



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 10, 2024

The Honorable Robin Fields Kinney
Interim Commissioner of Education
Kentucky Department of Education
300 Sower Blvd, 5th Floor
Frankfort, KY 40601

Dear Commissioner Kinney:

I am writing in response to the Kentucky Department of Education's (KDE's) request on August 15, 2023 (updated on January 31, 2024, and March 4, 2024), for a one-year waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), which stipulates that a State may not assess more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). KDE requested this waiver because, based on State data for the 2022-2023 school year, KDE has concluded that it may need to assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2023-2024 school year.

After reviewing KDE's waiver extension request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for SY 2023-2024, a waiver extension of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in R/LA, mathematics, and science.

As part of this waiver, KDE assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implement regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Had assessed in SY 2022-2023 at least 95 percent of all students and all students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR § 200.6(d) – excluding (d)(6) – and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- Will implement, consistent with the plan submitted in KDE’s waiver extension request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 percent cap.

As a reminder, 34 CFR § 200.6(c)(3)(iv) requires a State to make publicly available the information submitted by an LEA justifying the need to assess more than 1.0 percent of its students on the AA-AAAS, provided that such information does not reveal personally identifiable information about an individual student. I also encourage you to publish your State’s plan, timeline, and progress in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by KDE, I expect to continue to see positive results of this plan in SY 2023-2024 and beyond. I note that KDE has reduced the number of students assessed on an AA-AAAS over the past several years (from 2017-2018 to 2022-2023) and the number of LEAs that exceeded the 1.0 percent cap. I want to thank you for your continued efforts in achieving such progress. Future requests for a waiver extension will continue to expect both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS in all tested subjects.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact my staff at ESEA.Assessment@ed.gov.

Sincerely,



Adam Schott
Principal Deputy Assistant Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Gretta Hylton, Associate Commissioner,
Office of Special Education and Early Learning