



The Purpose of the Montana Strategic Waiver Process

As of [Timestamp: 12/23/2020], the participation requirement to administer annual state standardized assessments is required under [federal](#) and [state law](#). The Montana Office of Public Instruction (OPI) recognizes that the novel coronavirus (COVID-19) pandemic poses many new challenges and is seeking maximum flexibility and options under the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA). With the promise of COVID-19 vaccines on the horizon, the OPI is optimistic that these flexibilities will only be necessary for the 2020–2021 school year.

The purpose of our state summative assessments is to provide valid, reliable, consistent, and relevant measures of student academic achievement. The OPI recognizes that testing is an important component of ESSA to ensure that our public schools provide all children significant opportunity to receive a fair, equitable, high-quality education, and to close educational achievement gaps. However, during these COVID times, testing is not the most important element of student success. If the purpose of ESSA is to ensure all children have significant opportunities to receive fair, equitable, and high-quality education, then we must ensure that our most vulnerable students are accounted for and prioritize our resources towards the mission of serving these students during extraordinary times.

In Montana's K–12 public schools, the student racial/ethnic distribution is roughly 78% White, 11% Native American, 5% Hispanic, 4% two or more races, and less than 1.0% Asian, Black, and Pacific Islander ([source](#)). As the "Treasure State", Montana embodies rich cultures that are held by its citizens, including the specific cultures of each of the 12 sovereign tribes of Montana. Although Montana only has around 1 million citizens, the rate of COVID-19 infections per capita is among the highest anywhere. In particular, Native Americans have been disproportionately affected by the pandemic. According to the Montana Department of Public Health and Human Services report, Native Americans account for almost a quarter of the Montana's total COVID cases and deaths from the virus ([source](#)).

The OPI is taking unprecedented actions to offer school districts immediate flexibility through expanded testing windows, medical exemptions for COVID reasons, and a shortened blueprint for Smarter Balanced. Even as the OPI continues to pursue these summative test delivery options that grant immediate flexibility, the test window extensions and the shortened Smarter Balanced assessment are not truly viable options, given the impact of this pandemic. The spring end-of-year state assessments will most likely not provide the schools or the State with a valid and reliable picture of what our students know and are able to do as their school experience will be shadowed by this pandemic. The OPI will continue to pursue flexibility, but these program-specific changes do not address the essence of the decision to submit a request for federal strategic waivers for testing, accountability, and reporting under [20 U.S. Code §7861](#) and [ESEA-ESSA Section 8401](#).

The OPI will continue to explore options for schools including participation where in-school testing is possible, but we continue to have concerns about the fairness and equity of such a solution. The OPI cannot reasonably provide the standardized conditions under which all public schools and students are expected to test to ensure meaningful differentiation or reporting to families. Despite Secretary DeVos's directive to states on September 3, 2020, we are hopeful that the accountability and reporting requirements will be lifted to hold schools harmless and that the U.S. Department of Education (Department) will consider innovation and flexibility for state testing this school year ([source](#)).

Montana is a "local control" state, and as such, it is under the discretion of the school district trustees to adopt policies to implement or administer testing requirements under the assessment rules. It remains our priority to protect the health and safety of staff and students. The Department may take up to 120 days as described under Section 8401 process to approve or deny the strategic waiver request. Therefore, we concede that the State and school districts cannot act on these strategic waiver efforts until a determination has been made by the Department and the Montana Board of Public Education (Board).



We thank the readers for the planning, preparation, training, and overall effort to support state assessment at the local level and to meet the statutory and regulatory requirements under [state](#) and [federal](#) law. We believe the OPI’s strategic waiver process demonstrates the careful consideration and thoughtfulness of our education partners to take reasoned and prudent steps to place Montana students first and pursue the maximum flexibility under law. With this comprehensive waiver plan, we believe the Department will favorably consider Montana’s circumstance and priorities, so that in years to come we can provide meaningful assessments to our Montana students while upholding the focus on equity.

If granted, these 2020–2021 state and federal strategic waivers will provide school districts the ability to focus locally on the basic educational services and needs of students. Contingent upon approval of the strategic waivers, the OPI will not remove the option of participation in these spring assessments when the local conditions allow the opportunity for schools to conduct standardized procedures safely and there is a plan in place to use these data to support individual students with their learning needs. These testing, accountability, and reporting waivers would benefit schools, educators, families, and students.

The public comment period for these strategic waivers will take place from December 23, 2020 – January 28, 2021 [Period of 36 days]. For a full look at the strategic waiver timeline, visit the [Montana Strategic Waiver Actions Zoom Webinar Schedule](#). See **Table 1** for an explanation of what schools can count on as they plan for this spring.

The OPI is seeking public comment on these approved waivers. Any comments on these waivers should be directed to essainput@mt.gov.

Table 1. Clarification on the Current, In-Progress, and Future Actions of the OPI.

☑ Current	☑ In-Progress	Future: Strategic Waivers
<ul style="list-style-type: none"> ☑ Be lawful: The participation requirement to administer annual state standardized assessments is required under federal and state law. ☑ School districts should plan on delivering tests this winter and spring. ☑ The OPI will extend test windows where possible. ☑ The OPI submitted a Science Field Test Waiver on November 13, 2020. It includes a request for accountability and reporting to be decoupled from testing. 	<ul style="list-style-type: none"> ☑ The OPI has shortened Smarter Balanced test to 3–4 hours. ☑ The OPI will not provide any remote proctoring this school year for state assessments. ☑ The OPI will allow medical exemptions for COVID reasons. 	<ul style="list-style-type: none"> ▪ The English Language Proficiency (ELP) assessments are not included in the strategic waivers. ▪ The strategic waiver process is under ESEA-ESSA Section 8401 for testing, accountability, and reporting requirements. ▪ Testing waivers are specific to content area assessments (math, reading/language arts, and science). ▪ State and Districts CANNOT act on waivers. ▪ Department has 120 days to make a determination.