



Montana Strategic Waiver Process: FAQ for State Testing

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 [Montana Strategic Waiver Actions Timeline](#) is specific to the 2020–2021 school year and reflects the state activities that led to Superintendent Arntzen’s December 2020 decision to submit a request for testing, accountability, and reporting federal waivers under [20 U.S. Code §7861](#) and [ESEA-ESSA Section 8401](#). Any comments on this waiver should be directed to essainput@mt.gov.

Q: What is the purpose of state testing?

Answer: Assessment is the gathering, organizing, and evaluation of information about student learning in order to monitor and measure the effectiveness of the instructional program (see Administrative Rules for Montana ([ARM 10.55.602](#))). The primary purpose of assessment is to serve learning ([ARM 10.56.101](#)) and to serve this purpose, state summative assessments must provide valid and reliable, consistent, relevant measures of student academic achievement. The OPI recognizes that testing is an important component of ESSA. Fundamentally, ESSA is intended to ensure public schools provide all children with a significant opportunity to receive a fair, equitable, high-quality education, and to close educational achievement gaps. As such, the OPI has crafted the [COVID-19 State Standardized Testing Guidance](#) to help provide recommendations for health and safety protocols in order to administer these assessments safely if the strategic waivers are denied or not granted before the end of the spring testing windows.

Q: Why is the OPI pursuing these strategic waivers?

Answer: The pandemic continues to pose significant challenges for states, districts, and schools and as the impact continues to increase the health and safety concerns for our students rise. On [November 25, 2020](#), Commissioner James Woodworth at the National Center for Education Statistics (NCES) with the support of the National Assessment Governing Board decided to postpone the 2021 NAEP administration of mathematics and reading in grades 4 and 8. From the planning efforts of NAEP, the OPI learned at least 34% of the NAEP-selected schools in Montana (n=121) are conducting remote/hybrid-instruction. For state testing, the OPI and school districts must follow well-defined standardized procedures for test administration. With these highly variable instructional models, health and safety concerns, and school access restrictions, the OPI is concerned about the overall validity and reliability of any score reports. A pillar of the state tests hinges on the technical quality, fairness, and accuracy of these achievement data in order to objectively determine educational inequities and direct student services. The OPI cannot reasonably provide the standardized conditions under which all public schools and students are expected to test and subsequently ensure meaningful differentiation or reporting to families. Despite Secretary DeVos’s [directive to states](#) on the importance of annual testing this year, the OPI is hopeful that the U.S. Department of Education (Department) would recognize the value these strategic waivers would have for students and the critical role the integrity of these state summative tools have to support the educational system as a whole.

Q: What does this strategic waiver process mean?

Answer: The OPI and school districts cannot act on the waivers until a determination has been made by the Department and the Montana Board of Public Education (Board). The Department may take up to 120 days to approve or deny the waiver requests under the Section 8401 process. While we wait for a decision from the Department we are obligated to proceed with all testing based on existing law and policy. For a complete list of the potential implications of these strategic waivers, read more about each testing program in **Table 1**.

Table 1. Testing Program FAQs

ACCESS for ELLs FAQ	ACT with Writing FAQ	Smarter Balanced FAQ	Multi-State Alternate FAQ	Science FAQ	Alt Science FAQ
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Q: What is happening in assessment and what flexibilities is the OPI pursuing?

Answer: Please familiarize yourself with **Table 2** to understand the current, in-progress, and the future strategic state waiver actions.

Table 2. 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.

Q: What do these strategic waivers in assessment do?

Answer: The strategic waiver for state testing are intended to waive the federal statutory or regulatory requirements under ESEA-ESSA Section 1111(b)(2) in the 2020–2021 school year:

Table 3. ESEA-ESSA Section 1111(b)(2)

ESEA-ESSA Section 1111(b)(2) —	OPI Actions in Service of Schools —
ESEA-ESSA Sections 1111(b)(2)(B) and Sections 1111(b)(2)(B)(vii)(I) which require the participation of all students in all public elementary and secondary schools in the State.	<ul style="list-style-type: none"> ▪ 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.
ESEA-ESSA Sections 1111(b)(2)(B)(v)(I) which require the annual administration of assessments in mathematics and reading/language arts in defined grade levels. In the case of our State, we have selected the following assessments to fulfill this requirement—	<ul style="list-style-type: none"> ▪ Smarter Balanced is the general math and reading/language arts assessment for academic achievement reporting in Grades 3–8. ▪ ACT with Writing is the general math and reading/language arts for academic achievement reporting in Grade 11. ▪ Multi-State Alternate Assessment is the alternate math and reading/language arts assessment for academic achievement reporting in Grades 3–8 and 11 for students with significant cognitive disabilities.
ESEA-ESSA Sections 1111(b)(2)(B)(v)(II) which require the annual administration of assessments in science in defined grade-bands. In the case of our State, we have selected the following assessments to fulfill this requirement—	<ul style="list-style-type: none"> ▪ Montana Science Assessment is the general science assessment for academic achievement reporting in Grades 5 and 8. ▪ ACT with Writing is the general science assessment for academic achievement reporting in Grade 11. ▪ Alternate Montana Science Assessment is the alternate science assessment for academic achievement reporting in Grades 5, 8, and 11 for students with significant cognitive disabilities.
ESEA-ESSA Sections 1111(b)(2)(B)(x) and (xii) and 1111(h)(I)(C)(ii) and (2)(C) which require the State and local educational agencies to provide individual student reports to parents, teachers, and principals and to include the results of assessments on State and local report cards.	<ul style="list-style-type: none"> ▪ When the local conditions allow for a safe, standardized administration, the OPI will grant school districts the opportunity to deliver state summative assessments to individual students if there is a defined student plan and progress need to do so. Otherwise, school districts have access to Montana’s robust, standards-aligned interim assessment system. The interim assessment system can be successfully delivered during distance learning and can be used as a resource to support adherence to this requirement, in coordination with local measures to provide stakeholders with information on the child’s specific academic needs.



The strategic waiver for assessment is looking to waive the federal statutory or regulatory requirements under ESEA-ESSA Section 1111(c)(4)(E) which require annually measuring the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students:

Table 4. ESEA-ESSA Section 1111(c)(4)(E)

ESEA-ESSA Section 1111(b)(2) —	OPI Actions in service of schools —
<p>ESEA-ESSA Section 1111(c)(4)(E) which require annually measuring the achievement of not less than 95 percent of all students, and 95 percent of all students in each subgroup of students, who are enrolled in public schools.</p>	<ul style="list-style-type: none"> ▪ The OPI has conducted numerous listening sessions with school districts and the biggest challenge with delivering state assessments this school year is on the issue of students receiving instruction remotely (at home) or students absent due to other COVID-related reasons. After consultation with Montana’s Technical Advisory Committee (TAC), the OPI will not allow remote proctoring this school year until the concerns including (but not limited to) uneven opportunities to learn, uncertainty about access, student privacy concerns, scalable and operationalized protocols, and full test security protocols are mitigated. Since there is no remote-proctoring (at home) option to deliver state assessments, districts may report reasons for non-participation due to qualifying medical reasons such as COVID.

Q: What are we doing in service of schools and students?

Answer: The OPI recognizes that testing is an important component of ESSA to ensure our public schools provide all children significant opportunity to receive a fair, equitable, high-quality education, and to close educational achievement gaps; therefore, it will continue to invest in its interim assessment system. Under the Administrative Rules for Montana (ARM) [10.56.101\(2\)](#) a balanced assessment system including formative, interim, and summative assessments aligned to state content standards will provide an integrated approach to meeting both classroom learning needs and school and state level information needs. A balanced assessment system is structured to continuously improve teaching and learning and to inform education policy. **These state testing waivers will benefit Montana’s students and educators in many ways:**

- They will give all Montana students, teachers, and schools an opportunity to rebound from the pandemic and increase the quality of instruction for students by focusing on instruction not high-stakes accountability.
- They will give all Montana students, teachers, and schools an opportunity to leverage Montana’s robust, standards-aligned interim assessment system in opportune settings without the pressure for testing for the sake of fulfilling state and federal compliance obligations.
- They will allow the OPI to prioritize state resources and time to development of *Opportunity to Learn (OTL)* research.
- They will allow the OPI to provide quality technical assistance and training to schools on the interim assessment system.

Q: What are we doing in service of students with significant cognitive disabilities?

Answer: On [June 9, 2020](#), the Department provided a memo in response to the unprecedented challenges of the pandemic on how to monitor the students with significant cognitive disabilities (SwSCD) using current year IEP test registration data. Under ESEA-ESSA Section 1111(b)(2)(D)(i)(I), the OPI will prepare a statewide plan and timeline for district technical assistance and monitoring including the test registration data, past alternate assessment participation and completion data, and Learner Characteristic Inventory (LCI) data from the MSAA assessment. The OPI will continue to provide further clarification on the requirements and solicit any ideas on any training or technical assistance needs to address the concerns for serving this student population.

Q: Why didn’t the OPI pursue these strategic waivers sooner?

Answer: Per the [September 3, 2020](#) key policy letter issued by Secretary DeVos, it was clear the Department was not entertaining any universal waivers as granted in the 2019–2020 school year. The directive to states was clear that they must be lawful and comply with the participation requirement to administer annual state standardized assessments required under [federal law](#). As the COVID-19 caseloads continue to rise making the conditions for testing grow more uncertain and a new incoming federal administration in January 2021, the OPI determined these strategic waivers under the ESEA-ESSA waiver process may be considered in light of the new information.



Q: How can I share any concerns or thoughts on these state and federal waivers?

Public Comment Needed: OPI is seeking comment to learn about the local impacts and implications of waiving the testing, accountability, and reporting requirements this school year. The OPI staff have developed the [2020–2021 Montana Strategic Waiver Website](#) and a [Public Comment Survey](#) to address topics of concern, but in the meantime, any comments on this waiver can be directed to essainput@mt.gov. **Public comment will close on Thursday, January 28, 2021.** View the full [Montana Strategic Waiver Actions Timeline](#) to see other opportunities to lend your voice or an abbreviated view see **Table 5**.

Table 5. Strategic Waiver Webinar Schedule

January 7, 2021	Join Us for the Strategic Waiver Webinar #1 to Lend Your Voice [Click here to register in advance to attend the Strategic Waiver Webinar #1.]
January 14, 2021	Join Us for the Strategic Waiver Webinar #2 to Lend Your Voice [Click here to register in advance to attend the Strategic Waiver Webinar #2.]
January 21, 2021	Join Us for the Strategic Waiver Webinar #3 to Lend Your Voice [Click here to register in advance to attend the Strategic Waiver Webinar #3.]
January 28, 2021	Join Us for the Annual Data and Assessment Conference (ASSIST) Keynote Session, “Challenges and Practical Implications for State Testing” [Click here to register in advance to attend the Strategic Waiver Webinar #4.]

Q: What OPI actions are being taken to communicate changes as this situation unfolds?

Answer: The OPI is periodically holding Superintendent Meetings, Education Advocate meetings, district listening sessions, strategic waiver webinars, and other virtual public meetings to answer questions and share information. Activities related to the waivers and next steps are posted on the [2020–2021 Montana Strategic Waiver Website](#). The OPI Assessment Division will continue to share information to the field via its [Monthly Assessment Bulletin Newsletter](#), [Monthly Webinar](#), [Assessment 411](#) and other means of communication.

Q: How will the assessment waiver impact the accountability determinations for the 2020–2021 school year?

Answer: Regardless of the final approval/rejection of the assessment strategic waiver, the accountability determinations for entering and exiting Comprehensive Support and Improvement (CSI) and Additional Targeted Support and Improvement (ATSI) status will not be made using data from the 2020–2021 school year. Two of the following five indicators cannot be measured: the academic growth measurement and the flexible indicator for School Quality and Student. Montana is seeking to shift forward timelines by one year for identifying CSI and ATSI schools through the addendum and waiver process. CSI and ATSI schools will next be identified for the 2022–2023 school year based on the data from the 2021–2022 school year.

Q: Are there any additional impacts from the testing waiver for state accountability, state reporting, and/or funding?

Answer: The OPI is conducting the public comment process to learn more about any implications to other programs that rely on annual measures of student achievement such as the accreditation process (ARM 10.55.606), state reporting, and funding. Stakeholders are encouraged to express any concerns or ideas to us via email at essainput@mt.gov. The following programs typically rely on assessment results to make determinations on schools and in some cases to allocate funding to provide equitable services to students. Here are a few programs known to rely on state testing results:

- **Title Programs** — For more information, contact Jack O'Connor (Title I and Federal Grants Unit Director) at joconnor2@mt.gov or 406-444-3083.
- **State Accountability Process: Accreditation** — For more information, contact the Accreditation & Educator Prep Unit email at opiaccred@mt.gov or phone at 406-444-5726 or 406-444-1852.



- **Special Education** — For more information, contact Jenifer Cline (Student Support Services Special Education Director) at jenifer.cline@mt.gov or 406-444-4426.
- **ESSA State Plan and Federal Accountability** — For more information, contact Julie Murgel (School Innovation and Improvement Senior Manager) at Julie.Murgel@mt.gov or 406-444-3172.
- **Federal Reporting** — For more information, contact Anne Bauer (Data Operations Manager) at ABauer@mt.gov or 406-444-0727.
- **Grants** — summative assessment results are an integral part of supporting career, technical education, and adult education (CTAE) programs. For more information on the Perkins grant or other CTAE programs, contact Shannon Boswell (CTAE Unit Manager) at Shannon.Boswell@mt.gov or 406-444-7915.

Q: Where can I find more information about this topic?

Answer: All materials related to the waivers will be posted on the [2020–2021 Montana Strategic Waiver Website](#).

Q: Who do we contact for technical support?

Answer: For more information, contact the OPI Assessment Help Desk at 844-867-2569 or OPIAssessmentHelpDesk@mt.gov.

If granted, these 2020–2021 state and federal strategic waivers may provide school districts with some relief and the ability to focus on the basic educational services and needs of students. The OPI is seeking public comment on these approved waivers. Any comments on this waiver should be directed to essainput@mt.gov.