

I hope you find this flexibility helpful. I look forward to working with you and your staff as you implement this flexibility and as you continue working to improve education in Montana.

Sincerely,

Deborah S. Delisle
Assistant Secretary

cc: Judy Snow