



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

August 10, 2023

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

Dear Superintendent Arntzen:

The U.S. Department of Education (Department) is committed to partnering with States to address the impacts of the COVID-19 pandemic, including by supporting States in their provision of timely academic achievement and student progress data to educators, parents, and families. These data can help schools identify students with the greatest needs, and marshal resources to deliver effective core instruction, enrichment, and other programs.

I am writing today in response to the Montana Office of Public Instruction's (OPI's) May 3, 2023, request to the Department—under section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA)—to waive certain requirements for student assessment, reporting, and accountability for the 2023-24 school year. OPI requested this one-year waiver to encourage additional Montana schools to participate in a field test of its new “through-year” assessments in grades 3-8 in reading/language arts (R/LA) and mathematics by allowing those participating schools to not administer the existing statewide general assessments (students with the most significant cognitive disabilities in those schools will continue to take the existing alternate assessment based on alternate academic achievement standards). Starting in the 2024-25 school year, Montana will administer the through-year assessment as the statewide general assessment for both R/LA and mathematics.

After careful review of OPI's request and additional written clarifications from OPI, I am exercising my authority under section 8401(b) of the ESEA for a one-year waiver, for school year 2023-24, of the assessment requirements in section 1111(b)(1)-(2), the accountability and school identification requirements in sections 1111(c)(4) and 1111(d)(2)(C), and certain reporting requirements related to assessments and accountability in section 1111(h) for those schools participating in the field test. Specifically, the following requirements are waived for schools participating in the field test for the 2023-24 school year:

- ESEA sections 1111(b)(1)(B) and 1111(b)(2)(B)(i), which require a State educational agency (SEA) to apply the same challenging State academic standards and to use the same academic assessments for all public school children in the State. Under this waiver, any individual student in Montana will be permitted to take only one assessment in R/LA and mathematics in the 2023-

24 school year (i.e., either the current statewide assessment or the field test). OPI will continue to administer the statewide science assessment to all students in the appropriate grades in all public schools in the State. Students with the most significant cognitive disabilities (including those enrolled in schools participating in the field test) will not participate in the field test and will continue to take the alternate assessment authorized under ESEA section 1111(b)(2)(D).

- ESEA section 1111(b)(2)(B)(x), which requires the provision of individual student interpretive, descriptive, and diagnostic reports that include information regarding achievement on State R/LA and mathematics assessments to parents, teachers, principals, and other school leaders. Under this waiver, local educational agencies (LEAs) in Montana will not be required to produce or provide these reports for student’s performance on a field test in R/LA and mathematics taken in the 2023-24 school year.
- ESEA section 1111(c)(4)(C), which requires the SEA to include all public schools in the State in its system of annual meaningful differentiation. Under this waiver, OPI will be permitted, for one year, to exclude from its system of annual meaningful differentiation any school that participates in the field test in the 2023-24 school year.
- ESEA section 1111(c)(4)(C)(iii), which requires the SEA to annually identify schools with one or more consistently underperforming subgroups for targeted support and improvement (TSI). Under this waiver, OPI will be permitted, for one year, to exclude schools participating in the field test in the 2023-24 school year from identification for TSI.
- ESEA section 1111(d)(2)(C), which requires the SEA to identify schools with low-performing subgroups for additional targeted support and improvement (ATSI). Under this waiver, OPI will be permitted, for one year, to exclude schools participating in the field test in the 2023-24 school year from identification for ATSI.
- ESEA sections 1111(h)(1)(C)(ii), (iii)(I), and (vi) and 1111(h)(2)(C), which require that State and local report cards include for all students and disaggregated by each subgroup of students: (1) information on student achievement on the statewide R/LA and mathematics assessments at each level of achievement; (2) information on the performance on the other academic indicator for public elementary and middle schools; and (3) information on progress toward meeting long-term academic achievement goals, including progress against measurements of interim progress. Under this waiver, OPI and its LEAs would not be required to report R/LA and mathematics achievement data, performance on OPI’s other academic indicator (i.e., student growth based on academic assessments), or progress against academic achievement long-term goals and measurements of interim progress for schools participating in the field test in the 2023-24 school year. OPI and LEAs must continue to include, in reporting student achievement required under ESEA section 1111(h)(1)(C)(ii), the achievement of students with the most significant cognitive disabilities who take the alternate assessment in R/LA and mathematics, including those students enrolled in schools participating in the field test.

These provisions referenced above are core tenets of the ESEA and should only be waived when a State has demonstrated that short-term flexibilities may produce important benefits for students, and after it has meaningfully engaged with stakeholders including parents and educators in developing a compelling

rationale for how the request will strengthen teaching and learning in the State. OPI has provided critical assurances in both areas, as described below.

First, the Department considered OPI's request for flexibility during the 2023-24 school year in the context of possible longer-term impacts, especially in seeking to understand how the proposed changes may advance student academic achievement. With rare exceptions, the Department has not waived assessment, accountability, and reporting requirements to permit a State to conduct a field test of a new assessment. However, because OPI's through-year assessment is expressly designed to provide educators with more frequent and timely feedback on their instruction, and because the waiver is intended to facilitate the State's transition to the new assessment within one year, we have determined that this waiver will advance student academic achievement, especially in the context of the urgent work of academic recovery post-pandemic. Further, OPI's plans build on the State's 2022 award from the Department's Competitive Grants for State Assessments program, under which OPI has been working to enhance the quality of its assessment instruments and system for measuring the academic achievement of its elementary and middle school students.

The Department also evaluated OPI's request for flexibility in relation to its plans to mitigate possible adverse impacts. As noted above, annual statewide assessment is a foundational requirement of Title I, and the use of assessment results for public transparency and school improvement determinations are vital for directing additional resources to students. OPI's commitments to continue to meet ESEA assessment, reporting, and accountability requirements for non-field test schools and to limit flexibilities for schools in the field test to one school year weigh in favor of granting the State's request. Relatedly, the Department acknowledges OPI's commitments to maintain school improvement designations during the field test year (i.e., participating schools may not exit their improvement status); to continue to provide assistance to and oversight of identified schools participating in the field test during the 2024-25 school year; and to time the waiver request well ahead of the State's next round of comprehensive support and improvement (i.e., the lowest-performing Title I schools) designations in 2026. We also appreciate OPI's provision of information on assessment accommodations and tools and the availability of Spanish language test forms.

Next, the Department considered the State's commitment to ensuring transparency around the waiver request itself including through a statewide survey to gather feedback; public meetings with parents, communities, educators, and other interested parties; a webinar series; and additional consultation with statewide assessment site testing coordinators. We also considered OPI's efforts to ensure transparency in relation to ESEA section 8401(b)(1)(F).

Although OPI's field test will not be able to generate achievement level data for participating students, OPI has committed to mitigating this issue by: 1) maintaining annual report cards conveying all other ESEA-required data—including the number and percentage of English learners achieving English language proficiency and the number and percentage of students with the most significant cognitive disabilities who take an alternate assessment—for each school participating in the field test; and 2) providing parents of students participating in the field test with a) raw score reports for each of the

multiple field test administrations, b) accompanying information to support interpretation of these data, and c) suggestions for how parents can gather additional information on their child's performance in R/LA and mathematics and on the field tests (including through parent-teacher conferences during the 2023-24 school year). Additionally, OPI will report the participation rates for the existing statewide assessment and the field test, disaggregated by student group.

Finally, the Department determined that OPI met the requirement in ESEA section 8401(b)(3)(A) to provide the public and LEAs with notice and an opportunity to comment on the waiver request. While the Department does not assign specific weight to stakeholder engagement procedures or the expressions of support provided by the SEA, we acknowledge the significant support as summarized by OPI and the opportunity for stakeholders to assess in multiple ways the relative benefits and tradeoffs of the State's plans.

Alongside our review of OPI's request, the Department considered whether OPI could achieve the requested flexibility from double-testing in other ways. Here, the Department notes that the ESEA's Innovative Assessment Demonstration Authority (IADA) enables a State to try out a new approach to its assessment system through piloting and field testing the new assessment in a subset of schools over multiple years without double-testing those students with the existing statewide assessment. Through a March 2023 public [Request for Information](#), the Department acknowledged that States may be reluctant to apply for IADA due to perceived barriers within the current authority. The Department is currently reviewing comments from the RFI and considering options to improve IADA. We recognize, however, that Montana is positioned to move more quickly.

In implementing this waiver, OPI will provide the Department with each of the following:

By December 15, 2023:

1. A sample parent report for a student participating in the field test assessment; and
2. OPI's business rules for determining participation on the new through-course assessments.

By June 1, 2024: An amendment request to its ESEA consolidated State plan proposing a revised other academic indicator for elementary and middle schools to replace its student growth indicator for the 2024-25 school year.

By October 1, 2024:

1. A field test summary (e.g., number of testlets administered, participation rate on the testlets administered in each participating school, and any other pertinent information about the administration); and
2. Participation rates of participating schools and non-participating schools.

By December 1, 2024:

1. A copy of its school year 2023-24 report card template for schools participating in the field test;
2. A copy of its school year 2023-24 report card template for all other schools; and

3. A copy of the field test technical report.

By October 1, 2025: A copy of the achievement standards-setting report for the new assessments.

By December 1, 2025: A full submission of evidence regarding Montana’s new assessment system for the Department’s assessment peer review.

Finally, as referenced above, this waiver is granted on the express condition that OPI will launch its new assessment statewide in the 2024-25 school year, set achievement standards on its new statewide assessments in summer 2025, report that information to parents and educators, and include that information on State and local report cards beginning fall 2025. And while the Department is waiving the requirement that OPI include field test schools in its accountability system for purposes of fall 2024 determinations (using SY 2023-24 school data), that flexibility does not extend beyond this school year. Montana must have an accountability system using data from the 2024-25 school year that includes all required ESEA components and that is the same for all public schools in the State. We understand OPI will not be able to calculate its individual student growth indicator in the 2024-25 school year (due to the lack of assessment data for field test schools in school year 2023-24). Accordingly, as mentioned above, OPI must submit an amendment to its ESEA consolidated State plan by June 1, 2024, proposing a revised other academic indicator for elementary and middle schools. This indicator must meet all requirements outlined in ESEA section 1111(c)(4)(B)(ii) (i.e., must be valid and reliable, must be the same for all public schools, and must demonstrate that the measure meaningfully differentiates among all public schools).

On behalf of Secretary Cardona, thank you for working to consider new approaches to Montana’s statewide summative assessments. We appreciate your deliberate and meaningful engagement with stakeholders in assembling this waiver request and your team’s close consultation with ours during the review process. If you have any questions, please contact my staff at ESEA.Assessment@ed.gov.

Sincerely,

/s/

Adam Schott
Deputy Assistant Secretary for Policy and Programs
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Julie Murgel, OPI Chief Operating Officer
Brian O’Leary, OPI Director of Communications