

Federal Government Makes Unexpected Announcement: States Must Administer Statewide Assessments in 2020-2021 School Year

By: Katherine M. Caprez

Given the havoc that COVID-19 has wreaked on our educational system, should schools be mandated to administer statewide summative assessments during the 2020-2021 school year?

Nationwide, state legislatures have invited testimony, debated possible policy fixes, and passed legislation either removing or amending state laws related to the usual statewide assessments. However, **this week, the United States Department of Education announced that it will not grant wide “blanket waivers” allowing the cancellation of state tests.**

The U.S. Dept of Education (“ED”) issued a public announcement late Monday night, after the unexpected guidance was provided to chief state school officers in a [letter](#). For the 2020-2021 school year, ED will allow the following with respect to accountability, public reporting, and assessment.

Accountability and School Identification

States are being explicitly invited to request a waiver of the accountability and school identification requirements established by the Elementary and Secondary Education Act of 1965 (ESEA) and affected by the Every Student Succeeds Act (ESSA). Such waivers, if granted, would:

- Relieve states of their obligations to implement and report the results of their state test score accountability systems;
- Waive usual requirements that the Academic Achievement indicator be adjusted to account for a participation rate below 95 percent;¹
- Remove certain state obligations related to school identification for improvement purposes based on data from the 2020-2021 school year.

ED has expressed support for efforts at the state- and school district-wide level to “reduce the stakes” of state tests for the 2020-2021 school year, “such as excluding their use from students’ final grades and grade promotion decisions.”

Public Reporting

Federal requirements related to state and local report cards will all be maintained through the 2020-

¹ Normally, federal law (ESSA) requires that each statewide accountability system “meaningfully differentiate” schools using a 95 percent assessment participation rate benchmark as one of six evaluation points.

2021 school year as in pre-pandemic years, including the requirements to report state testing data by student subgroup.

Any state receiving a waiver for the above accountability and school identification requirements will, as a condition of receiving the waiver, agree to publicly report data related to chronic absenteeism and student access to technology.

No other changes to transparency and public reporting requirements were announced in the letter.

It should be noted that during its lame duck session in 2020, Ohio's state legislature disallowed the Ohio Department of Education ("ODE") from publishing state report card ratings via [House Bill 409](#). Until more specific guidance is provided from the federal government, it is unclear whether this provision of the already-enacted state law will be allowed to stand.

Assessment Requirements

The key statement found within the Feb. 22 guidance is that, because the ED believes that state assessments provide important data to schools and the public at large, the Department is "not inviting blanket waivers of assessments." While states will not widely be permitted to cancel state tests outright, pandemic-responsive flexibility will be allowed. States are encouraged to consider:

- Administering shortened versions of assessments;
- Offering tests remotely; and/or
- "Extending the testing window to the greatest extent practicable." Options for extension include offering multiple testing windows, extending the testing window into the summer and/or administering tests for 2020-2021 at the beginning of the 2021-2022 school year.

Another local note for Ohioans: ODE previously announced that there would be "no option to remotely administer state tests" when it [announced the extension of testing windows](#) earlier this month. There has been no word from state leaders yet as to the impact of the federal announcement on remote administration policy or whether state testing windows will be additionally expanded.

The Ohio Statehouse Response

All month, the Ohio House of Representatives has deliberated its own potential movement on state testing mandates. The House Majority Caucus seemed to have chosen its answer to the dilemma COVID-19 poses to state test administration: [House Bill 67](#).

If passed, HB 67 would require the Ohio Department of Education ("ODE") to seek a complete federal waiver of testing requirements. HB 67 has had three hearings in the Ohio House Primary and Secondary Education Committee, including one which stretched late into the evening on Tuesday, Feb. 23, just over 24 hours after the federal government released its guidance.

HB 67 is jointly sponsored by the Committee's Vice Chair, Rep. Adam C. Bird (R-New Richmond) and Rep. Kyle Koehler (R-Springfield). The bill, which days ago seemed sure to pass through the Committee intact, now has an uncertain fate.

If you have any questions or concerns, please contact any of the listed Roetzel professionals.

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