



CARES Act: ESSA Waivers Questions & Answers

On March 27, the \$2-trillion Coronavirus Aid, Relief and Economic Security (CARES) Act was signed into law. The bill is a good start and, while not perfect, does address many needs of our students, educators, and schools. It is intended to help stabilize workers, families, and the economy during the COVID-19 public health crisis and is the third relief package Congress has passed during the coronavirus pandemic. NEA is also advocating for additional stimulus funds in a fourth package.

ESEA/ESSA waiver authority and administrative action

The U.S. Department of Education currently has limited authority to allow schools, districts, and states some flexibility in carrying out certain provision of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).

On March 12, 2020, in response to the spreading coronavirus and closing of many public school systems for substantial periods of time, the U.S. Department of Education released a [fact sheet](#) that discussed the impact on state assessment and accountability systems, and the department's waiver authority under Section 8401 of the ESEA.

On March 20, 2020, in a [letter](#) to chief state school officers, the Secretary of Education gave all states flexibility with regard to ESEA assessment and accountability requirements, as amended by the Every Student Succeeds Act (ESSA), and issued a streamlined waiver [template](#).

CARES Act provisions

The CARES Act reiterated and clarified the U.S. Department of Education's authority to waive provisions of ESSA in response to the COVID-19 national emergency. The Secretary of Education can waive any statutory or regulatory requirement for a state educational agency, Indian tribe, or local educational agency ("district") related to assessments, accountability, and reporting requirements for assessments and accountability. States and districts that request waivers must notify stakeholders by publishing such requests and providing an opportunity for the public to comment on them.

States can submit forms requesting waivers that allow them to cancel statewide assessments for 2019-20; suspend annual meaningful differentiation and identification of schools for comprehensive, targeted, and additional targeted support and improvement based on data

from 2019-20; suspend report card provisions; and halt implementation of interventions on the basis of failing to meet exit criteria or progress goals outlined in state plans.

What is waive-able?

- Statewide assessments required by ESSA
- Statewide accountability systems, including reporting on all students and student subgroups on statewide assessments and indicators (including opportunity indicators)
- Identification of schools for comprehensive, targeted, and additional targeted support and improvement, and identification of consistently underperforming schools with struggling subgroups
- Resource allocation reviews and identification of resource inequities required for schools identified for additional targeted support and improvement and districts with high numbers of Comprehensive Support and Improvement (CSI) schools and Targeted Support and Improvement (TSI) schools
- School report card data pertaining to English learners' progress toward proficiency, opportunity indicators, progress of all students and student subgroups toward meeting state-identified long-term goals, students assessed and not assessed, and more

What is NOT waive-able?

- Publishing and providing an opportunity for public comment on all state-requested waivers
- Reporting on student discipline, educator qualifications, and other data required for Office of Civil Rights data collection
- Graduation rate data for school report cards and identification of schools with low graduation rates
- Application of funds and resources originally designated for the benefit of a particular student subgroup (funds must still be used to benefit of the particular student group)
- Assessments, accountability systems, and comparison of district and school results to statewide assessment results in states that did NOT secure waivers based on their inability to administer assessments or comply with ESSA reporting requirements
- Requirements under the Individuals with Disabilities Education Act (IDEA)

How can we ensure educators' voices are heard?

In the coming months, it will be more important than ever to coordinate feedback on proposed waivers and adjustments to accountability systems. Emergencies that give rise to "temporary" changes can quickly become permanent. We must be vigilant to maintain the improvements brought by ESSA, including opportunity indicators and mandatory needs assessments, and to ensure that educators' voices are heard.