



Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

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August 11, 2026

Kirsten Baesler
Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Kimberly Mitchell
U.S. Department of Education
Office of Special Education Programs
400 Maryland Ave., SW
Washington, DC 20202

Dear Assistant Secretary Baesler:

The purpose of this communication is to formally request a waiver of section 1111 (b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), for the requirement that a state may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0% of the total number of assessed students in the state. The Kentucky Department of Education (KDE) respectfully requests a waiver of this requirement, as it is anticipated that Kentucky will exceed the 1.0% cap for the 2026-2027 school year. This determination is based on the percentage of students who previously took the AA-AAAS in the state.

The attached document, entitled “Kentucky One Percent Waiver Request 2026-2027 School Year,” outlines the requirements for this waiver. The KDE requests this waiver for the 2026-2027 school year while it continues to monitor, support and provide targeted, measured technical assistance to Kentucky’s local education agencies (LEAs) to ensure all students are assessed appropriately. The KDE assures that, if granted this waiver, it will:

- Continue to meet all other requirements of the ESSA and take additional steps to support and provide oversight to each LEA that will exceed the 1.0% threshold to ensure only students with the most significant cognitive disabilities take an AA-AAAS;
- Monitor and regularly evaluate LEAs to ensure the LEA provides sufficient training to LEA staff who participate as members of Individualized Education Program (IEP) team meetings, known in Kentucky as an Admissions and Release Committee (ARC);
- Address any disproportionality in the percentage of students taking an AA-AAAS; and
- Verify that each LEA that anticipates will assess more than 1.0%

of its assessed students in any subject area using an AA-AAAS has followed Kentucky's participation guidelines for the AA-AAAS.

The KDE posted a public notice of the waiver request and provided stakeholders with the opportunity to comment. The notice of the waiver request is available on the [Kentucky Alternate Assessment Participation Waiver](#) page of the KDE website.

The KDE expects the efforts outlined in the attached 1.0% waiver request will reduce the percentage of students participating in the AA-AAAS and facilitate Kentucky's progress toward meeting the 1.0% requirement set by ESSA.

Please contact Jarrod S. Slone at jarrod.slone@education.ky.gov or (502) 564-4970, extension 4134, to discuss Kentucky's AA-AAAS waiver. We look forward to working with the United States Department of Education (ED) staff to secure a positive response to the application.

Sincerely,



Robbie Fletcher, Ed. D.
Commissioner of Education
Kentucky Department of Education

Kentucky's 1.0% Waiver for Reading, Mathematics and Science
ESSA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d)
Submission to the U.S. Department of Education
Aug. 11, 2026

In accordance with 34 CFR 200.6(c)(4), Kentucky is providing evidence of all requirements to request a 1.0% waiver for Reading, Mathematics and Science. Please note that additional information will be included in an addendum after final participation data is available.

Requirement One (ESEA Section 8401 (b)(3)(A)): Public Comment

The Kentucky Department of Education (KDE) sought public comment for the “Kentucky One Percent Waiver for Reading, Mathematics and Science.” The public was notified through a press release that the public comment period was open from July 21 through Aug. 4, 2026. The press release was posted on KDE’s website, shared on listservs used by local educational agencies (LEAs) and disseminated via email to other stakeholders, including the state parent advisory group. The press release is attached in [Appendix A](#).

During the public comment period, the KDE received one written comment. The submitted comment and KDE's response are included in [Appendix B](#).

Requirement Two (34 CFR 200.6(c)(4)(i)): Submission 90 Days Prior to State Testing Window Opening

The KDE is submitting a waiver request to the United States Department of Education (ED) 90 days prior to the start of the testing window for the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

Kentucky’s statewide AA-AAAS, the Alternate Kentucky Summative Assessment (AKSA), the first of two assessment windows, is scheduled to begin on Nov. 9, 2026. More information about KDE’s state testing windows for AA-AAAS can be found on the [Alternate Kentucky Summative Assessment \(AKSA\)](#) page.

Requirement Three (34 CFR 200.6(c)(4)(ii)): State Level Data

The KDE reviewed eligibility data from the state’s student information system, Infinite Campus (IC), for the 2025-2026 school year to estimate participation rates for the AA-AAAS. Because final assessment data were not yet available by the waiver submission deadline, preliminary estimates were used. Table One shows the number and percentage of Kentucky students eligible to participate in statewide assessments, including the AA-AAAS, by subject area and student subgroup.

The eligibility data indicate that at least 1.0% of students were eligible for the AA-AAAS in each tested subject for the 2025-2026 school year. Based on these estimates, Kentucky anticipates exceeding the 1.0% participation threshold set by the Every Student Succeeds Act (ESSA) for the 2026-2027 school year.

The eligibility data reflects raw counts from IC and does not include validation at the state, LEA or school levels, which may affect final reporting. The AA-AAAS testing window is scheduled to begin on Nov. 9, 2026. Because waiver requests must be submitted at least 90 days in advance, the KDE used Dec. 1 Child Count data to estimate participation.

Final assessment data will be available in January 2027 and reported publicly on the [Open House](#) website and the [Kentucky School Report Card](#). KDE will update Table One and submit the finalized data to the ED in an addendum by Feb. 28, 2027.

Table One: 2025-2026 school year AA-AAAS Eligible Students

SUBJECT	ELIGIBLE TO PARTICIPATE IN AA-AAAS	ELIGIBLE TO PARTICIPATE IN STATEWIDE ASSESSMENT	PERCENT ELIGIBLE TO PARTICIPATE IN AA-AAAS
Reading (elem/middle/high)			
Math (elem/middle/high)			
Science (elem/middle)			

Table Two will demonstrate the overall rates of assessment participation for the 2025-2026 assessment year. When the final assessment data is available, the KDE will review and submit it in an addendum. Table Two will be updated when the final assessment data are available.

Table Two: Overall Rates of Assessment Participation for 2025-2026

Group	All Students Grades 3-8 and High School (HS) Reading/Language Arts (R/LA)	Students with Disabilities Grades 3-8 and High School (R/LA)
Students Assessed		
Students Enrolled		
Assessment Participation Rate		

Group	All Students Grades 3-8 and High School (HS) Reading/Language Arts (Math)	Students with Disabilities Grades 3-8 and High School (Math)
Students Assessed		
Students Enrolled		

Assessment Participation Rate		
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Group	All Students Grades 3-8 and High School (HS) Reading/Language Arts (Science)	Students with Disabilities Grades 3-8 and High School (Science)
Students Assessed		
Students Enrolled		
Assessment Participation Rate		

Table Three will demonstrate the participation rates for each subgroup that participated in the AA-AAAS. When the final assessment data is available, the KDE will review and submit it in an addendum. Table Three will be updated when the data are available.

Table Three: AA-AAAS Participation Rates by Subgroup for 2025-2026

Group	Total Number in Grades 3-8 and HS	Number Taking AA-AAAS in Grades 3-8 and HS	Percent Taking AA-AAAS in Grades 3-8 and HS
R/LA			
All Students			
Hispanic			
American Indian/Alaskan Native			
Asian			
Black			
Hawaiian/Pacific Islander			
White			
Two or More Races			
Male			
Female			
English Learner			
Economically Disadvantaged			
Mathematics			

Group	Total Number in Grades 3-8 and HS	Number Taking AA-AAAS in Grades 3-8 and HS	Percent Taking AA- AAAS in Grades 3-8 and HS
All Students			
Hispanic			
American Indian/Alaskan Native			
Asian			
Black			
Hawaiian/Pacific Islander			
White			
Two or More Races			
Male			
Female			
English Learner			
Economically Disadvantaged			
Science			
All Students			
Hispanic			
American Indian/Alaskan Native			
Asian			
Black			
Hawaiian/Pacific Islander			
White			
Two or More Races			
Male			
Female			
English Learner			

Group	Total Number in Grades 3-8 and HS	Number Taking AA-AAAS in Grades 3-8 and HS	Percent Taking AA- AAAS in Grades 3-8 and HS
Economically Disadvantaged			

Table Four demonstrates the AA-AAAS rates by subject for the last eight years. The data for the 2025-2026 school year is an estimate of students eligible to take the AA-AAAS based on Dec. 1 Child Count data. The final data for 2025-2026 is not yet available. When the final assessment data is available in January 2027, the KDE will review and submit the final data for 2025-2026. Table Four will be updated when the data is available.

Table Four: AA-AAAS Rates by Subject, by Year

School Year	R/LA	Mathematics	Science
2025-2026 (estimate)	1.32%	1.32%	1.29%
2024-2025	1.26%	1.26%	1.23%
2023-2024	1.19%	1.19%	1.22%
2022-2023	1.16%	1.15%	1.14%
2021-2022	1.12%	1.12%	1.14%
2020-2021	1.10%	1.10%	1.10%
2018-2019	1.13%	1.13%	1.14%
2017-2018	1.13%	1.13%	1.12%

Table Five will demonstrate the percentage of students with disabilities who participated in the AA-AAAS during the 2025-2026 school year. Table Five will be analyzed after the final participation data is calculated in January 2027. This section will be updated when the data is available and included in the addendum.

Table Five: 2025-2026 School Year Overall Statewide, Assessed by Subject

Subject	Enrolled	Assessed	Percent Tested
Reading/Language Arts - All Students Total Grades 3 - 8 and High School (HS)			

Reading/Language Arts -Students with Disabilities (SWD) Total Grades 3 - 8 and HS			
Mathematics - All Students Total Grades 3 - 8 and HS			
Mathematics - SWD Total Grades 3 - 8 and HS			
Science - All Students Total Grades 3 - 8 and HS			
Science - SWD Total Grades 3 - 8 and HS			

Requirement Four (34 CFR 200.6(c)(4)(iii): Assurances

In accordance with 34 CFR 200.6 (c)(4)(iii), a waiver must include assurances from the state that it has verified that each LEA the state anticipates will assess more than one percent of all students assessed in any subject using an AA-AAAS has followed the state’s participation guidelines and will address any disproportionality in the percentage of students in any student group taking the AA-AAAS.

With final assessment data for the 2025-2026 school year not yet available, the KDE required written assurances from all LEAs in the state. Each Director of Special Education (DoSE), or designee, was required to ensure that the LEA has the following in place:

- All Admissions and Release Committees (ARCs) in the LEA follow the state’s guidelines for participation in the AA-AAAS;
- The LEA has evidence that the DoSE, all ARC chairpersons and all special education teachers with a caseload that includes students eligible to participate in the alternate assessment have completed the required alternate assessment training modules (see page 13);
- All ARCs in the LEA inform parents of students with the most significant cognitive disabilities of the implications of participation in the alternate assessment; and
- The LEA addresses disproportionality in the percentage of students in any subgroup participating in the alternate assessment.

Requirement Five (34 CFR 200.6(c)(3)(ii): Justification

As required by 34 CFR 200.6 (c)(3)(ii), a state must require an LEA to submit information justifying the LEA’s need to assess more than 1.0% of its assessed students in any subject with an alternate assessment. The KDE required LEAs who had more than 1.0% of students participating in the 2024-2025 AA-AAAS to submit information to the state justifying the need to exceed the 1.0% threshold. The KDE developed a Justification Requirement Form to lead LEAs through a root cause analysis to determine why more than 1.0% of the student body was assessed using the AA-AAAS. The justification form is reviewed and revised annually by the

KDE's Office of Special Education and Early Learning (OSEEL). LEAs who assessed more than 1.0% of students in any subject of the AA-AAAS were provided instructions on completing a Justification Requirement Form. A summary of LEA justification responses, as well as a list of the LEAs that exceeded the 1% threshold in one or more subject areas, can be found in the Justification Response Summary.

The justification form acknowledges:

- ARC teams utilized the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) appropriately for each student who would participate in the alternate assessment;
- LEAs addressed any disproportionality in the percentage of students within each subgroup taking the AA-AAAS;
- LEAs analyzed student data to make decisions for each student participating in the alternate assessment;
- Local training needs;
- Descriptions of appropriate training, support and oversight provided to ARC team members; and
- Justification(s) for exceeding 1.0% participation.

When KDE has final participation data for the 2025-2026 assessment year, KDE will contact all LEAs that exceeded the 1.0% participation in the AA-AAAS in at least one subject area and require the completion of a new justification form as outlined in the requirements of 34 CFR 200.6 (c)(3)(ii).

Requirement Six (34 CFR 200.6(c)(4)(iv)): Plan and Timeline

In accordance with 34 CFR 200.6 (c)(4)(iv), the waiver request from a state must include a plan and a timeline by which the state will improve the implementation of the state's guidelines for participation in the AA-AAAS. KDE's full plan and timeline are available in [Appendix C](#).

(A) Implementation of the State's Guidelines

LEAs are required to follow the [Guidance for ARCs on Participation Decisions for the Kentucky Alternate Assessment](#) to ensure that students meet all eligibility criteria for participating in the AA-AAAS and document ARC team decisions on the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) or in the Conference Summary.

Special Education Regional Technical Assistance Center (SERTAC) training: To improve implementation of alternate assessment participation guidelines during the 2025–2026 school year, the KDE OSEEL conducted full-day, in-person training for SERTAC directors and low-incidence consultants. The training included:

- The history of Kentucky's 1.0% waiver requests;
- Statewide AKSA data and trends;
- Inclusion opportunities within statewide assessment programs; and

- Kentucky’s alternate assessment participation requirements.

The training also included mock ARC meetings in which SERTAC staff determined alternate assessment participation based on sample student evidence. Presenters demonstrated how to conduct a student record review using the [Alternate Assessment Participation Guideline Record Review](#) document. Participants then practiced reviewing records and shared their findings.

At the conclusion of the training, SERTAC directors were instructed to contact the DoSE in each LEA within their region and offer assistance with reviewing student files for alternate assessment eligibility as part of state monitoring efforts. Directors documented all communication with DoSEs in a log, including whether the offer of technical assistance was accepted or declined.

For LEAs that accepted technical assistance, SERTAC staff coordinated on-site record reviews with the DoSE. In LEAs with fewer than 100 students participating in the AA-AAAS, SERTAC staff reviewed at least 10 student files. In larger LEAs, they reviewed at least 10% of student files, up to a maximum of 50.

After completing the file reviews, SERTAC staff met with the DoSE to conduct a root cause analysis to identify systems or processes contributing to concerns with participation decision-making. The results were used to determine coaching, technical assistance and training needs within each LEA. Each SERTAC director then compiled a summary of findings from the root cause analyses conducted across all LEAs in the region and submitted the documentation to the KDE OSEEL.

The KDE OSEEL analyzed data from the SERTACs monitoring activities and found the most common issues uncovered during the root cause analysis were:

- A lack of evidence and data supporting the decision for alternate assessment participation;
- Confusion around what “intensive accommodations” and “extensive direct instruction” look like;
- Determining a student’s alternate assessment participation based on a specific disability category or cognitive score instead of reviewing individualized data; and
- Misunderstanding around the student’s least restrictive environment (LRE), determining the student’s participation.

Additionally, the KDE’s OSEEL reviewed the summary of findings from regional root cause analyses. Results showed LEAs were lacking:

- Communication and collaboration among general education teachers, special education teachers and related service providers;
- Systems for documenting intensive accommodations;
- District level processes and procedures;
- Training specifically on how to document the ARC conversation around alternate assessment participation as well as evidence and justification; and
- Procedures for training new staff.

A total of 19 LEAs declined the SERTAC training. Of those, nine were over the 1.0%

participation rate for the 2024-2025 school year. The KDE contacted the nine LEAs over 1.0% participation to determine why they declined the training and whether they would like to reconsider assistance from the SERTAC.

If the LEA continues to forgo support from the SERTAC, then the KDE OSEEL will conduct further monitoring by reviewing a sample of student files from each of those districts that did not voluntarily participate in the process to determine whether students have been appropriately identified as meeting all eligibility criteria for participation in the alternate assessment. Furthermore, verification whether the LEA correctly utilized the *Kentucky Alternate Assessment Participation Guidelines Documentation Form* to document all ARC team decisions, per 707 KAR 1:320, Section 5 (11) and 34 CFR § 300.320 (a)(6)(ii) was examined during this process. Any LEA identified as noncompliant during the file reviews will receive a corrective action plan (CAP). The CAP is an opportunity for the KDE and the LEA to work together to strengthen LEA processes to better support students with the most significant cognitive disabilities. The CAP requires that LEAs correct all instances of student-specific noncompliance and address systemic noncompliance by training LEA staff on AA-AAAS participation guidelines.

Risk-Focused Monitoring (RFM): As part of its general supervision responsibilities under IDEA, the KDE monitors LEAs based on their risk level. In Kentucky, an LEA's risk level is determined through the annual determination process and the OSEEL Risk Assessment rubric. LEAs identified as “high risk” receive targeted monitoring, including desk reviews of student records, onsite visits and interviews with LEA staff.

Starting in the 2026-2027 school year, AA-AAAS participation rates will be included in the Risk Assessment rubric based on the following criteria:

- 0 points- The LEA does not have an overall AA-AAAS participation rate above the 1.0% threshold;
- 1 point- The LEA has an overall AA-AAAS participation rate between 1.01-1.25%;
- 2 points- The LEA has an overall AA-AAAS participation rate between 1.26-1.74%; and
- 3 points- The LEA has an overall AA-AAAS participation rate of 1.75% or above.

By incorporating LEA AA-AAAS participation rates into the risk assessment process, KDE will have additional opportunities to monitor the implementation of alternate assessment participation guidelines and ensure that ARCs make participation decisions in students' best interests. If an LEA is selected for RFM and is identified as having a high risk related to alternate assessment participation, KDE's OSEEL will review a sample of student records to evaluate compliance with the participation criteria. OSEEL will also conduct onsite visits and interviews with LEA staff to examine local processes for making alternate assessment participation decisions.

AA-AAAS monitoring through Desk Reviews: The KDE's OSEEL will conduct desk reviews to ensure that students meet eligibility criteria to participate in AA-AAAS and that ARC team decisions are documented in accordance with federal and state regulations. All LEAs that assess over 1.0% of their student population using the AA-AAAS are subject to a desk review when the LEA meets the established criteria.

During the review, KDE's OSEEL will monitor whether the students have been appropriately identified as meeting all eligibility criteria to participate in the alternate assessment and verify whether the LEA correctly utilized the *Kentucky Alternate Assessment Participation Guidelines Documentation Form* to document all ARC team decisions, per 707 KAR 1:320, Section 5 (11) and 34 CFR § 300.320 (a)(6)(ii).

If an LEA is found to meet one or more of the criteria below, the KDE's OSEEL will perform further monitoring by reviewing a sample of student files. The criteria for determining whether an LEA requires additional monitoring include:

- The LEA exceeded the 1.0% AA-AAAS participation rate in the assessment year. Through a desk review process, the KDE's OSEEL will randomly review 10% of LEAs assessing greater than 1.0% of their population using the AA-AAAS.
- The LEA met state-established criteria for high disproportionality of racial or ethnic groups participating in the AA-AAAS during the assessment year. The KDE's OSEEL uses a comparison rate methodology to determine if disproportionality in AA-AAAS participation exists in LEAs. For AA-AAAS, disproportionality by race or ethnicity exists when the following occurs:
 - There are at least 30 students assessed, using both AA-AAAS and regular assessment, in the racial or ethnic group being examined;
 - There are at least 10 students in the racial or ethnic group being examined who were assessed using an AA-AAAS; and
 - The rate at which students in the racial or ethnic group being examined is 2.0 times or greater than the rate in all other races identified.

LEAs that were already identified for AA-AAAS monitoring through the Risk Assessment rubric for the 2026-2027 school year will be exempt from additional desk reviews.

Any LEA identified as noncompliant for AA-AAAS participation receives a CAP. The CAP is an opportunity for KDE and the LEA to work together to strengthen LEA processes and better support students with the most significant cognitive disabilities. The CAP requires that LEAs correct all instances of student-specific noncompliance and address systemic noncompliance by training LEA staff on AA-AAAS participation guidelines.

KDE will continue to meet and focus on analyzing data to identify trends and develop new training and guidance to educate staff and parents on AA-AAAS participation guidelines and students with the most significant cognitive disabilities.

(B) Additional Steps

The state is required to take additional steps to support and provide oversight to each LEA that exceeds the 1% threshold.

To demonstrate substantial progress in reducing AA-AAAS participation rates, the state will implement the following action steps, summarized below.

Parent Modules: The KDE has published parent modules to help parents understand the AA-

AAAS participation guidelines. The KDE met with stakeholders, including Kentucky's Parent Training and Information Center (PTI), Kentucky Special Parent Involvement Network (KY-SPIN), to gain input before publishing the modules. Five modules were developed and published:

- [Comparing the Regular State Assessment and Alternate Assessment](#);
- [Kentucky State Assessment Participation Options](#);
- [Regular Diploma vs. Alternative High School Diploma](#);
- [Accommodations vs. Modifications](#); and
- [Completing the Kentucky Alternate Assessment Participation Guidelines](#).

The recorded parent modules are available under parent resources on the [Kentucky Alternate Assessment Waiver](#) webpage. The modules were shared with stakeholders through KDE's OSEEL's weekly "News You Can Use", which is distributed to LEAs and other stakeholders, including KY-SPIN.

Participation Criteria and State Definition: The KDE will continue to seek stakeholder feedback to review and, if necessary, revise state resources related to AA-AAAS participation and the definition of students with the most significant cognitive disabilities. If any revisions are required, the KDE will collaborate with the SERTACs to develop training and guidance to support LEAs. All of Kentucky's LEAs are eligible to receive services at no cost through SERTACs. Services include technical assistance (TA) to improve outcomes for students with disabilities. In addition, these TA services align with KDE's OSEEL initiatives to meet the federal requirements of the IDEA and the priorities established by the Office of Special Education Programs (OSEP).

Required Training Modules: The KDE will continue to provide LEAs with six professional development modules related to AA-AAAS. The modules will be required for all new and current ARC team members, including special education teachers, ARC chairpersons and DoSEs. The modules can be found on the [KY Learning Hub](#). More information about module topics and who is required to participate can be found in [Appendix D](#).

- Module 1: The KY 1% Alternate Assessment Waiver 3rd-12th Grade;
- Module 2: Completing the Participation Guidelines for 3rd-12th Grade;
- Module 3: Preparing for ARC- Participation Guidelines for 3rd-12th Grade;
- Module 4: Learner Characteristic Inventory;
- Module 5: Using Data Sources to Understand and Describe Alternate Assessment Population; and
- Module 6: Annual Review Guidance for Alternate Assessment.

National Center on Educational Outcomes (NCEO): The KDE will continue to work with NCEO to support KDE's ongoing work around students with the most significant cognitive disabilities during the 2026-2027 school year. KDE participates in NCEO sponsored activities, including the 1.0% Community of Practice (CoP) bi-weekly calls, webinars and other state-sponsored convenings to improve the agency's ongoing work pertaining to students with significant cognitive disabilities and their participation in the AA-AAAS.

Additionally, the KDE participates in bi-annual collaboratives sponsored by the Council of Chief State School Officers (CCSSO). Through collaboration, the KDE interacts with other states to enhance state assessment, accountability and curriculum and instruction systems to provide equity and inclusion for students with disabilities.

Assessment Practices and Safeguards: The KDE's Office of Assessment and Accountability (OAA) is working to strengthen testing procedures and best practices to ensure that every student participates in the assessment that best aligns with their instructional needs. All AA-AAAS test administrators must complete and pass a qualification quiz prior to administering the test to students. As a result of TA calls collected by OAA, the quiz will be revised for the 2026-2027 school year to include questions about alternate assessment participation decisions.

During the fall and spring testing windows, OAA will conduct onsite visits to observe the administration of the AA-AAAS. OAA will utilize a standardized set of [Site Visit Survey Questions](#) during these visits.

In the 2025–2026 assessment year, OAA will implement more targeted training for AA-AAAS administrators. The additional training will include misconceptions about alternate assessment eligibility criteria and what to do when a student moves in from out of state. When LEAs request make-up testing, OAA will conduct student record reviews to confirm that all participation guidelines were met before approving the request.

SERTAC provided training: SERTACs work with LEAs identified with noncompliance during monitoring activities. LEAs can request assistance from their SERTAC director in developing training to meet their CAP requirements.

Low Incidence Task Group: Representatives from the SERTACs developed a low incidence task group to share instructional resources and supports with school-level staff working with students with the most significant cognitive disabilities.

For the 2026-2027 school year, representatives from KDE's OSEEL and OAA will continue to attend the low incidence task group meetings to gain insight into what additional AA-AAAS supports school-level staff need. Using the results from the root cause analyses from SERTACs' student file reviews this past spring, KDE will work with the low incidence group to develop targeted training for school-based staff.

Beginning of the Year (BOY) training: Each year, staff from KDE's OSEEL conduct a Beginning-of-Year (BOY) training for all DoSEs and preschool coordinators across the state. The training provides updates on data collection requirements, monitoring activities, newly developed resources and other changes affecting special education programs and students. At this year's BOY training, OSEEL will provide updates on AA-AAAS participation, including statewide trend data and planned next steps.

DoSE Institute: The KDE's OSEEL invites DoSEs and preschool coordinators to participate in a biannual DoSE Institute. This two-day conference focuses on strengthening programs and

supports for exceptional children through guidance, collaboration and shared learning. At this year's institute, OSEEL staff will present "Reflect, Refine and Reinforce: Improving Alternate Assessment Systems Together." This session will examine statewide data trends and challenges while highlighting best practices for developing effective systems and structures that support consistent, student-centered alternate assessment decisions.

Data Analysis by Special Education Population: As noted in NCEO Brief 450, [A Historical Review of Alternate Assessment and the 1% Cap](#), the 2003 federal regulations issued by the United States ED authorized alternate achievement standards and specified that only a small subset of students with disabilities, those with the most significant cognitive disabilities, should participate in alternate assessments based on alternate achievement standards. The regulations further indicated an expectation that this group would represent no more than approximately 9.0 percent of students with disabilities.

Using this benchmark, the KDE's OSEEL reviewed statewide participation data for the AA-AAAS. The review found that participation rates for students with disabilities were below 9.0 percent for reading (8.20%), mathematics (8.20%) and science (8.55%).

The OSEEL also examined participation patterns at key grade-level transitions, including elementary-to-middle school and middle-to-high school transitions. The analysis found no significant increases in AA-AAAS participation at these transition points. Participation rates in reading and mathematics remained stable through middle school and declined slightly in high school, while science participation increased slightly (0.1%).

Based on these analyses, the state believes it is meeting the expectations set forth by the United States ED in the 2003 federal regulations.

(C) Disproportionality

The state is required to address any disproportionality in the percentage of students taking an AA-AAAS.

As part of the Justification Response Form, LEAs are required to describe the processes used to monitor AA-AAAS eligibility and possible disproportionality in participation.

The KDE will continue to review LEAs using a rate-comparison calculation to ensure disproportionality is addressed. The rate comparison calculation identifies when the data for any group are disproportionate to those of other groups.

Kentucky uses a risk ratio calculation. A risk ratio is the comparison of two different risks: the risk for a specific student group to participate in the AA-AAAS compared to the risk for all students not in that student group to participate in an AA-AAAS.

For example:

- White students participating in the AA-AAAS: 2;

- All white students assessed in the LEA: 250;
- Non-white students participating in the AA-AAAS: 4;
- Non-white students assessed in the LEA: 2000;
- The risk of white students participating in the AA-AAAS is $2/250=0.008=.8\%$;
- The risk of nonwhite students participating in the AA-AAAS is $4/2000=.002=.2\%$;
- Risk ratio= $.8/.2=4.00$; and
- Therefore, white students are 4.00 times more likely than non-white students to participate in the AA-AAAS.

In the event the data reveals any disproportionality in the percentage of students participating in the AA-AAAS, the KDE will address the issues as follows:

- Review LEAs with high rates of disproportionality;
 - As stated in the NCEO 2019 Brief titled, [Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments](#), “a risk ratio of 1.0 indicates that the proportion of focal group students who are AA-AAAS participants is the same as the focal group who are not AA-AAAS participants. In other words, there is no evidence of disproportionality when the risk ratio is at or very near 1.” The KDE referenced the principles established in the NCEO framework and example provided by NCEO, reviewed Kentucky-specific data and determined a 2.0 threshold was appropriate to determine disproportionality;
- Complete desk reviews of student files in the identified subgroup to determine if the decision for a student to participate in the AA-AAAS met regulatory requirements using the [Participation Guidelines for the Kentucky Alternate Assessment Review](#) document;
 - If the decision has not met regulatory requirements and noncompliance is found, the LEA is issued a CAP. The CAP must include a root cause analysis of systemic issues, a statement of noncompliance to be corrected, the steps the LEA will take to correct the problem and how compliance will be documented;
- Provide technical assistance if the decision for a student’s participation in the AA-AAAS did not meet the state criteria for a “significant cognitive disability.” The LEA may seek technical assistance from its SERTAC with the development of the CAP. These activities may include, but are not limited to, the following:
 - Assisting LEAs in developing action steps to correct any disproportionality issues identified;
 - Training for chairpersons of ARC team meetings;
 - Training for special education teachers;
 - Scheduled record reviews of students with disabilities eligible to participate in the AA-AAAS;
 - Training for LEA staff who are ARC members; and
 - Resources for parents of students participating in the AA-AAAS.
- Assist LEAs in developing action steps to correct any issues identified with disproportionality.

To better understand and address any disproportionality in the percentage of students taking an AA-AAAS, KDE reviews the participation rates in alternate assessment for each subject area by

student group. Tables Eight, Nine and Ten show participation rates by student group from the 2023-2024 and 2024-2025 school years.

Table Eight: AA-AAAS Participation Rates by Student Group, 2023-2024 and 2024-2025 school years, Reading

Student Group	2023-2024	2024-2025	Difference from 2023-2024 to 2024-2025
African American	1.33%	1.44%	0.11%
American Indian	1.13%	1.62%	0.49%
Asian	1.00%	1.22%	0.22%
Hispanic	0.94%	1.00%	0.06%
Pacific Islander	0.61%	1.37%	0.76%
White	1.21%	1.28%	0.07%
Two or More Races	1.24%	1.27%	0.03%
Male	1.57%	1.65%	0.08%
Female	0.80%	0.86%	0.06%
English Learner	1.05%	1.20%	0.15%
Econ. Disadvantaged	1.51%	1.58%	0.07%

Table Nine: AA-AAAS Participation Rates by Student Group, 2023-2024 and 2024-2025 school years, Mathematics

Student Group	2023-2024	2024-2025	Difference from 2023-2024 to 2024-2025
African American	1.33%	1.44%	0.11%
American Indian	1.13%	1.62%	0.49%
Asian	1.00%	1.25%	0.25%
Hispanic	0.95%	1.00%	0.05%
Pacific Islander	0.61%	1.36%	0.75%
White	1.21%	1.27%	0.06%
Two or More Races	1.24%	1.27%	0.03%
Male	1.56%	1.65%	0.09%
Female	0.80%	0.85%	0.05%
English Learner	1.08%	1.22%	0.14%
Econ. Disadvantaged	1.51%	1.57%	0.06%

Table 10: AA-AAAS Participation Rates by Student Group, 2023-2024 and 2024-2025 school years, Science

Student Group	2023-2024	2024-2025	Difference from 2023-2024 to 2024- 2025
African American	1.30%	1.39%	0.09%
American Indian	0.93%	1.29%	0.36%
Asian	1.20%	1.41%	0.21%
Hispanic	1.04%	0.90%	-0.14%
Pacific Islander	0.73%	0.80%	0.07%
White	1.24%	1.25%	0.01%
Two or More Races	1.20%	1.28%	0.08%
Male	1.57%	1.66%	0.09%
Female	0.86%	0.79%	-0.07%
English Learner	1.05%	1.12%	0.07%
Econ. Disadvantaged	1.60%	1.62%	0.02%

Appendix A: KDE's news release of public notice and comment period



Press Release

Media Contact: Jennifer Ginn
Director of Communications
Office: (502) 564-2000
jennifer.ginn@education.ky.gov
Advisory 26-183

July 21, 2026

SEEKING PUBLIC COMMENT



KDE seeking public comment on proposed alternate assessment participation waiver

(FRANKFORT, KY) – The Kentucky Department of Education (KDE) is seeking public comment on a request to the U.S. Department of Education (USED) for a waiver related to the number of students participating in the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

The AA-AAAS is aligned with alternate academic achievement standards on the annual statewide Kentucky Summative Assessment (KSA).

According to federal law, no more than 1% of the total number of students participating in a statewide assessment may take an AA-AAAS in each tested subject area.

Eligibility data from the 2025-2026 school year shows that slightly more than 1% of Kentucky's students were eligible to participate in AA-AAAS. Under [34 C.F.R. §200.6\(c\)\(4\)](#), if a state anticipates it will exceed the cap for any subject for which assessments are administered in a school year, the state may request that the U.S. Secretary of Education waive the cap for the relevant subject for one year. KDE plans to submit a waiver to USED in reading, mathematics and science.

To receive a waiver, KDE must:

- Gather data on the characteristics of students participating in the AA-AAAS;
- Determine whether only those students who have significant cognitive disabilities are participating;
- Monitor alternate assessment data and request justification from all districts exceeding 1% participation in any subject; and
- Address any disproportionality in the percentage of students taking the alternate assessment.

The [proposed waiver](#) is available on KDE's website. General information on Kentucky's AA-AAAS is available on [KDE's Alternate Kentucky Summative Assessment webpage](#).

The public comment period will be July 21- Aug. 4.

The public may send written comments on the proposed waiver to Jarrod S. Slone, Director, Division of IDEA Monitoring and Results, Office of Special Education and Early Learning, Kentucky Department of Education, 300 Sower Blvd., Fourth Floor, Frankfort, KY 40601.

Comments also may be submitted by email to [Jarrod Slone](#), by telephone at (502) 564-4970 or by fax at (502) 564-4124.



Kentucky Department of Education

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Appendix B: Public Comments

Date: 8/4/2026

Position: ECE Implementation Coach

Affiliation: Jefferson County Public Schools

Public Comment:

Dear Mr. Slone,

I hope you are well. I am writing in response to the request for public comment regarding the proposed waiver for the Kentucky Alternate Assessment in Reading, Mathematics, and Science.

I am a 20-year veteran educator with experience serving students with significant disabilities across multiple districts and in multiple roles. I spent nine years as a classroom teacher, serving students with moderate to severe disabilities, and have spent the past 11 years in special education support roles. I have served as a Special Education Consultant and currently serve as an ECE Implementation Coach with JCPS. My experience includes supporting students with MSD and LBD needs, working with teams throughout the referral and eligibility process, and assisting with the development and implementation of special education services.

Throughout my career, I have also been afforded opportunities to contribute to assessment-related work beyond my individual school responsibilities. While teaching in Bullitt County I was asked to participate in work related to assessment cut scores and to provide input regarding assessment standard selection. I also served as a teacher member of the Autism Cadre for OVEC across multiple years where I obtained information disseminated by KDE and worked to help educators in my district to better understand and serve students who meet that eligibility criteria. I mention this not to suggest that my experience supersedes the expertise of others, but to provide context for my familiarity with assessment practices, special education processes and best practices, and the considerations that inform participation decisions and programming for students with a wide range of disabilities.

I have also specifically developed a strong working knowledge of the participation guidelines used by Admissions and Release Committees (ARCs) when determining whether a student meets the criteria for participation in the Kentucky Alternate Assessment and, ultimately, whether the Alternative High School Diploma pathway is appropriate for a student.

It is from this professional perspective that I am submitting a concern regarding the implementation of these decisions within JCPS.

In my current role at Binet, a special/separate school serving students with moderate to severe cognitive disabilities and significant behavioral needs, I have observed situations that cause me to question whether the full range of applicable participation criteria and available student data are consistently being considered when decisions are made regarding alternate assessment participation and the Alternative Diploma pathway.

The students served at Binet have complex and varied profiles. Some have significant receptive and expressive communication limitations but not all of our students fit this profile. Others experience behavioral needs that substantially interfere with their ability to access instruction, demonstrate skills, or acquire and generalize academic content. We also serve students whose cognitive and adaptive assessment results do not always appear to clearly align with the level of need generally associated with participation in the alternate assessment. In other cases, students have limited, interrupted, or atypical educational histories, making it particularly important to consider whether performance provides a sufficient basis for making long-term educational pathway decisions.

Additionally, and because Binet is a special/separate school, students do not have access to typical peers within the school setting and we do see negative impacts because they don't have access to typical peers that can model more appropriate behavior. For some students, significant behavioral needs can affect their ability to participate consistently in instruction and assessment. This can make it difficult to distinguish between an inability to demonstrate a skill and an inability or

unwillingness to engage with the task at a particular point in time. It can also affect the data available to teams when considering whether a student continues to require the level of support associated with an alternate assessment or whether a less restrictive setting or different diploma pathway should be considered. It remains critical that we thoroughly and extensively use data to get that decision for placement on the Alternative Diploma track correct for all of our students.

I recognize that these are difficult and complex decisions. I also recognize that students with significant disabilities may have substantial instructional and behavioral needs and that the current diploma structure does not provide an intermediate option for students who may not fit neatly within the two existing pathways. However, I am concerned about the potential consequences when a student is assigned to the Alternative Diploma pathway without sufficient consideration of all applicable participation criteria and the totality of the student's educational data.

Participation in the alternate assessment and placement on an Alternative Diploma pathway are consequential decisions. They can influence a student's educational programming, expectations, opportunities for instruction and assessment, and ultimately the trajectory of the student's education. For that reason, I believe it is particularly important that these decisions remain individualized, data-based, and consistently aligned with the established state criteria.

I write this to simply raise concern about whether our current practices consistently support the intent of the state participation guidelines and whether teams have adequate safeguards and support to ensure that these decisions are made appropriately and are not being heavily influenced by a number of factors in which the decision should not be based upon.

I also want to acknowledge that submitting this concern is difficult for me professionally. I have some concern that raising questions about current practices could have professional consequences, despite my intent being to advocate for students and support appropriate decision-making. Nevertheless, I believe that part of my professional responsibility is to speak when I have concerns that may affect students' long-term educational opportunities. I respectfully ask KDE to consider these concerns as part of the public comment process and, if appropriate, provide additional guidance regarding the consistent application of alternate assessment participation criteria and the relationship between those criteria and Alternative Diploma pathway decisions. I am also happy to share additional and specific examples and information, if needed, regarding my concerns. Thank you for your time and consideration. I would appreciate any feedback or guidance KDE can provide regarding these concerns.

Respectfully,
Stacy Coogle

KDE Response: Thank you for your comments. The comments made relate to local district and school practices rather than the content of Kentucky's alternate assessment waiver request. The purpose of the waiver is to request permission to exceed the federal 1.0% participation cap, not to address individual student or district concerns. Concerns regarding local implementation should be addressed to your director of special education or other special education administrative support. Further questions can be directed to the Office of Special Education and Early Learning's Guidance and Support Branch at (502) 564-4970. Information on the dispute resolution process is provided on the Kentucky Department of Education's website.

Appendix C: Action Plan for 2026-2027 Assessment Year

Action Step	Timeline
Post waiver request for public comment	July 21, 2026
Submit 1.0% Waiver Request for Reading, Math and Science to ED	August 11, 2026
“Reflect, Refine and Reinforce: Improving Alternate Assessment Systems Together” session at DoSE Institute	August 31, 2026
Beginning of the Year (BOY) Training for DoSEs- provide an update on Alternate Assessment Participation rates	September 2026
Conduct student file reviews for districts that were over 1.0% participation and declined technical assistance from their SERTAC	September-October 2026
Participate in the NCEO CoP 1% group	Meets biweekly throughout the year
ARC members complete Alternate Assessment modules on KY Learning Hub	Summer/Fall 2026
Districts identified for RFM that have Alternate Assessment “risk” are monitored through student file reviews, onsite visits and interviews.	2026-2027 school year
OAA completes onsite visits during the Fall AA-AAAS testing window	November 9-December 18, 2026
KDE representatives attend Low Incidence Task Group meetings	Monthly throughout 2026-2027 school year
Submit waiver addendum with 2025-2026 assessment data to ED	February 2027
LEAs over 1.0% participation notified and sent Justification Response Form	March 2027
LEAs selected for AA-AAAS desk reviews notified	April 2027
AA-AAAS Monitoring via desk reviews	April-May 2027
Assurances Form sent to all LEAs	June 2027

Appendix D: Universal Training Module Outline

<u>Administrator Track</u> Focuses on: • How my LEA fits into the bigger picture (Modules 1 and 5) • How my LEA stays compliant with state expectations (Modules 2 and 4)	<u>Educator Track</u> Focuses on: • How what I see and collect in the classroom informs how my student participates in KY assessments (Module 3) • How what I see and collect in the classroom informs the completion of the Learner Characteristics Inventory (LCI) (Module 4)	<u>Annual Review for ARC Members Module</u> Refresher module focuses on: • How to complete the participation guidelines • How what I see and collect in the classroom informs how my student participates in KY assessments • How what I see and collect in the classroom informs the completion of the LCI
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<u>Module 1</u> <u>The KY 1% Alternate Assessment waiver</u> • Change in reporting requirement • Communicating with LEA staff	<u>Module 2</u> <u>Completing the Participation Guidelines</u> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. Modification • How to use the Participation Guidelines for determination	<u>Module 3</u> <u>Preparing for the ARC- Participation Guidelines</u> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. modification • How to prepare to answer the Participation Guidelines 4 criterion	<u>Module 4</u> <u>Completing the Learner Characteristics Inventory</u> • Purpose and use • Guidance on answering each question	<u>Module 5</u> <u>Understand Your LEAs alternate assessment population in relation to the CAP</u> • Data sources that could be used • LEA comparisons • Red flags to explore
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