

Elsie Arntzen, Superintendent

PO Box 202501  
Helena, MT 59620-2501  
406.444.5643  
In-State Toll-free: 1.888.231.9393  
TTY Users: 406.444.0235  
opi.mt.gov

OFFICE OF PUBLIC INSTRUCTION  
STATE OF MONTANA



Putting Montana Students First **A+**

February 5, 2021

The Honorable Patrick Rooney  
Director School Support and Accountability Programs  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Ave. S.W, Rm 3W200, LBJ  
Washington D.C. 20202-6132  
Email: oese@ed.gov  
Telephone: 202-453-5563

Dear Director Patrick Rooney,

We are grateful for the review and overall consideration of the Montana Office of Public Instruction's (OPI) waiver application and the recent letter with feedback dated on January 14, 2021. In response to the letter, I am writing to submit our complete application to request to waive the same requirements in the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the Every Student Succeeds Act (ESSA) that the U.S. Department of Education (Department) waived last school year (2019-2020). The OPI is submitting this waiver application after exhaustive public comment which was conducted from December 23, 2020 to February 1, 2021 (40 days) to fully explain the educational challenges and experiences that our Montana schools are facing due to the impact of the novel coronavirus (COVID-19).

Our office recognizes that state testing is an important component of [Montana's Consolidated State Plan under ESSA](#) and having two years without student achievement information is not ideal. We agree that high-quality assessments are essential to effectively educating students, measuring proficiency and progress, and promoting equity. However, our office is taking a practical approach to support our Montana children so we can continue to uphold the mission and obligations under ESEA-ESSA, that is, "provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." We take the matter of educating our students, and our need to focus on closing achievement gaps, seriously. However, during these COVID-19 times, testing is not the most important element of student success and cannot reasonably provide technically sound, relevant, and accurate information to the public and parents to support the education processes at the local and state level.

We feel that given these unprecedented times, the usability of these data are limited and potentially compromised. It is our vision to take a deliberate step this academic year to protect the quality of these important assessments with this waiver application so future stakeholders can have confidence with these data. Our waiver application explains our plan for innovation and creativity to ensure all students, including our most vulnerable students, are accounted for and that our resources are prioritized towards the mission of serving these students during the pandemic. We appreciate that the Department recognizes that, due to uncontrollable circumstances, it may not be feasible to administer some or all

assessments in some schools and for the consideration of targeted one-year waivers to address these circumstances; however, we hope this flexibility can extend much more broadly. We are experiencing firsthand the legal definition of the ‘act of god’, and because these conditions are outside human control, all schools should be held harmless and granted the maximum flexibility to determine locally how best to serve their students.

In response to the January 14<sup>th</sup> letter, we respectfully disagree as we believe our request and process demonstrates careful consideration and thoughtfulness. We do not think our request is premature because it is highly unlikely the conditions for instruction will dramatically change in the next month. Our application and timeline reflect a reasoned and prudent step to place Montana students first. For the reasons listed below, we believe that the Department should allow for alternative indicators to provide the information that the public and parents require to know about including how children are performing in relation to Montana’s challenging academic standards. Please consider our four reasons described here on why the time is right to grant these waivers.

### **(1) Protect the Health and Wellbeing of Students and Staff**

It is the OPI’s priority to protect the health and safety of all staff and students — we believe these waivers offer protection to schools and the ability for them to focus on the basic educational services for their students. Our public-school systems have to do more than just educate our youth; they must also provide safe environments, food services, mental health, and social services. The waivers may grant relief in an already taxed and fatigued school system, so educators have the time and space to focus on students. I want to highlight the mental health and wellness of our students with this application. We have conducted numerous listening sessions this year. School districts have raised concerns over the disequilibrium of mental health and well-being for both students and staff. I think framing the human reaction around these external stressors is important to share these local experiences and to give context behind our waiver requests. We have many educators who have shared personal stories with us that can be clearly characterized as the “stress response.” For example, teachers have shared with me and our office a consistent message of feeling overwhelmed, panicked, unsafe, etc. We know this academic year the pandemic has increased student needs both emotionally and educationally and this has challenged us all.

These demands have left our educational systems in a place with limited resources and capacity. In addition to the fears and uncertainty of the pandemic, our educators struggle to address personal and student anxieties from what now seem to be common economic issues and volatile political unrest. These external stressors are profound on an individual basis, but when coupled together, they make traditional teaching and learning difficult. These waivers would not only allow school systems to focus on the basic educational services for all students but would also free-up resources to allow the OPI to innovate with interims and other tools closer to the classroom and student. I agree there is a time and a place for state assessments, but I strongly urge you to re-consider our waiver requests using the ample evidence we are submitting within our application to detail local educator voices with firsthand experiences to understand on a deep level the situations Montana schools are facing.

### **(2) Safely Administer State Assessments in Standardized Conditions**

Given highly variable instructional models (i.e., in-person, blended/hybrid, remote), health and safety concerns, and student opportunity differences due to access, the OPI and school districts in Montana cannot reasonably provide the standardized conditions under which all public schools and students are expected to test. Administering state assessments is an already complex task made substantially more difficult if schools must account for added safety protocols and alternative student schedules to minimize exposure to COVID-19. Since Montana schools already have highly variable instructional plans

to ensure learning continues this academic year, asking them to test this spring is shortsighted—this is not a one size fits all problem, because as we all know from personal experience, teaching isn't being delivered in a traditional manner this school year.

We see this as a multi-faceted situation, that is, we know there are inconsistent conditions from one school to the next, we know schools will struggle to have a representative student body participate in state testing, and we know by design that the state summative assessment is intended to mark the end of the instructional sequence—"sum-up" the learning. We know learning and opportunity differences exist this year--we do not need a state test to tell us this. Instead, we need flexibility to innovate so we can provide meaningful supports and resources to assist the instructional sequence and to drive resources in a timely fashion for these disadvantaged students. Furthermore, the OPI cannot make our state assessments available to be delivered remotely (or at-home testing) although we seriously considered this option from our test contractor in consultation with our Montana Technical Advisory Committee (TAC), test delivery contractors, our state collaboratives, and school districts.

Currently, students receiving instruction in remote-only settings will only be provided the opportunity to participate in state testing using the OPI's standard in-person test administration procedures; however, this onsite inclusion effort presents significant safety concerns for both schools and families. We have strategized with our school districts throughout the year on how to comply with these testing requirements and to share with us the realities they are facing in planning with respect to safety concerns and local health ordinances. To support schools with these three different instructional situations and in-person testing, our office created the [COVID-19 State Standardized Testing Guidance](#), but it isn't enough. If it is not safe or reasonable to deliver state assessments under the current local conditions, our office has implemented a one-year medical exemption for COVID-19 reasons, and it will not be enough. It will be exceedingly challenging for Montana schools to reach or exceed the 95 percent of all students and 95 percent of all students in each subgroup. Throughout this year schools will be challenged to implement standardized testing policies and procedures and we have witnessed this firsthand with our ACCESS for ELLs 2.0 winter testing (December 2, 2020 to February 26, 2021). We have extended test windows and modified assessment blueprints within our control, but some of these test administration concerns cannot possibly be mitigated this year. We need time to implement new systems, policies, and procedures so we can fairly and equitably support all learners regardless of their learning plan.

### **(3) Student Fairness and Inclusion**

Our office is committed to ensuring all students are fairly and equitably served within our public-school system. These waivers would allow school districts to focus on the equity and universal needs so we can attend to the learning opportunity and access needs of all students. Our application reinforces the accessibility and fairness across student groups concerns we have. For example, 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 1, 2](#)).

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. Native Americans have been disproportionately affected by the pandemic. According to Montana's Department of Public Health and Human Services, Native Americans account for almost a quarter of the Montana's total COVID cases and virus-related deaths ([source](#)). One thing that COVID-19 has taught us is it isn't equal, fair, or just in those it targets; therefore, the basic mental health and student/family safety should drive our actions not these student achievement laws that are designed for a different time.

Our office is dedicated to making the formative and interim tools within our balanced assessment system fully available to educators and also investing in research to enhance our school quality and student success flex accountability indicator with important Opportunity-to-Learn (OTL) measures. We believe the opportunity to focus on the suite of balanced resources and the OTL research would provide greater support for teaching and learning so we can direct supports and resources where they are most needed. Below is an example of our work since 2017-2018 to promote balanced assessment processes with the embedded use of the interim assessments.

Interim Type	Completions by School Year			
	2017-2018	2018-2019	2019-2020	2020-2021
School Year	2017-2018	2018-2019	2019-2020	2020-2021
Smarter Balanced Math and ELA Interim Assessment Blocks (IABs/FIABs)	19,361	22,781	71,566	6,373
Smarter Balanced Math and ELA Interim Comprehensive Assessments (ICA)	51	1,350	3,141	8,182
Science Interim Assessments	—	—	—	1,943
<b>Total Interim Completions</b>	<b>19,412</b>	<b>24,131</b>	<b>74,707</b>	<b>14,555</b>

**Note:** The symbol (—) is used to signify there is no information available from this time. As of this school year, we have 772 new users enrolled in the *Tools for Teachers System* with the launch to Single-Sign-On this fall. The 2020-2021 numbers are a snapshot taken on February 4<sup>th</sup> and considered as “in progress” completions.

#### (4) Adequate Technical Quality

We thank the Department for extending the science field test waiver so we can focus on implementation of these new assessments. From our discussions with the TAC, they strongly cautioned against conducting any standards-setting activities from this year’s administration, so we appreciate the ability to decouple the accountability and reporting requirements of this year’s annual science test. This flexibility was much needed to support us, but also raises the concerns around the quality of this year’s data as a whole. From the reasons that I have listed above, we remain concerned about the overall validity of data from this school year. A pillar of the state assessments hinges on the technical quality, fairness, and accuracy of these data. State assessments are designed to be administered under standardized conditions so Montana and districts can use these data to support comparability across schools and trends over time. The OPI’s priorities should be placed on directing access opportunities to students—it should not be spent on high-stakes tests that, given the educational environment, cannot yield trustworthy data that schools and families can count on. This quality is essential to objectively determine educational inequities and direct student services across schools. If these waivers are not granted, we are concerned that the confidence within our state assessments, accountability system, and reporting would be undermined. When the foundational conditions for state assessments are in place, they do provide critical information for educators, families, the public, and students themselves, but this year the conditions do not support these uses to improve outcomes for all learners.

With this complete application, we appreciate the Secretary of Education’s full consideration of our request to waive the [attached requirements](#) under the authority of ESEA-ESSA Section 8401. Pursuant to ESEA-ESSA Section 8401, we appreciate the Department’s full consideration to grant Montana these one-year (2020–2021) testing, accountability, and reporting waivers. **I write to seek approval to implement the following 2020-2021 plan for state assessments:**

- ACCESS for ELLs testing must be completed by February 26, 2021.
- Voluntary participation in state content area assessments for Smarter Balanced (Grades 3–8), Montana State Science (MSA Grades 5 and 8), Alternate Montana Science Assessment (AMSA)

Grades 5, 8, and 11), ACT with Writing (Grade 11), and Multi-State Alternate Assessment (MSAA Grades 3–8 and 11)

- Focus on district-selected interim and formative measures to fulfill Montana’s requirement of annual reporting to parents about student achievement.
- Conduct research to develop an OTL collection to support Montana’s Consolidated State Plan under ESSA for a school quality and student success flex indicator.

We ask that given these extraordinary times that the Department consider alternative ways to collect actionable information and innovate in a time that demands for more opportunity and hope. We further provide documentation under the ESEA-ESSA Section 8401 process to detail how our submission demonstrates how the waivers will maintain or improve transparency in reporting to parents and the public on student achievement and school performance and advance student academic achievement.

Please feel free to contact me by phone or email if you have any questions regarding this request. We appreciate your consideration in this waiver application and for bringing high-quality assessment to Montana and for recognizing the value this waiver will provide for Montana students, families, and educators.

Sincerely,



Elsie Arntzen, Superintendent of Public Instruction  
Montana Office of Public Instruction  
Phone: 406.444.5658  
Website: [opi.mt.gov](http://opi.mt.gov)  
Email: [Elsie.Arntzen@mt.gov](mailto:Elsie.Arntzen@mt.gov)

