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For Immediate Release

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State Board of Education to Pursue Waiver from One ESSA Provision

SALT LAKE CITY—The Utah State Board of Education (USBE) will seek a waiver from a provision in the Every Student Succeeds Act (ESSA) that would otherwise require the state to count students who opt-out of statewide testing as receiving zero scores for school accountability purposes.

Feedback received from the U.S. Department of Education in December indicated that Utah’s ESSA plan may not meet federal statutory requirements regarding assessment participation and reporting. In 2017, 6 percent of all Utah students opted out of taking statewide assessments; state law allows Utah parents to receive that testing exclusion. However, ESSA requires that states count non-tested students as having received zero scores for school accountability purposes when less than 95 percent of students in a school participate in the assessment. Using that methodology would change school grades for several schools throughout the state.

If USBE’s request is granted, Utah will continue to use its own methodology in calculating school grades, which does not include counting non-tested students in any capacity.

“We’re hopeful that the U.S. Department of Education will understand that in granting a waiver from this provision, Utah will be able to more accurately identify schools in need of improvement,” said Board Vice Chair Brittney Cummins, who represents District 6. “We look forward to those conversations and anticipate discussions on how to ensure our accountability system is reliable and meaningful.”

USBE will prepare the request describing how waiving the provision will “advance student academic achievement” and then post the waiver request for public comment prior to submitting to the U.S. Department of Education. The request will include the following rationale:

- Counting non-tested students as zeroes on an assessment alters the group of schools identified to receive extra resources, and denying schools and student groups in the greatest academic need for improvement and assistance in Utah is in direct opposition of the intent and several provisions of ESSA.
- Including non-tested students are zeroes for school accountability purposes will further erode confidence in the validity of Utah's accountability system.

The waiver request will also describe the unique conflict in attempting to comply with Utah's laws allowing for parental exclusion and federal provisions requiring 95 percent participation.

Additional feedback provided by the U.S. Department of Education on Utah's ESSA plan touched on a requirement to include all schools in the state accountability system, and collecting and reporting data on equitable distribution of effective educators. The Board voted to support amending its ESSA plan to respond to those concerns. Other changes will be made to assist with clarity, organization, and to add information where requested.

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