



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

February 24, 2023

The Honorable Pender Makin  
Commissioner of Education  
Maine Department of Education  
23 State House Station  
Augusta, ME 04333-0023

Dear Commissioner Makin:

I am writing regarding concerns with the Maine Department of Education's (MDE's) reading/language arts (R/LA) and mathematics assessments administered in the 2020-2021 and 2021-2022 school years.

Based on information MDE has provided to the Department, it does not appear that MDE met, for school years 2020-21 and 2021-22, the requirements in section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (ESEA), which requires that a State educational agency (SEA) adopt criterion-referenced academic achievement standards. This is a critical component of a statewide assessment system. The purpose of setting achievement standards is to determine how performance on a particular assessment translates to a student's mastery of the State's content standards that are being evaluated by that assessment. The achievement standards provide critical interpretive information to help parents and educators provide support to students.

Achievement standards that are inconsistent with statutory requirements substantially undermine reporting of assessment results to parents, teachers, and principals and on State and local report cards. Providing assessment results publicly on State and local report cards, using achievement standards consistent with the ESEA, is an integral component of the statute; it provides comparable statewide information about school performance that can help school leaders, parents, and stakeholders make important decisions about needed school supports and resources. As mentioned in the letter on February 22, 2021, when we announced the resumption of assessments for 2020-2021 but invited waivers of accountability requirements for that year, "[i]t remains vitally important that parents, educators, and the public have access to data on student learning and success. The Department will therefore maintain all state and local report card requirements, including the requirements to disaggregate data by student subgroup."<sup>1</sup>

Due to the lack of documentation indicating how MDE satisfied essential requirements of Title I of the ESEA for its R/LA and mathematics assessments by appropriately setting criterion-referenced achievement standards through a technically sound process, the Department is: 1)

---

<sup>1</sup> See <https://oese.ed.gov/files/2021/02/DCL-on-assessments-and-acct-final.pdf>.

placing a condition on MDE’s Title I, Part A grant award; and 2) pursuant to the authority in 2 CFR §§ 200.208 and 3474.10, placing MDE’s Title I, Part A grant award on “high-risk” status. In addition, the Department intends to withhold 25 percent (\$117,422) of MDE’s fiscal year 2022 Title I, Part A allocation for State administration, pursuant to section 1111(a)(7) of the ESEA, which would revert to LEAs in the State. That is, MDE would need to allocate the \$117,422 to its LEAs in accordance with the Title I regulations governing within-State allocations to LEAs.

MDE has until the first business day following 15 days from the date of this letter to show cause, in writing, why the Department should not withhold \$117,422 of the fiscal year 2022 Title I, Part A funds available to MDE for State administration. MDE may also request reconsideration of its “high-risk” designation for Title I, Part A by submitting in writing, no later than 15 days from the date of this letter, a detailed description setting forth the basis for its belief that this designation is improper, including specific facts that support its position. Information about why the Department should not withhold funds or to request reconsideration of the high-risk designation must be submitted via e-mail to my staff at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

To remove the high-risk status and condition for Title I, Part A, MDE must provide to the Department at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov) evidence of the following:

1. By March 27, 2023: Test design specifications and/or test blueprints that demonstrate the R/LA and mathematics assessments in the 2022-2023 school year (SY) are aligned with the State’s academic content standards and cover the breadth and depth of the State’s academic content standards.
2. By March 27, 2023: A plan and timeline to set aligned academic achievement standards for the SY 2022-2023 assessments, not later than summer 2023. The plan must describe the technically sound method and process MDE will use for to set achievement standards and the involvement of panelists with appropriate experience and expertise. This plan must also include evidence the State has drafted achievement level descriptors that describe what students know and can do for each achievement level, in each subject, at each grade level.
3. By December 1, 2023: Documentation that MDE established and formally adopted aligned academic achievement standards that are consistent with the requirements in ESEA section 1111(b)(1) for the R/LA and mathematics assessments, provided student reports to parents, and included the assessment results on State and local report cards for SY 2022-2023 based on these academic achievement standards. This evidence should include the State’s standards-setting report (in final or draft form) that describes the technically sound process used to establish the achievement standards.
4. By December 1, 2023: Evidence that the State used the results of the summative assessments administered in SY 2022-2023 in its accountability system to identify schools for comprehensive support and improvement (CSI), additional targeted support and improvement (ATSI), and targeted support and improvement due to consistently underperforming subgroups (TSI). MDE must identify any school meeting the State’s definition for each category (CSI, ATSI, or TSI) in addition to the schools MDE was required to identify using the State’s accountability system based on data from SY 2021-2022. (Note that MDE has not yet identified schools using data from SY 2021-2022; this

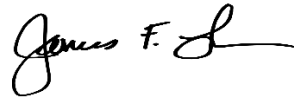
must occur as soon as practicable after the Department approves MDE’s recently submitted ESEA consolidated State plan Addendum.)

5. By January 12, 2024: A full submission of the State’s documentation of its R/LA and mathematics assessments for the Department’s assessment peer review that addresses each critical element of the Department’s assessment peer review guidance.<sup>2</sup>

The Department continues to stand ready to support MDE in implementing these critical requirements. If you have any questions regarding this letter, or the implementation of MDE’s Title I, Part A and State assessment programs, please contact my staff at:

[ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Lane". The signature is fluid and cursive, with a large initial "J" and "L".

James F. Lane, Ed.D.  
Senior Advisor, Office of the Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Janette Kirk, MDE Chief of Learning Systems

---

<sup>2</sup> See <https://www2.ed.gov/admins/lead/account/saa/assessmentpeerreview.pdf>.