

SEC. 1204. [20 U.S.C. 6364] INNOVATIVE ASSESSMENT AND ACCOUNTABILITY DEMONSTRATION AUTHORITY.

(a) **INNOVATIVE ASSESSMENT SYSTEM DEFINED.**—The term “innovative assessment system” means a system of assessments that may include—

(1) competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, or performance-based assessments that combine into an annual summative determination for a student, which may be administered through computer adaptive assessments; and

(2) assessments that validate when students are ready to demonstrate mastery or proficiency and allow for differentiated student support based on individual learning needs.

(b) **DEMONSTRATION AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary may provide a State educational agency, or a consortium of State educational agencies, in accordance with paragraph (3), with the authority to establish an innovative assessment system (referred to in this section as “demonstration authority”).

(2) **DEMONSTRATION PERIOD.**—In accordance with the requirements described in subsection (e), each State educational agency, or consortium of State educational agencies, that submits an application under this section shall propose in its application the period of time over which the State educational agency or consortium desires to exercise the demonstration authority, except that such period shall not exceed 5 years.

(3) **INITIAL DEMONSTRATION AUTHORITY AND EXPANSION.**—During the first 3 years that the Secretary provides State educational agencies and consortia with demonstration authority (referred to in this section as the “initial demonstration period”) the Secretary shall provide such demonstration authority to—

(A) a total number of not more than 7 participating State educational agencies, including those participating in consortia, that have applications approved under subsection (e); and

(B) consortia that include not more than 4 State educational agencies.

(c) **PROGRESS REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the end of the initial demonstration period, and prior to providing additional State educational agencies with demonstration authority, the Director of the Institute of Education Sciences, in consultation with the Secretary, shall publish a report detailing the initial progress of innovative assessment systems carried out through demonstration authority under this section.

(2) **CRITERIA.**—The progress report under paragraph (1) shall be based on the annual information submitted by participating States described in subsection (e)(2)(B)(ix) and examine the extent to which—

(A) with respect to each innovative assessment system—

(i) the State educational agency has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system;

(ii) teachers, principals, and other school leaders have demonstrated a commitment and capacity to implement or continue to implement the innovative assessment system; and

(iii) substantial evidence exists demonstrating that the innovative assessment system has been developed in accordance with the requirements of subsection (e); and

(B) each State with demonstration authority has demonstrated that—

(i) the same innovative assessment system was used to measure the achievement of all students that participated in the innovative assessment system; and

(ii) of the total number of all students, and the total number of each of the subgroups of students defined in section 1111(c)(2), eligible to participate in the innovative assessment system in a given year, the State assessed in that year an equal or greater percentage of such eligible students, as measured under section 1111(c)(4)(E), as were assessed in the State in such year using the assessment system under section 1111(b)(2).

(3) USE OF REPORT.—Upon completion of the progress report, the Secretary shall provide a response to the findings of the progress report, including a description of how the findings of the report will be used—

(A) to support State educational agencies with demonstration authority through technical assistance; and

(B) to inform the peer-review process described in subsection (f) for advising the Secretary on the awarding of the demonstration authority to the additional State educational agencies described in subsection (d).

(4) PUBLICLY AVAILABLE.—The Secretary shall make the progress report under this subsection and the response described in paragraph (3) publicly available on the website of the Department.

(5) PROHIBITION.—The Secretary shall not require States that have demonstration authority to submit any information for the purposes of the progress report that is in addition to the information the State is already required to provide under subsection (e)(2)(B)(x).

(d) EXPANSION OF THE DEMONSTRATION AUTHORITY.—Upon completion and publication of the report described in subsection (c), the Secretary may grant demonstration authority to additional State educational agencies or consortia that submit an application under subsection (e). Such State educational agencies or consortia of State educational agencies shall be subject to all of the same terms, conditions, and requirements of this section.

(e) APPLICATION.—

(1) IN GENERAL.—A State educational agency, or consortium of State educational agencies, that desires to participate in the program of demonstration authority under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(2) CONTENTS.—Such application shall include a description of the innovative assessment system, the experience the applicant has in implementing any components of the innovative assessment system, and the timeline over which the State or consortium proposes to exercise the demonstration authority. In addition, the application shall include each of the following:

(A) A demonstration that the innovative assessment system will—

(i) meet all the requirements of section 1111(b)(2)(B), except the requirements of clauses (i) and (v) of such section;

(ii) be aligned to the challenging State academic standards and address the depth and breadth of such standards;

(iii) express student results or student competencies in terms consistent with the State's aligned academic achievement standards under section 1111(b)(1);

(iv) generate results that are valid and reliable, and comparable, for all students and for each subgroup of students described in section 1111(b)(2)(B)(xi), as compared to the results for such students on the State assessments under section 1111(b)(2);

(v) be developed in collaboration with—

(I) stakeholders representing the interests of children with disabilities, English learners, and other vulnerable children;

(II) teachers, principals, and other school leaders;

(III) local educational agencies;

(IV) parents; and

(V) civil rights organizations in the State;

(vi) be accessible to all students, such as by incorporating the principles of universal design for learning;

(vii) provide teachers, principals, other school leaders, students, and parents with timely data, disaggregated by each subgroup of students described in section 1111(b)(2)(B)(xi), to inform and improve instructional practice and student supports;

(viii) identify which students are not making progress toward the challenging State academic standards so that teachers can provide instructional support and targeted interventions to all students;

(ix) annually measure the progress of not less than the same percentage of all students and students in each of the subgroups of students, as defined in sec-

tion 1111(c)(2), who are enrolled in schools that are participating in the innovative assessment system and are required to take such assessments, as measured under section 1111(c)(4)(E), as were assessed by schools administering the assessment under section 1111(b)(2);

(x) generate an annual, summative achievement determination, based on the aligned State academic achievement standards under section 1111(b)(1) and based on annual data, for each individual student; and

(xi) allow the State educational agency to validly and reliably aggregate data from the innovative assessment system for purposes of—

(I) accountability, consistent with the requirements of section 1111(c); and

(II) reporting, consistent with the requirements of section 1111(h).

(B) A description of how the State educational agency will—

(i) continue use of the statewide academic assessments required under section 1111(b)(2) if such assessments will be used for accountability purposes for the duration of the demonstration authority period;

(ii) identify the distinct purposes for each assessment that is part of the innovative assessment system;

(iii) provide support and training to local educational agency and school staff to implement the innovative assessment system described in this subsection;

(iv) inform parents of students in participating local educational agencies about the innovative assessment system at the beginning of each school year during which the innovative assessment system will be implemented;

(v) engage and support teachers in developing and scoring assessments that are part of the innovative assessment system, including through the use of high-quality professional development, standardized and calibrated scoring rubrics, and other strategies, consistent with relevant nationally recognized professional and technical standards, to ensure inter-rater reliability and comparability;

(vi) acclimate students to the innovative assessment system;

(vii) ensure that students with the most significant cognitive disabilities may be assessed with alternate assessments consistent with section 1111(b)(2)(D);

(viii) if the State is proposing to administer the innovative assessment system initially in a subset of local educational agencies, scale up the innovative assessment system to administer such system statewide, or with additional local educational agencies, in the State's proposed demonstration authority period;

(ix) gather data, solicit regular feedback from teachers, principals, other school leaders, and parents, and assess the results of each year of the program of demonstration authority under this section, and respond by making needed changes to the innovative assessment system; and

(x) report data from the innovative assessment system annually to the Secretary, including—

(I) demographics of participating local educational agencies, if such system is not statewide, and additional local educational agencies if added to the system during the course of the State's demonstration authority period or 2-year extension, except that such data shall not reveal any personally identifiable information, including a description of how the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies throughout the demonstration authority period;

(II) the performance of all participating students, and for each subgroup of students defined in section 1111(c)(2), on the innovative assessment, consistent with the requirements in section 1111(h), except that such data shall not reveal any personally identifiable information;

(III) feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

(IV) if such system is not statewide, a description of the State's progress in scaling up the innovative assessment system to additional local educational agencies during the State's demonstration authority period, as described in clause (viii).

(C) A description of the State educational agency's plan to—

(i) ensure that all students and each of the subgroups of students defined in section 1111(c)(2) participating in the innovative assessment system receive the instructional support needed to meet State aligned academic achievement standards;

(ii) ensure that each local educational agency has the technological infrastructure to implement the innovative assessment system; and

(iii) hold all schools in the local educational agencies participating in the program of demonstration authority accountable for meeting the State's expectations for student achievement.

(D) If the innovative assessment system will initially be administered in a subset of local educational agencies—

(i) a description of the local educational agencies within the State educational agency that will participate, including what criteria the State has for approv-

ing any additional local educational agencies to participate during the demonstration authority period;

(ii) assurances from such local educational agencies that such agencies will comply with the requirements of this subsection;

(iii) a description of how the State will—

(I) ensure that the inclusion of additional local educational agencies contributes to progress toward achieving high-quality and consistent implementation across demographically diverse local educational agencies during the demonstration authority period; and

(II) ensure that the participating local educational agencies, as a group, will be demographically similar to the State as a whole by the end of the State's demonstration authority period; and

(iv) a description of the State educational agency's plan to hold all students and each of the subgroups of students, as defined in section 1111(c)(2), to the same high standard as other students in the State.

(f) PEER REVIEW.—The Secretary shall—

(1) implement a peer-review process to inform—

(A) the awarding of demonstration authority under this section and the approval to operate an innovative assessment system for the purposes of subsections (b)(2) and (c) of section 1111, as described in subsection (h); and

(B) determinations about whether an innovative assessment system—

(i) is comparable to the State assessments under section 1111(b)(2)(B)(v), valid, reliable, of high technical quality, and consistent with relevant, nationally recognized professional and technical standards; and

(ii) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 1111(c)(4)(A)(i) for all students;

(2) ensure that the peer-review team consists of practitioners and experts who are knowledgeable about the innovative assessment system being proposed for all participating students, including—

(A) individuals with past experience developing systems of assessment innovation that support all students, including English learners, children with disabilities, and disadvantaged students; and

(B) individuals with experience implementing innovative assessment and accountability systems;

(3) make publicly available the applications submitted under subsection (c) and the peer-review comments and recommendations regarding such applications;

(4) make a determination and inform the State regarding approval or disapproval of the application under subsection (c) not later than 90 days after receipt of the complete application;

(5) if the Secretary disapproves an application under paragraph (4), offer the State an opportunity to—

(A) revise and resubmit such application within 60 days of the disapproval determination; and

(B) submit additional evidence that the State's application meets the requirements of subsection (c); and

(6) make a determination regarding application approval or disapproval of a resubmitted application under paragraph (5) not later than 45 days after receipt of the resubmitted application.

(g) EXTENSION.—The Secretary may extend an authorization of demonstration authority under this section for an additional 2 years if the State educational agency demonstrates with evidence that the State educational agency's innovative assessment system is continuing to meet the requirements of subsection (c), including by demonstrating a plan for, and the capacity to, transition to statewide use of the innovative assessment system by the end of the 2-year extension period.

(h) USE OF INNOVATIVE ASSESSMENT SYSTEM.—A State may, during the State's approved demonstration authority period or 2-year extension, include results from the innovative assessment systems developed under this section in accountability determinations for each student in the participating local educational agencies instead of, or in addition to, results from the assessment system under section 1111(b)(2) if the State demonstrates that the State has met the requirements under subsection (c). The State shall continue to meet all other requirements of section 1111(c).

(i) WITHDRAWAL OF AUTHORITY.—The Secretary shall withdraw the authorization for demonstration authority provided to a State educational agency under this section and such State shall return to use of the statewide assessment system under section 1111(b)(2) for all local educational agencies in the State if, at any time during a State's approved demonstration authority period or 2-year extension, the State educational agency cannot present to the Secretary evidence that the innovative assessment system developed under this section—

(1) meets the requirements under subsection (c);

(2) includes all students attending schools participating in the innovative assessment system in a State that has demonstration authority, including each of the subgroups of students, as defined under section 1111(c)(2);

(3) provides an unbiased, rational, and consistent determination of progress toward the goals described under section 1111(c)(4)(A)(i) for all students, which are comparable to measures of academic achievement under section 1111(c)(4)(B)(i) across the State in which the local educational agencies are located;

(4) presents a high-quality plan to transition to full statewide use of the innovative assessment system by the end of the State's approved demonstration authority period or 2-year extension, if the innovative assessment system will initially be administered in a subset of local educational agencies; and

(5) demonstrates comparability to the statewide assessments under section 1111(b)(2) in content coverage, difficulty, and quality.

(j) TRANSITION.—

(1) IN GENERAL.—

(A) OPERATION OF INNOVATIVE ASSESSMENT SYSTEM.—

If, after a State's approved demonstration authority period or 2-year extension, the State educational agency has met all the requirements of this section, including having scaled the innovative assessment system up to statewide use, and demonstrated that such system is of high quality, as described in subparagraph (B), the State shall be permitted to operate the innovative assessment system approved under the program of demonstration authority under this section for the purposes of subsections (b)(2) and (c) of section 1111.

(B) HIGH QUALITY.—Such system shall be considered of high quality if the Secretary, through the peer-review process described in section 1111(a)(4), determines that—

(i) the innovative assessment system meets all of the requirements of this section;

(ii) the State has examined the effects of the system on other measures of student success, including indicators in the accountability system under section 1111(c)(4)(B);

(iii) the innovative assessment system provides coherent and timely information about student achievement based on the challenging State academic standards, including objective measurement of academic achievement, knowledge, and skills that are valid, reliable, and consistent with relevant, nationally-recognized professional and technical standards;

(iv) the State has solicited feedback from teachers, principals, other school leaders, and parents about their satisfaction with the innovative assessment system; and

(v) the State has demonstrated that the same innovative assessment system was used to measure—

(I) the achievement of all students that participated in such innovative assessment system; and

(II) not less than the percentage of such students overall and in each of the subgroups of students, as defined in section 1111(c)(2), as measured under section 1111(c)(4)(E), as were assessed under the assessment required by section 1111(b)(2).

(2) BASELINE.—For the purposes of the evaluation described in paragraph (1), the baseline year shall be considered the first year that each local educational agency in the State used the innovative assessment system.

(3) WAIVER AUTHORITY.—A State may request, and the Secretary shall review such request and may grant, a delay of the withdrawal of authority under subsection (i) for the purpose of providing the State with the time necessary to implement the innovative assessment system statewide, if, at the conclusion of the State's approved demonstration authority period and 2-year extension—

- (A) the State has met all of the requirements of this section, except transition to full statewide use of the innovative assessment system; and
- (B) the State continues to comply with the other requirements of this section, and demonstrates a high-quality plan for transition to statewide use of the innovative assessment system in a reasonable period of time.
- (k) AVAILABLE FUNDS.—A State may use funds available under section 1201 to carry out this section.
- (l) CONSORTIUM.—A consortium of States may apply to participate in the program of demonstration authority under this section, and the Secretary may provide each State member of such consortium with such authority if each such State member meets all of the requirements of this section. Such consortium shall be subject to the limitation described in subsection (b)(3)(B) during the initial 3 years of the demonstration authority.
- (m) DISSEMINATION OF BEST PRACTICES.—
- (1) IN GENERAL.—Following the publication of the progress report described in subsection (c), the Director of the Institute of Education Sciences, in consultation with the Secretary, shall collect and disseminate the best practices on the development and implementation of innovative assessment systems that meet the requirements of this section, including best practices regarding the development of—
- (A) summative assessments that—
- (i) meet the requirements of section 1111(b)(2)(B);
 - (ii) are comparable with statewide assessments under section 1111(b)(2); and
 - (iii) include assessment tasks that determine proficiency or mastery of State-approved competencies aligned to challenging State academic standards;
- (B) effective supports for local educational agencies and school staff to implement innovative assessment systems;
- (C) effective engagement and support of teachers in developing and scoring assessments and the use of high-quality professional development;
- (D) effective supports for all students, particularly each of the subgroups of students, as defined in section 1111(c)(2), participating in the innovative assessment system; and
- (E) standardized and calibrated scoring rubrics, and other strategies, to ensure inter-rater reliability and comparability of determinations of mastery or proficiency across local educational agencies and the State.
- (2) PUBLICATION.—The Secretary shall make the information described in paragraph (1) available on the website of the Department and shall publish an update to the information not less often than once every 3 years.