

# ESEA Flexibility

## Colorado ESEA Flexibility Waiver Amendments



**COLORADO**  
Department of Education

Included in the table below, is a summary of the substantive changes the Colorado Department of Education (CDE) proposes to make to its ESEA flexibility waiver as part of the ESEA waiver renewal process. The table includes the ESEA principle affected by the change, the page number(s) where the change can be found in the larger ESEA waiver document posted on CDE’s website, a brief description of the change, and the rationale for the change.

Flexibility Element(s) Affected by the Amendment	Page Number in ESEA Waiver Request	Brief Description of Requested Amendment	Rationale
Principle 2 – Develop a project to pilot an alternative accountability system that incorporates state and local assessments.	NA	<p>CDE will develop a plan for a piloting an alternative accountability system that includes state assessments, common performance-based assessments and local assessments. The plan will describe the process for:</p> <ul style="list-style-type: none"> <li>• Identifying districts that would be candidates for the pilot</li> <li>• Developing and vetting a state pool of common performance assessments</li> <li>• Developing assessment literacy in participating districts</li> <li>• Specifying the role of state assessment, common performance-based assessments and local assessments</li> </ul> <p>Scaling up the pilot based on feedback from participating districts and evaluation by an outside evaluator.</p>	Colorado’s current accountability system, while providing useful data on school and district performance, is mainly dependent on data from a single state test. Data from that assessment is not very helpful in instructional planning because results are not available in a timely manner and the impact of the test on instructional time. A more instructionally useful approach that still maintains comparability across districts and schools would be to replace the mandate to test every student every year using the same state assessment with a system that incorporates periodic state summative assessment with common, but locally scored (and state vetted) performance assessments as well as local assessment. The common performance assessments and local assessment could be incorporated into the instructional program and provide timely results without the impact on instructional time at the classroom and school level.
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Principle 3 - Colorado’s educator evaluation system will use multiple measures to assess effectiveness, including student growth as a significant factor by 2015-	Pages 212-215.	Colorado is transitioning to new state assessments. Because these are new assessments and because we need two years of assessments to calculate student growth, Colorado requests an additional year to fully implement student growth as a component of educator evaluation system.	As our state transitions to a new set of state assessments (CMAS), state legislators and school districts were concerned about timelines for the new tests’ results as well as the validity and fairness of using scores on new tests in the first full year of our educator evaluation system. As a result, legislation was passed to delay the full implementation of our new educator evaluation system by one year – to 2015-2016. In addition,



<p>2016.</p> <p><b>Request is for 2014-2015 only.</b></p>		<p>School districts did implement the 50% student growth requirement during 2013-14. However, because Colorado is transitioning to new assessments, the Colorado legislature granted districts an additional year to fully incorporate student growth. During school year 2014-15 year, districts have discretion in how much student growth will be weighted in their final teacher evaluations for this year only. Teachers will receive student summative and student growth data. However, districts, at their discretion, can weight student growth anywhere from 0% to 50% based on their local context.</p> <p>Colorado will fully implement its educator evaluation system in 2015-2016. The system includes at least three performance levels and incorporates student growth as a significant factor. For a full description of our system of educator evaluation, visit the Colorado Department of Education’s Educator Effectiveness website at:</p> <p><a href="http://www.cde.state.co.us/educatoreffectiveness">www.cde.state.co.us/educatoreffectiveness</a></p>	<p>districts needed more time to appropriately create and select other fair, valid and reliable measures to include in their educator’s evaluation. In order to ensure the success of the system over the longer term, we need to delay its full implementation by a year.</p>
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<p>Principle 1 – Assessments – Math, double testing.</p> <p>The requirements in ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) that, respectively, require the SEA to apply the same academic content and academic achievement standards to all public schools and public school children in the state and to administer the same academic assessments to</p>	<p>Page 69</p>	<p>CDE would assess such a student with the corresponding advanced, high school level assessment in place of the mathematics assessment the SEA would otherwise administer to the student for the grade in which the student is enrolled. For federal accountability purposes, CDE will use the results of the advanced, high school level, mathematics assessment in the year in which the assessment is administered and will administer one or more additional advanced, high school level, mathematics assessments to such students in high school, consistent with the state’s mathematics content standards, and use the results in high school accountability determinations. In other words, those students will be annually assessed in high school and the results of those assessments will be included in accountability determinations.</p>	<p>Colorado requests this waiver so that it is not required to double test a student who is not yet enrolled in high school but who takes advanced, high school level, mathematics coursework.</p>



<p>measure the achievement of all students.</p> <p><b>Request is for 2014-2015 only.</b></p>			
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<p>Principle 1 – CDE will be field testing new Spanish language reading and writing assessments and requests the waiving of ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i), which require a state educational agency (SEA) to apply the same academic achievement standards, and to use the same academic assessments, for all public school children in the state.</p> <p><b>Request is for 2014-2015 only.</b></p>	<p>Pages 68-69.</p>	<p>In the 2014–2015 school year, CDE will be field testing the new Spanish Language Arts assessment aligned to college- and career-ready standards. CDE is requesting flexibility with regard to double-testing. Specifically, CDE requests a one-year waiver of the requirements in Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and their associated regulatory provisions:</p> <p>This waiver will only apply to Grade 3 or Grade 4 students who are native Spanish speakers, who are within their first three years of school within the United States, and are enrolled in an English Language Proficiency program that provides academic instruction in Spanish. Please see the Colorado Spanish Literacy Assessment Decision Making Flowchart at <a href="http://www.cde.state.co.us/assessment/spanishliteracyassessmentqualification">www.cde.state.co.us/assessment/spanishliteracyassessmentqualification</a>. CDE seeks a waiver of these provisions in order to remove the “double testing” burden for Grade 3 and Grade 4 students participating in the field test who meet the eligibility criteria described above in the 2014-15 school year. Approval of this waiver will mean that not all students in Colorado will take the same assessment for</p>	<p>CDE seeks a waiver of these provisions in order to remove the “double testing” burden for Grade 3 and Grade 4 students participating in the Spanish language assessments field test. CDE requests these waivers so that any individual student within Colorado will be permitted to take only one assessment in each content area in 2014–2015 — either the current English Language Arts state assessment or the full form of the field test of the new accommodated Spanish Language Arts assessment aligned to college- and career-ready standards.</p> <p>CDE requests this waiver to permit an LEA within Colorado that has one or more schools participating in the field test, to refrain from making AYP determinations for each of those schools and to permit CDE to refrain from making AYP determinations for a single-school LEA participating in the field test.</p>



		<p>language arts. Based on preliminary participation commitments, approximately 1,100 3rd graders and 100 4th graders will participate in the field test of the accommodated Spanish Language Arts assessment rather than the regular Colorado English Language Arts assessment developed by the PARCC consortium. As English learners, these students are also required to take an annual English language proficiency test. Requiring an English language proficiency test, an English Language Arts test, and a Spanish Language Arts test is actually a triple testing burden for this group of approximately 1,200 students. The time required to give these different assessments has been criticized as creating a negative impact on instruction for this group of English learners. Due to the lengthy timeframe anticipated for standard setting and score reporting from the PARCC consortium, Colorado is already intending on relying on participation calculations and prior years' performance data for initial accountability calculations. Other than participation calculations, school and district accountability ratings for 2015-16 will be the same as in 2014-15. Upon approval of this waiver, Colorado will consider participation in the Spanish Language Arts Field Test equal to participation in the PARCC English Language Arts assessment for the purposes of school and district participation calculations.</p>	
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<p>Principle 2 - Colorado's system of accountability will be modified to remove parent refusals from the list of non-participants that may be counted against a school or district should a school or district fall below the 95% assessment participation</p>	<p>Pages 75 and 93-94.</p>	<p>When schools and districts do not make the 95% participation rate requirement overall in two or more content areas, the school's plan type or the district's accreditation rating is lowered one level. Students have been considered non-participants if they were coded as: deferred due to language (and not exempt based on time in US and ELP assessment); assessed with Spanish language assessments, but not eligible due to time in US and/or language proficiency; parent refusal; test not completed; extreme frustration; non-approved</p>	<p>Schools and districts in Colorado are in the challenging position of balancing the requirements of state law (all students must be assessed) and honoring parent requests that their students do not participate in the state assessments.</p> <p>Some parents and students have reported feeling pressured to have their students participate in the assessments. Some schools and districts are frustrated by parents refusing to have their child participate in the state assessments, as it could have a negative impact on the school/district rating. The tension has</p>



<p>requirement.</p> <p><b>Request is for 2014-2015 and 2015-2016.</b></p>		<p>accommodation/modification; misadministration; or district education services.</p> <p>On February 18, 2015, the Colorado State Board of Education voted to approve a motion to “not hold districts liable for the decisions of parents when these parents decide not to allow their children to take PARCC.”</p> <p>CDE is requesting that the lowering of school plan types and district accreditation ratings only occur if a school or district does not make the 95% participation rate in two or more content areas due to reasons other than parent refusals.</p> <p>When reporting participation rates to the U.S. Department of Education through EDFacts reports, students whose parents do not allow their children to take the state assessment will be reported as non-participants. It is only for the lowering of accountability ratings that parent refusals will not be included.</p>	<p>been increasing in Colorado as more parent and student voices are speaking out against participating in the new state assessments.</p> <p>The State Board of Education passed this motion in order to attempt to decrease the mounting tension. Parents will now feel able to refuse to have their children participate in the state assessments without undue pressure from the school/district. Schools and districts will be able to honor parent wishes without fear of an impact on their accountability ratings.</p> <p>In order to attempt to prevent unintended consequences of parents of certain students or groups of students being encouraged to not participate, CDE will expect documentation of the parent refusal request and demonstration of a good faith effort on the part of the school/district to explain state and federal assessment requirements and purposes to the parents.</p>
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<p>Principle 2 – Modify the requirement that principals in schools implementing Sec. 1003(g) turnaround models must be replaced.</p> <p><b>Request is for 2015-2016.</b></p>	<p>Page 157.</p>	<p>Colorado requests waiving the 1003(g) requirement to replace the principal in the Turnaround, Transformation, and Early Learning models as described in the final School Improvement Grant (1003(g)) requirements (34 CFR. Ch. II) if the principal has been at the school for more than 2 years. Schools and districts will be granted the flexibility to either replace or retain the existing principal while implementing one of the above models. Schools/districts that would like to retain the current principal will be required to provide evidence in support of the decision to retain.</p>	<p>Colorado believes that the requirement to replace the principal in the Turnaround, Transformation and Early Learning models does not allow the school and district the flexibility to demonstrate that the current principal has the necessary leadership competencies to lead the reform effort with the additional flexibilities granted through the SIG program. Schools/districts will be required to submit a portfolio of evidence that demonstrates that the principal has the capacity to lead the effort toward dramatic change.</p>



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<p>Principle 2 - Colorado’s proposes to include English learner proficiency scores on English language arts and math assessments in the accountability system only after they have received two years of instruction in a school in the U.S.</p> <p><b>Request is for 2015-16.</b></p>	<p>Page 95</p>	<p>In Colorado’s current accountability system, English learners are required to take all required state assessments. Their growth scores in English language arts and mathematics are calculated into the accountability system after two years of testing, as needed to calculate growth. Their ELA and math proficiency scores are included in the accountability system after they have received one year of instruction in the United States. Colorado is proposing to include English learner proficiency scores on English language arts and math assessments into the accountability system after they have received two years of instruction in a school in the U.S. English learner proficiency scores will be included after one year of instruction in the U.S. for Grade 3 and Grade 4 EL students participating in the Spanish language assessments field test. All English learners will still be required to take all required state assessments each year.</p>	<p>Current research in the field of English language development shows that English learners need five to seven years of English language development instruction to reach fluency in English. Some schools and districts have expressed the benefits of two years of English language development instruction in the U.S. in correlation to students’ proficiency scores on state assessments. As the extra year can have a positive impact on the school/district rating, CDE is requesting that EL proficiency scores be included in the accountability system after the student has received at least two years of instruction in the United States.</p>
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<p>Principle 2 –Modification of Supplemental Educational Service (SES) options.</p> <p><b>Request is for 2015-2016.</b></p>	<p>Pages 132-134.</p>	<p>Colorado is maintaining Supplemental Education Services (SES) and Public School Choice, with a few minor adjustments to SES. The state will no longer maintain a list of approved SES providers. Instead, in consultation with parents of SES eligible students, school districts will develop an SES program with a minimum of three options for parents - one of which must be through an external provider with a record of effectiveness. Districts must submit an SES plan to CDE for approval and must provide student achievement data at the end of the school year for the purpose of determining effectiveness. Districts must also set aside up to 15% of their Title I, Part A allocation in support of choice and SES.</p>	<p>CDE believes that districts are in the best position to identify SES providers and strategies that will be most effective with their eligible students. This change removes a significant burden for both districts and the state, in that no solicitation annually for vendors is necessary, not all vendors must be offered, the LEAs can negotiate a reasonable per pupil cost with vendors and LEAs have the flexibility to design their own SES and school choice programs.</p>



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<p>Principle 2 - Colorado’s proposes to include English learner proficiency scores on English language arts and math assessments in the accountability system after they have received two years of instruction in a school in the U.S instead of after only one year.</p> <p><b>Request for 2015-16</b></p>	<p>Page 97-98</p>	<p>In Colorado’s current accountability system, English learners are required to take all required state assessments. Their growth scores in English language arts and mathematics are calculated into the accountability system after two years of testing, as needed to calculate growth. Their ELA and math proficiency scores are included in the accountability system after they have received one year of instruction in the United States. Colorado is proposing to include English learner proficiency scores on English language arts and math assessments into the accountability system after they have received two years of instruction in a school in the U.S. English learner proficiency scores will be included after one year of instruction in the U.S. for Grade 3 and Grade 4 EL students participating in the Spanish language assessments field test. All English learners will still be required to take all required state assessments each year.</p>	<p>Current research in the field of English language development shows that English learners need five to seven years of English language development instruction to reach fluency in English. Some schools and districts have expressed the benefits of two years of English language development instruction in the U.S. in correlation to students’ proficiency scores on state assessments. As the extra year can have a positive impact on the school/district rating, CDE is requesting that EL proficiency scores be included in the accountability system after the student has received at least two years of instruction in the United States.</p>