



H.B. 15-1323 includes five areas requiring CDE to apply for waivers from the federal Elementary and Secondary Education Act (ESEA). CDE staff is working with the U.S. Department of Education (USDOE) to develop waivers that meet the requirements of the new state law. During discussions, CDE has been given an indication of the requirements that are likely to be approved by the U.S. Department of Education and those needing some adjustments before they may be approved.

Requirements likely to be approved by the U.S. Department of Education

1. Creating a one-year hold on school plan types and district accreditation ratings

The law creates a one-year hold on school plan types and district accreditation ratings, giving schools and districts another year to gain experience with the academic standards and aligned assessments. This accountability hold is expected to be approved by the U.S. Department of Education, as included in the proposed ESEA waiver.

2. Allowing English language learners to take state assessments in their native language for up to five years

State law previously allowed English learners to take state assessments in their native language for up to three years. This law allows native language accommodations for up to five years, which aligns with federal policy. This change is also included in the proposed ESEA Waiver.

Requirements needing adjustments before approval is likely

3. Using the ninth-grade assessment to meet the federal high school requirement

ESEA requires a state assessment in English language arts/reading and math in one grade, between 10th-and 12th-grade. CDE asked the U.S. Department of Education if the ninth-grade assessment could be used, per the new state law. The U.S. Department of Education indicated that a ninth-grade assessment in Colorado's system does not meet federal requirements.

CDE proposes to request the new 10th-grade assessment (which is required to be aligned with both the Colorado Academic Standards and the 11th-grade college entrance exam) to satisfy federal requirements. CDE expects the use of the 10th-grade assessment to be approved.

Please note that both the 10th-and 11th-grade assessments will need to be posted for competitive bidding. After the RFP process is complete, the new assessments will be named in fall 2015.

Elementary and Secondary Education Act Waiver Timeline

- Colorado's ESEA Waiver was first approved by the U.S. Department of Education in February 2012.
 - The waiver allows Colorado to use a single state accountability system.
- The USDOE required states to apply for waiver renewal in the spring of 2015.
 - CDE staff submitted a waiver renewal request in March 2015.
 - CDE communicated with USDOE staff around requirements from H.B. 15-1323 and updated the ESEA Waiver application accordingly.
- CDE is finalizing the proposed ESEA Waiver with the U.S. Department of Education.
- The Colorado State Board of Education will review and approve the revised, proposed ESEA Waiver before it is submitted to the USDOE.

4. Exempting students who are in their first year in the United States from taking the English language arts assessments and exempting English learners from accountability for their first two years in the U.S.

This law adjusts state requirements to match federal flexibility for exempting students who are in their first year in the U.S. from taking the English language arts assessment. Additionally, the law directs the department to seek a waiver to exclude English language learners in accountability calculations during their first two years in the U.S. The U.S. Department of Education has allowed flexibility to other states for including English learners in calculations; however, with that flexibility comes a requirement that students participate in the English language arts assessment in their first year. Their scores are not included in that first year's calculations but are used as the basis for growth calculations in year two. Federal flexibility will allow states to either test English learners in their first year, with results exempted from growth calculations, or a state can choose to not test English learner in their first year and achievement results will be included in year two.

Included in the waiver are the two options. The U.S. Department of Education indicated it will approve either of these options. Conversations in Colorado need to occur to determine which of these best meet the intent of the new state law.

- Option 1 meets the requirement of the law around test participation exemption; but no additional federal flexibility in accountability calculations is provided.
- Option 2 requires students to test in year one, but allows additional federal flexibility in accountability calculations. Option 2 may require statutory updates to implement.

Additional work is needed to align legislative intent, stakeholder expectations and district preference. The department is taking feedback on which option the state should pursue. When a final decision is made, the ESEA Waiver will be amended to indicate the selection.

In discussion with USDOE

5. Using some state assessment data for educator evaluations

H.B. 15-1323 does not allow results from the 2014-15 state assessments in science, social studies, English language arts and math to be used as outcome measures for educator evaluations. In the future, state assessment results can only be used in current-year educator effectiveness ratings if results are provided at least two weeks before the end of the school year. If the results are not ready in time, they must be used in the next year's evaluation cycle for educators (as applicable for the educator). This would likely delay the use of some state assessment data in educator evaluations until the 2016-17 school year.
