



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

APR 24 2015

The Honorable Robert Hammond
Commissioner of Education
Colorado Department of Education
201 East Colfax Ave., Room 500
Denver, CO 80203

Dear Commissioner Hammond:

This letter serves as a response to the Colorado Department of Education's (CDE) March 9, 2015 request for waivers of certain requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and other changes to its approved ESEA flexibility request. Specifically, CDE requested the following waivers:

- A waiver of ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) that, respectively, require a State educational agency (SEA) to apply the same academic content and academic achievement standards to all public schools and public school children in the State and to administer the same academic assessments to measure the achievement of all students. CDE requested these waivers so that a local educational agency (LEA) is not required to double test—
 - a student who is not yet enrolled in high school but who takes advanced high school level mathematics coursework and corresponding assessments; or
 - a student in Grade 3 or Grade 4 who is participating in the 2014–2015 school year field test of CDE's Spanish Language Arts Assessment;
- A waiver of ESEA section 1111(b)(3)(C)(ix)(I), which requires an SEA and each LEA to provide for the participation of all students on the State assessment. CDE requested this waiver in order to remove students whose parents refuse to permit them to participate in the State assessments from the list of non-participants that would count against a school or district should the school or district fall below the 95 percent assessment participation requirement.

After reviewing CDE's request, pursuant to my authority under ESEA section 9401, I am granting a one-year waiver (for school year 2014–2015) of ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) and the corresponding regulatory provisions in order that LEAs in Colorado are not required to double test students in the following situations:

- CDE may use, with respect to a student who is not yet enrolled in high school but who takes high school mathematics coursework and the corresponding high school assessment, the student's score on that assessment for federal accountability purposes for the grade in which the student is enrolled. In implementing this waiver, CDE will use the advanced assessment taken at the middle school level for middle school accountability and CDE will administer a higher-level

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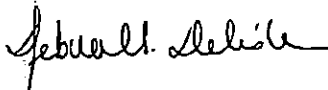
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

The assessment requirements under the ESEA are focused on ensuring that parents and educators have the information they need to help every student be successful by providing a measure of school and district accountability and on protecting equity for all students by maintaining a consistent measure of student performance regardless of where they go to school. A high-quality, annual statewide assessment system is essential to providing critical information regarding student achievement to parents and educators at all levels. When that system is aligned with the academic content standards that establish what a State expects all children to know and be able to do, and with the academic achievement standards that determine how well students are mastering the material in the content standards, it provides the road map for aligning instruction to the academic needs of students identified by the assessment system. High-quality, annual, statewide assessments provide information on *all* students so that educators can improve educational outcomes, close achievement gaps between subgroups of historically underserved students and their more advantaged peers, increase equity, and improve instruction.

As part of its request, the CDE also requested an amendment to Principle 3 of its approved ESEA flexibility request to give LEAs discretion with respect to the weight for which student growth will be included in teacher and principal evaluation and support systems for the 2014–2015 school year only. CDE's amendment request to ED regarding Principle 3 of its ESEA flexibility request remains under review and will be addressed with a separate response.

If you have any questions, please contact me or have your staff contact Faatimah Muhammad at Faatimah.Muhammad@ed.gov or (202) 453-6827. Thank you for your continued focus on enhancing education for all of Colorado's students.

Sincerely,



Deborah S. Delisle
Assistant Secretary

Sunday, April 26, 2015

EDITORIAL: Reject bad testing bill

The Gazette editorial

The House Education Committee will take up Senate Bill 223 on Monday, which would eliminate any meaningful penalties to teachers, students or school districts when parents opt students out of state tests.

Advocates of rigorous education standards have tried to improve the bill with amendments, most notably with a good-faith clause that says each teacher and school must pursue the goal of testing every child. Even if new safeguards were enough, which they are not, the teachers union wants to scrub them from the bill and will likely succeed in the union-friendly House.

Parents already call and email schools to opt individual students out of tests for a variety of reasons. Schools that see so much opting out they cannot accurately measure classroom performance or meet federal participation standards devise methods of increasing participation. In some cases, opting out comes with a loss of privilege to participate in extracurricular activities. Teachers may be admonished and/or penalized if they are found to encourage parents to keep underperforming students home on testing days to create artificially high classroom results. In most cases, the system works without anyone suffering consequences for a small percentage of parents opting children out.

SB 223 would have the unintended consequence of encouraging opt outs by codifying them as an unrestricted right. In doing so, it would undermine efforts to ensure schools achieve results adequate to keep Colorado's children competitive in an increasingly challenging national and world marketplace.

"The way a testing system works is that everyone use it," said Gov. John Hickenlooper during a capitol news conference Wednesday. "And when a large segment of our population in one district or another suddenly decides they're not going to take the test, you're really invalidating the value of that test. And you make it impossible for parents to know whether they are getting the fair share of tax dollars they are spending."

Hickenlooper is joined in his opposition to the opt-out bill by former Democratic Gov. Roy Romer - the former superintendent of Los Angeles schools - and former Republican Gov. Bill Owens.

"Instead of sending a message that opting out is okay - even encouraged - we should instead work together with educators and parents to find a better balance of state and district tests and ensure the usefulness of assessment data," testified Leslie Colwell, vice president of K-12 education initiatives for Colorado Children's Campaign, an organization that advocates data-driven policies to improve education.

Colorado Children's Campaign and the former governors are not alone in their opposition to the bill. Their allies come from the left, right and center and represent most segments of the economy.

"SB-223 undermines the core of why we assess students and schools - to get a sense of how all students across the state are performing," said an open letter to legislators and Hickenlooper from hundreds of Colorado educators, civic and business leaders. "Testing is not just a necessary part of responsible academic development, it is also a constant throughout life. In school and then throughout adulthood, our students will be required to compete in many ways, and academic tests are part of that preparation."

Most agree Colorado students endure too many tests, and no one wants an educational establishment solely obsessed with test results. State politicians need to streamline the process to optimize outcomes that benefit students and the rest of society. But solutions to testing concerns should not include a law that practically encourages nonparticipation in tests. We hope the House kills SB 223. If it survives, we encourage Gov. Hickenlooper to grab his veto pen.