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

## Date: April 22, 2021

### Title: First Review of Waiver Request from the United States Department of Education to Certain Accountability and Reporting Requirements under the *Every Student Succeeds Act of 2015* (ESSA)

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

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## Purpose of Presentation:

Action required by state or federal law or regulation.

## **Executive Summary:**

On March 8, 2021, the United States Department of Education (USED) released a 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 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.

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.

On March 26, 2021, the proposed waiver items were posted for public comment, these comments are included as Attachment A. A community of practitioners meeting was held on April 16, 2021 to discuss the potential waiver submission.

## Action Requested:

Other. Specify below:

The Board is requested to waive first review and approve the waiver request for submission to USED.

## Superintendent’s Recommendation:

The Superintendent of Public Instruction recommends the Board of Education waive first review and approve the waiver request for submission to the United States Department of Education.

## Rationale for Action:

Approving this waiver request will allow the timely submission of the waiver request to USED for review**.**

## Previous Review or Action:

Previous review and action. Specify date and action taken below:

Action: Written report on the proposed waiver request

Date: March 18, 2021

## **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.

On March 26, 2021, the proposed waiver items were posted for public comment, these comments are included as Attachment A. A community of practitioners meeting was held on April 16, 2021 to discuss the potential waiver submission.

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

Following Board approval, VDOE staff will submit the waiver request to USED for approval.

## 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.

**Public Comment Received Concerning the Proposed Waiver Request from the United States Department of Education to Certain Accountability and Reporting Requirements under the Every Student Succeeds Act of 2015 (ESSA)**

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| **Date** | **Commenter** | **Comment** |
| 3/29/21 | Unknown | I support the proposed waivers to the Virginia 2015 Essa Plan.  It is inappropriate to place the burden of assessment on students during a national pandemic which has inequitably impacted students access to traditionally academic instruction and intervention. Although we will require the student to participate in assessments, it is illogical to hold LEAs responsible for participation in the assessments when many families believe their child would be unsafe if he/she/they came into school to test. The LEAs should not be negatively impacted by parent refusals due to COVID-19.  Nor can any reasonable conclusion be drawn regarding a school’s instructional programs when not all students are represented. |
| 3/30/21 | Unknown | I agree. |
| 3/30/21 | Elizenda Ceballos, MD | I do not agree to the waiver. Pandemic or not, schools are required to educate our children, and at least in our district, much more could have been done to provide an adequate education this year.  The remote learning program for the Lynchburg City Schools had a serious lack of remote TEACHING.  Schools need to be held accountable, just as our students will be for entering the next school year or college unprepared due to missing a year of instruction. |
| 3/30/21 | Unknown | Please do not waive any educational requirements for Fairfax County. FCPS must be held accountable for their disastrous decisions. Providing a waiver does not mitigate damage already done. It just absolves those who are accountable for their poor decision making. |
| 3/30/21 | Greg Muzik, Principal, Mary Munford Elementary School | I strongly urge the state to cancel all SOL testing for the 20-21 school year.  I am principal at Mary Munford and many of my parents are very concerned about this and many have told me they will refuse to allow their children to participate.   We have good testing data from NWEA (MAP) iReady and PALS that we are using to look at student growth and the results of these assessments are provided to parents. |
| 3/30/21 | Jessica Levy-Lavelle, MSW Mother and school social worker | I strongly oppose SOL testing for the 2020-2021 school year.  It will be poor data and not guide needed remediation to support students. I will be opting my children out for the first time. |
| 3/30/21 | Parent | DOE,  My child is a 5th grader at Mary Munford ES. Regardless of VA ‘s decision my child will not be taking SOL’s this spring.  RVA has been closed since day one and although we are leaving the district after this school yr I am not advancing her to the next grade.  My child’s MAP scores were in the 94th percentile in math but that means nothing! My kid has regressed two yrs in one yr. I honestly don’t believe RVA will open in the fall, another reason we have left the district.  If my daughter is forced through she will be attending private school. |
| 3/30/21 | Joanna Therway | To Whom It May Concern:  Re: Proposed Waiver to Virginia’s Every Student Succeeds Act of 2015 (ESSA) State Plan  Please approve the Proposed Waiver to Virginia’s Every Student Succeeds Act of 2015 (ESSA) State Plan to ease the burdens on our public schools during these unprecedented times of a global pandemic.  Students, teachers and administrators should not be expected to administer SOLs or be held to normal benchmark testing/assessments for accreditation standards of any kind during this crisis. States should waive any testing or assessment benchmarks until Covid is fully behind us... The focus should be entirely on the following:  (1) giving schools the funding and support they need to re-open safely (distancing measures such as improved HVAC/Air filters, plexiglass dividers and outdoor spaces for classes like PE, lunch etc - whatever can get the students outside to breathe fresh air whenever possible and see their peer/teachers faces without masks at least once per day;  (2) reaching out to students who are struggling either academically or social/emotionally through small group or one on one instruction, and counseling sessions  (3) support teachers in whatever way they need to teach effectively in a hybrid setting as a surge in cases is likely still in the comoing academic year  (4) enhance social/emotional supports for sttudents to create safe ways to gather together - outdoor lunches, outdoor PE distanced, outdoor clubs on campuses, distanced indoor clubs/gatherings with masks/distanced.  Please do not add to the burden with testing/assessment measures now - I support any waiver that gets the focus on the kids, teachers and administrators for safe reopening. |
| 3/30/21 | Karrie Chaney, Parent | As a parent of 3 in, I strongly agree with the waiver proposal. |
| 3/30/21 | Emily Bauer, Parent | I’m a parent of a student at Mary Munford in Richmond City (RPS). No students in the school district have been given the opportunity to go back in person not even hybrid. Saying that, they should not be allowed to waive the SOLs. I want to know how the kids and teachers are really doing. It will be a very sobering reality to the people in charge.  RPS has shown very little transparency since COVID began and I’ve had enough. I’ve had enough of RPS writing to me and saying they can’t do this or that. They can and should test every kid. |
| 3/30/21 | Andrew Brower,  5th Grade Teacher,  Mary Munford Elementary School | Good Afternoon,  My name is Andrew Brower, I teach 5th grade at Mary Munford Elementary School in Richmond. Based on my understanding of the revised requirements recently published by the USED, I believe that SOL Testing should not be conducted in Virginia in the Spring of 2021. My main concern is that any "data" collected will not be useful. I understand the use of data in forming coherent educational policy. However, if the data is tainted or incomplete, any policy decisions made using that data will be faulty.  Because of the lack of uniformity in the state regarding return to school decisions, the playing field is not level so I believe any test results will not be valid.  The thought of administering the tests this spring is already causing anxiety and stress among teachers, parents and students. Also, trying to conduct testing in different buildings or somehow virtually creates another potential for inequality and lack of security.  Please consider postponing the tests or cancelling them until next year. |
| 3/30/21 | Buck Overton | Dear VDOE Board of Education:  I could probably begin and end my comments on this waiver matter with one simple question:  "Will PRIVATE schools also be waiving various aspects of their responsibilities to serve their students?"  But, alas, I will try to take a less antagonistic approach.  I can actually see some reason in waiving certain consequences and implications of any data gathered - due to the impact of COVID - but not waiving the gathering of,  nor the accountability to, the data itself.  You exist for the students, for their education, and not your pleasure or ease of stress, nor any teachers' union's desire not to be held accountable.  Failure to meet the needs of these students will only eventually add to your stress.  You need to assess at the end of 2020-2021, not for performance evaluation, but as a benchmark for COVID, and you need to assess in a formative manner throughout this summer and the 2021-2022 year (and perhaps beyond) in order that you may target and address skill loss and gaps in a timely fashion rather than just having yet another autopsy at the end of 2021-2022.  You know the proverbial definition of insanity.  Maybe it's time public education started trying doing something differently.  Sincerely,  Buck Overton |
| 3/31/21 | Jenny Fox | I support RPS in participating in SOLs this year despite the pandemic virtual learning.  I think it will be good for our schools to have an assessment of how the kids did this year and what resources and needs for support our children need as we move forward into the next phase.  Thank you.  Sincerely,  Jenny Fox |
| 4/5/21 | Deborah Hammer, Instructional Specialist, Arlington Public Schools | I would like to share my opinion that ALL state assessment should be waived for the 2020-2021 school year. I don’t believe it would be a good use of valuable class time to substitute several days of learning opportunities for assessments.  I am an autism specialist in Arlington, VA. I have always thought that interrupting classes for several days is detrimental to the education of all students. For students with autism and other disabilities who take SOLs and other assessments, it denies them opportunities to learn, socialize, and collaborate with peers, since everyone must sit quietly for hours taking tests. The tests create anxiety, which I have seen cause somatic symptoms, breakdowns, and can lead to students having disciplinary issues. It denies them FAPE and and often causes interruptions in needed therapies and other services. For my students who take the VAAP, testing denies them opportunities for inclusion, when they have already had so few experiences this school year.  This year is NOT the time for them to endure this; they have already had too much chaos and confusion in their education. They have had to adapt to virtual learning, hybrid, and occasional Covid exposures necessitating all virtual. They have also experienced loss- so many have seen loved ones die from Covid.  Please consider waiving all state assessments this school year. Thank you for considering my request. |