



COLORADO

Department of Education

Legislative Relations and Policy

MEMO

TO: Colorado State Board of Education

FROM: Melissa Bloom, Senior Policy Associate, CDE Legislative Relations and Policy
Kady Lanoha, Senior Policy Consultant, CDE Legislative Relations and Policy
Julie Tolleson, First Assistant Attorney General, Attorney General's Office

RE: Statewide Waivers Requested Due to the Suspension of In-Person Instruction

DATE: May 4, 2020

Below please find important information to support the action regarding statewide waivers requested due to the suspension of in-person instruction for the May 2020 Board meeting.

On April 14th, the Governor signed [Executive Order D 2020 035](#) which temporarily suspended the waiver procedures required by C.R.S. § 22-2-117(1)(a), (c) and (d), and -117(2) and -117(6), to enable the state board to act upon application or on its own initiative to temporarily waive requirements in statute or rule so that districts and schools can focus on delivery of instruction and associated student services during the COVID-19 outbreak.

With those procedural requirements suspended, it means that districts do not have to apply (1 (a)), receive a request from a principal (1(b)), or obtain the approval of affected personnel (1 (c)). The goal was to allow the board to provide temporary relief to districts efficiently as they devote resources to responding to the COVID-19 crisis.

However, the substantive requirements for waivers remain: the state board must determine that the waiver would "enhance educational opportunity" and that the cost of complying with the requirement would "significantly limit educational opportunity" within the district. Particularly to the recommendations below, we have focused on requirements in statute and rule have focused on requirements in board rule that are either impossible or cost prohibitive in the distance learning environment and which would otherwise impair the ability of districts and charter schools to focus on providing instruction in the current crisis.

Based on feedback gathered from the field and working with the Attorney General's Office, CDE staff identified the following specific provisions in rule for the board to consider granting statewide waivers under this authority:

- For the 2019-20 school year, waive the timeline requirements associated with the gifted education identification procedures in 1 CCR 301-8 Rules for the Administration of the Exceptional Children's Education Act rule 12.02(2)(c)(iii), which requires a timeline of no more than 30 school days after a referral to determine whether a student will continue with formal identification assessment, or will receive talent pool designation.



- For the 2019-20 school year, waive the gifted education early timeline access requirement in 1 CCR 301-8 Rules for the Administration of the Exceptional Children's Education Act rule 12.08(2)(e)(i)(B) which requires Administrative Units to make a determination within 60 days. These determinations are often based on in-person assessments, which are difficult to administer during the suspension of in-person instruction.
- For the 2019-20 school year, waive the requirement in 1 CCR 301-8 Rules for the Administration of the Exceptional Children's Education Act rule 12.09(6) that districts expend their universal screening grant funds by the end of the fiscal year (June 30, 2020), and allow districts an additional year (June 30, 2021) to spend these funds.
- For the 2019-20 school year, waive the requirement in 1 CCR 301-78 Standardized Calculation for Counting Student Attendance and Truancy rule 3.03(2) that districts count attendance twice during the school day due to the suspension of in-person instruction.

Please note that this is not an exhaustive list of the flexibilities that will be provided to schools and districts at this time. Other flexibilities have already been granted through executive order and department policies; others may be proposed through rulemaking changes, amendments to state statute, or department guidance, as appropriate.

It is the department's recommendation that the State Board of Education approve these waivers, as set forth in the published agenda, in order to provide schools and districts with the necessary flexibility due to the suspension of in-person instruction for the end of the 2019-20 school year.

