| **Virginia Board of Education Agenda Item** | **Seal of the Commonwealth of Virginia** |
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# Agenda Item: N

## Date: March 18, 2021

### Title: Written Report on a New Waiver Opportunity from the United States Department of Education to Certain Requirements under the *Every Student Succeeds Act of 2015* (ESSA)

#### Presenters: Julie Molique, Director, Office of Accountability

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## Purpose of Presentation:

For information only. No action required.

## **Executive Summary:**

On March 8, 2021, the United Stated Department of Education (USED) released a new waiver template states can use to request accountability and reporting waivers for certain requirements under the *Every Student Succeeds Act* (ESSA) for the 2020-2021 school year. .

The attached report provides information about this new process and next steps.

## Action Requested:

Action will be requested at a future meeting. Specify anticipated date below:

April 22, 2021

## Superintendent’s Recommendation:

The Superintendent of Public Instruction recommends the Board of Education accept this written report.

## Previous Review or Action:

No previous review or action.

## **Background Information and Statutory Authority:**

To address the extraordinary circumstances of extended and widespread closures of schools due to the novel coronavirus (COVID-19) pandemic, on March 20, 2020, the USED invited, pursuant to section 8401(b) of the *Elementary and Secondary Education Act of 1965* (ESEA), each state to request a waiver, for the 2019-2020 school year, of assessment, accountability and school identification, and certain related reporting requirements. Virginia received this waiver in March of 2020.

The waiving of these requirements, as well as the continued implications of COVID-19, affects how each state will implement the federal accountability provisions outlined in its Consolidated State Plan in the 2020-2021 school year.

On March 8, 2021, the USED released a new waiver template states can use to request accountability and reporting waivers for certain requirements under ESSA for the 2020-2021 school year.

Attachment A provides information about this new process and next steps. The waiver template provided by USED is included in Attachment B.

## **Timetable for Further Review/Action:**

The Board of Education will be asked to waive first review and approve the accountability and reporting waiver requests at the April 22, 2021, meeting.

## Impact on Fiscal and Human Resources:

Costs associated with the implementation of the accountability and reporting waivers will be provided by federal funds awarded under ESSA.

**United States Department of Education Waiver Opportunity for**

**State Accountability and Reporting Requirements**

On February 22, 2021, the United States Department of Education (USED) [sent a letter to Chief State School Officers](https://www2.ed.gov/policy/elsec/guid/stateletters/dcl-assessments-and-acct-022221.pdf) which indicated the intent to provide states a new opportunity to request waivers and flexibilities for the 2020-2021 school year for certain accountability and reporting requirements under the *Every Student Succeeds Act* (ESSA). In this letter, the USED stated:

*“State assessment and accountability systems play an important role in advancing educational equity.  At the same time, it is clear that the pandemic requires significant flexibility for the 2020-2021 school year so that states can respond to the unique circumstances they are facing; keep students, staff, and their families safe; and maintain their immediate focus on supporting students’ social, emotional, and academic development.*

*We remain committed to supporting all states in assessing the learning of all students.  The Department is, therefore, offering the following flexibility with respect to your assessment, accountability, and reporting systems for the 2020-2021 school year.”*

The allowable waivers described in this letter are slightly different from those included in the previously proposed Addendum and Waiver brought to the Virginia Board of Education for first review during the January 27, 2021 Business Meeting.

On Monday, March 8, 2021, the USED released additional information on the new waivers of accountability and reporting requirements and provided a new template that states might use in requesting waivers. A summary of the new waiver requests included in the template is provided below.

Accountability**:**

* Offers waiver of requirement that states identify additional schools for Comprehensive Support and Improvement (CSI), Targeted Support and Improvement (TSI), and Additional Targeted Support and Improvement (ATSI) based on 2020-2021 data.
* Offers waiver to the requirement that states measure a school’s progress toward the Measures of Interim Progress and Long Term Goals based on 2020-2021data.
* Offers waiver to the requirement that pass rates used for ESSA pass rates are based on a denominator that represents at least 95% of enrolled students.
* States approved for these waivers must assure USED that:
* Federal identifications of CSI, TSI, and ATSI schools will be maintained from the 2019-2020 school year and receive appropriate supports and interventions as a result.
* Identification of CSI, TSI, and ATSI schools will resume in fall 2022 using data from the 2021-2022 school year.

Transparency and Public Reporting:

* Offers a waiver to the reporting requirements for growth, accreditation ratings, and progress toward Measures of Interim Progress and Long-Term Goals.
* States approved for these waivers must assure USED that:
* Reports that disaggregate 2020-2021 school year data associated with assessment results, student participation on assessments, chronic absenteeism, federal graduation cohort rate, and Progress of ELs toward English language attainment measured by the ACCESS for ELs® test will be made publicly available.
* To the extent the state or school district already collects such information, reports on student and educator access to technology devices like laptops or tablets and high-speed internet at home will be made publicly available.

**Current Status and Next Steps:**

The Virginia Department of Education (VDOE) staff is working to quickly complete this new waiver process which includes opening a new public comment period. This public comment period will conclude at the Virginia Board of Education’s April Business Meeting. At that meeting, VDOE staff will ask the Board to waive first review and approve the waiver request. If the Board approves the waiver request, VDOE staff will submit the waivers to USED for approval.

*This template is an example that may be used for the submission of a request for waivers of accountability, school identification, and related reporting requirements under the Elementary and Secondary Education Act of 1965, as amended. Note that a State educational agency is not required to use this template. For assistance on this accountability waiver template, or to discuss assessment flexibility that a State may need based on the specific circumstances within the State, please contact* [*OESE.Titlei-a@ed.gov*](mailto:OESE.Titlei-a@ed.gov)*.*

The Honorable Ian Rosenblum

Deputy Assistant Secretary for Policy and Programs, Delegated the authority to perform the functions and duties of the Assistant Secretary for Elementary and Secondary Education

Office of Elementary and Secondary Education

U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202

Dear Deputy Assistant Secretary Rosenblum:

I am writing to request a waiver, pursuant to section 8401 of the Elementary and Secondary Education Act of 1965 (ESEA), of the following requirements as a result of ongoing challenges related to the novel Coronavirus Disease 2019 (COVID-19):

State:

*Please check all that apply:*

Accountability and school identification requirements in ESEA sections 1111(c)(4) and 1111(d)(2)(C)-(D): the requirements that a State measure progress toward long-term goals and measurements of interim progress; meaningfully differentiate, on an annual basis, all public schools, including by adjusting the Academic Achievement indicator based on a participation rate below 95 percent; and identify schools for comprehensive, targeted, and additional targeted support and improvement based on data from the 2020- 2021 school year.

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Report card provisions related to accountability in ESEA section 1111(h) based on data from the 2020-2021 school year. These include:

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* Section 1111(h)(1)(C)(i)(I)-(IV) and (VI) *(Accountability system description*, *other than the list of comprehensive, targeted, and additional targeted support and improvement schools).*
* Section 1111(h)(1)(C)(iii)(I) *(Other Academic indicator results for schools that are not high schools).*
* Section 1111(h)(1)(C)(v) *(School Quality or Student Success indicator results).*
* Section 1111(h)(1)(C)(vi) *(Progress toward meeting long-terms goals and measurements of interim progress).*
* Section 1111(h)(2)(C) with respect, at the local educational agency (LEA) and school levels, to all waived requirements in section 1111(h)(1)(C).

Consistent with the requirements of ESEA section 8401(b)(1)(C), describe how the waiving of such requirements will advance student academic achievement.

*Provide a description here.*

Consistent with the requirements of ESEA section 8401(b)(1)(F), in order to maintain or improve transparency in reporting to parents and the public on student achievement and school performance in school year 2020-2021, including the achievement of subgroups of students, I assure that:

The State will make publicly available chronic absenteeism data, either as defined in the State’s School Quality or Student Success indicator, if applicable, or ED*Facts*, disaggregated to the extent such data are available by the subgroups in ESEA section 1111(c)(2), on State and local report cards (or in another publicly available location).

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The State will make publicly available data on student and/or teacher access to technology devices and high-speed internet, disaggregated by the subgroups in ESEA section 1111(c)(2), to the extent such data are collected at the state or LEA level.

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*Provide any additional information about maintaining and improving transparency here, including whether the state or LEA collects information on access to technology and high-speed internet and other existing collections of opportunity to learn data (e.g., data used for the State’s School Quality or Student Success indicator(s), school discipline data, access to a well-rounded education (such as advanced courses, music, and the arts), access to support staff (e.g., nurses, social workers, psychologists), and/or access to qualified educators data, which could include teacher and staff turnover data).*

Consistent with the requirements of ESEA section 8401(b)(1)(F), in order to ensure that schools will continue to provide assistance to the same populations served by Title I, Part A (e.g., subgroups in section 1111(c)(2)), I assure that:

Any school that is identified for comprehensive, targeted, or additional targeted support and improvement in the 2019-2020 school year (i.e., any school that was in that status as of the 2019-2020 school year), except for comprehensive support and improvement schools identified based on low graduation rates that meet the State’s exit criteria, will maintain that identification status in the 2021-2022 school year, implement its support and improvement plan, and receive appropriate supports and interventions.

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*Provide any additional information on how schools will continue to provide assistance to the same populations served by Title I, Part A here.*

The State will identify comprehensive, targeted, and additional targeted support and improvement schools using data from the 2021-2022 school year in the fall of 2022 to ensure school identification resumes as quickly as possible.

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Consistent with the requirements of ESEA section 8401(b)(3)(A), prior to submitting this waiver, the State provided interested LEAs and the public with notice and a reasonable opportunity to comment and provide input on this waiver request and considered the feedback and input in finalizing this request. The comments and input received, as well as the State’s description of how it addressed the comments and input, are enclosed with this request.

Thank you for your consideration.

Sincerely,

Chief State School Officer (or Authorized Representative)

Digital Signature OR

Typed Name and Date

By typing my name here, I am affirming submission of this waiver on behalf of the State.

***OMB Number:*** *1810-0752*

***Expiration Date:*** *September 30, 2021*

***Public Burden Statement:*** *According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0752. Public reporting burden for this collection of information is estimated to average 3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is voluntary. If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact the Office of School Support and Accountability, 400 Maryland Avenue, SW, LBJ Federal Office Building, Washington, DC, 20202 or* [*OESE.Titlei-a@ed.gov.*](mailto:OESE.Titlei-a@ed.gov)