



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

November 13, 2024

The Honorable Mark Holodick  
Secretary of Education  
Delaware Department of Education  
401 Federal Street, Suite 2  
Dover, DE 19901-3639

Dear Secretary Holodick:

I write in response to the Delaware Department of Education's (DDOE's) request on July 9, 2024 (with additional information provided on August 9, 2024), for a 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). DDOE requested this waiver because, based on State data for the 2023-2024 school year, DDOE concluded that it may exceed the 1.0 percent cap on AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2024-2025 school year.

After reviewing DDOE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, a one-year waiver (2024-2025 school year) of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of students with an AA-AAAS in R/LA. I am declining to exercise my authority under section 8401(b) of the ESEA for a one-year waiver (2024-2025 school year) of section 1111(b)(2)(D)(i)(I) in mathematics and science because DDOE did not meet the requirement in 34 CFR § 200.6(c)(4)(ii) to assess at least 95 percent of students with disabilities in these subjects in the 2023-2024 school year.

As part of the waiver granted for R/LA, DDOE 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 2023-2024 at least 95 percent of all students and all students with disabilities who are enrolled in grades for which the R/LA 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.

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

Because the State did not meet the requirements for a waiver of the 1.0 percent cap on AA-AAAS participation in mathematics, the Department is maintaining the condition on DDOE’s Title I, Part A grant award until the State assesses less than 1.0 percent of students in mathematics, on the AA-AAAS. If the State fails to make progress reducing the AA-AAAS participation rate in future years, the Department may take additional action.

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 continue to publish your State’s plan, timeline, and progress in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by DDOE, I expect to continue to see positive results of this plan in the 2024-2025 school year and beyond. Based on the data DDOE submitted, the State has substantially reduced the percentage of students assessed on an AA-AAAS over the past several years (e.g., from 1.49 percent in 2017-2018 to 1.06 percent in 2023-2024 in R/LA) and the State has been below 1.0 percent in science in each of the past two years. Thank you for your work to achieve such progress. Future requests for a waiver extension will continue to expect both continued progress implementing your plan and progress in reducing the current percentage of students taking the AA-AAAS in all tested subjects.

If the data reported by DDOE are erroneous and the State can demonstrate that it assessed at least 95 percent of students with disabilities in mathematics and science during the 2023-2024 school year, DDOE may revise its request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii). The revised waiver extension request must be submitted no later than 60 days from the date of this letter. Because the State has continued to assess more than 1.0 percent of students in mathematics with an AA-AAAS without a waiver, the Title I Part A grant condition will remain in effect in that subject area.

I appreciate the work you are doing to improve Delaware’s schools and provide a high-quality education for your students. If you have any questions, please contact my staff at [ESEA.Assessment@ed.gov](mailto: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: April McCrae, Director, Assessment and Accountability  
Michelle Jackson, Education Associate, Special Populations

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# Delaware 1% Waiver Extension Request: ELA, Mathematics, and Science

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ESEA Section 111(b)(2)(D) and 34 CFR 200.6 (c) AND (d)



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## Introduction

### Introduction and Student Participation State Focus

In Delaware, assessment is an integral component in the instructional cycle. Assessments implemented at various points at the local, district and state levels serve a variety of purposes for pupils, educators, parents, community members and policy makers. Additionally, these administrations help to assist in fulfilling state and federal requirements.

The Delaware System of Student Assessment (DeSSA) balanced system of assessment was developed and put into place to help ensure student growth for all students across the state as they prepare for college and career goals.

To that end, Delaware has been focused upon ensuring student participation overall in ELA, mathematics and Science for both the general assessments and alternate assessments. This has been a struggle; however multi-branch team efforts have helped to increase this participation rate.

### National Context

The Every Student Succeeds Act (ESSA) of 2015, amended from the previous Title I of the Elementary and Secondary Education Act of 1965, revised the provisions associated with the alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities. ESSA requires states anticipating exceeding 1% participation in these alternate assessments in ELA, mathematics, or science submit a 1% cap waiver request to the U.S. Department of Education.

### Delaware's Progression

Upon anticipating exceeding the 1% participation cap, an initial waiver request was developed and approved for ELA, mathematics, and science in 2017. Delaware continued to implement planned activities related to the 1% cap and moved forward with enacting a balanced system of assessments. A focus on standardization of guidance, updated documents, professional development, and additional technical support was launched.

These activities and initiatives continue today, along with additional focal points including:

- development and implementation of an LEA monitoring system
- resources and support to assist LEAs in self-reflection/monitoring accurate identification of appropriate assessment participation

### A Review of Participation Rates

The 2023-2024 participation rates for the school year were 1.06% for ELA, 1.05% for mathematics, and 0.97% for science. These participation rates demonstrate a reduction and as seen in Table 1, a trending approach toward the 1% cap threshold.

Table 1 demonstrates an overall decrease of 0.43% in ELA, 0.44% in mathematics and 0.59% in science alternate assessment participation rates from 2018 to 2024.

Table 1: Percentage of Students Participating in the Alternate Assessment Over Time

Content Area	2018	2019	2020	2021	2022	2023	2024	Difference from 2018-2024
ELA	1.49	1.45		1.35	1.17	1.06	1.06	0.43
Math	1.49	1.44		1.35	1.17	1.06	1.05	0.44
Science	1.56	1.48		1.64	1.03	0.93	0.97	0.59

### ***Stakeholder Engagement***

The 1% cap plan incorporates collaboration between both internal and external stakeholder groups. At the state level, groups including the Governor’s Advisory Council for Exceptional Citizens (GACEC) and the state Parent Information Center (PIC) group are active in two-way communication related to 1% cap initiatives. Both groups have cross-state representatives and engaged parent participants. Within the state department of education, representatives from various departments including assessment, instruction and exceptional children continue to have active involvement through 1% cap sessions, planning, and activities. Ongoing meetings with local education agencies (LEAs), special education directors, and assessment directors take place with a standing 1% cap component included routinely in cross-state sessions. Updates, monitoring, and training help to reach all LEAs across the state. Additionally, parents and community stakeholders are encouraged to provide feedback on posted initiatives, such as the posting of this waiver extension request.

### ***Professional Development and Technical Assistance***

Under the direction of the Director of Office of Assessment & Accountability and the Secretary of Education, the Special Populations Education Associate within the Office Assessment and Accountability helps to focus the 1% efforts, manage revisions, provide monitoring, lead desk audits, address professional development needs, and update those involved in 1% activities. The Special Populations Education Associate actively participates in a variety of stakeholder and professional learning activities as a mechanism for feedback, support and technical assistance:

- National Center for Educational Outcomes (NCEO) Community of Practice
- The TIES Center
- The Council of Chief State School Officers (CCSSO)
- State Collaborative for Assessment, Standards and Education of Students with Disabilities (ASES)
- National Conference on Student Assessment (NCSA)
- Dynamic Learning Maps Item Development and Analysis

In conjunction with these professional learning and stakeholder activities, the Special Populations Education Associate has developed a tiered and tailored system for ongoing LEA support while promoting efforts to adhere to effective policies and procedures for the assessment of each student in the most appropriate manner. Delaware’s Department of Education (DDOE) strives to ensure only those students eligible to participate in the alternate state assessments due to their identification with the most significant cognitive disabilities do so. In accordance with the ESEA 1% cap stipulations, justification forms are utilized to ensure closer examination of alternate assessment participation rates.

### ***State Review Process***

All Delaware LEAs are required to complete initial justification forms. This process has expanded in focus this year to include self-review at the LEA level, DDOE team monitoring and follow-up support. Those LEAs

expecting to exceed the 1% cap participation rate must also submit expanded justification form sections and provide required assurances.

**Revisions to Professional Learning Plan and Resources**

The development of the professional learning plan called for the DDOE to create and refine state resources such as technical support protocols, guidance documents, and monitoring procedures. Some of the developed and revised activities included:

- Revision of the most significant cognitive disability definition
- Alignment of guidance resources to the revised definition of the most significant cognitive disability
- Updates to the Appendix B-3: DeSSA-Alternate Decision-Making Tool
- Updates to the DDOE’s Companion Guide for Appendix B-3: DeSSA-Alternate Decision-Making Tool
- Adaptation of the professional development module for the DeSSA-Alternate Assessment Decision-Making Tool
- Review of the Decision-Making Tree for assessing students with the most significant cognitive disabilities

Additional professional learning and technical assistance activities align with the following components of the one percent waiver extension request requirements.

**One Percent Cap Waiver Extension Request Requirements**

**Requirement 1 – (§200.6(c)(4)(i)):** *Submit the waiver request at least 90 days before testing window starts for the relevant subject.*

DDOE RESPONSE	Evidence and Additional Information
DDOE operational window has been identified as 9/9/24- 5/16/25 and the waiver request will be submitted by 7/9/24	<ul style="list-style-type: none"> <li>• The DLM Instructionally Embedded (IE) assessments have two windows:               <ul style="list-style-type: none"> <li>• Fall: 9/9/24-12/20/24</li> <li>• Spring: 2/3/25- 5/16/25</li> </ul> </li> <li>• The OAA testing schedule is disseminated through three state-wide forums:               <ul style="list-style-type: none"> <li>• District Testing Coordinator (DTC) meetings</li> <li>• Multilingual Language Learner meetings, and</li> <li>• Special Education Leadership meetings.</li> </ul> </li> <li>• The waiver submission date is 90 days prior to the operations window opening.</li> </ul>

**Requirement 2 (A) - (§200.6(c)(4)(ii)(A)):** *Provide State-level data from the current or previous year that shows the number and percent in each subgroup who took the alternate assessment in the subject area.*

All students participate in the state assessments in grades 3- 8 for ELA and mathematics, SAT for high school, grades 5, 8, and HS Biology for science, and grade 11 for alternate assessment (high school equivalent). Students participate in the DeSSA general education assessments with or without accommodations or participate in the alternate assessment.

A summary of subgroup data for Delaware’s state level alternate assessment participation by content is provided in Tables 2 - 4.

Table 2: ELA Alternate Assessment Participation Rates by Subgroup

ELA	2023			2024		
	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment
<b>All Students</b>	71592	759	1.06	71559	755	1.06
<b>Female</b>	35061	224	0.64	35139	224	0.64
<b>Male</b>	36531	535	1.46	36420	531	1.46
<b>Hispanic</b>	13797	120	0.87	13879	124	0.89
<b>American Indian</b>	281	2	0.71	283	5	1.77
<b>African American</b>	22062	287	1.30	22200	291	1.31
<b>White</b>	28388	289	1.02	27855	274	0.98
<b>Asian-American</b>	3164	28	0.88	3322	34	1.02
<b>Hawaiian/ Pacific Islander</b>	115	1	0.87	99	1	1.01
<b>Multiracial</b>	3784	32	0.85	3920	26	0.66
<b>Low-Income</b>	21250	234	1.10	20994	225	1.07
<b>ELL</b>	7877	12	0.15	8184	13	0.16
<b>Homeless</b>	1667	34	2.04	1608	29	1.80

Table 3: Math Alternate Assessment Participation Rates by Subgroup

Mathematics	2023			2024		
	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment
<b>All Students</b>	71938	761	1.06	72167	755	1.05
<b>Female</b>	35214	222	0.63	35442	224	0.63
<b>Male</b>	36724	539	1.47	36725	531	1.45
<b>Hispanic</b>	14031	120	0.86	14337	124	0.86
<b>American Indian</b>	281	2	0.71	286	5	1.75
<b>African American</b>	22121	289	1.31	22287	291	1.31
<b>White</b>	28405	289	1.02	27882	274	0.98
<b>Asian American</b>	3204	28	0.87	3357	34	1.01
<b>Hawaiian/ Pacific Islander</b>	117	1	0.85	99	1	1.01
<b>Multiracial</b>	3778	32	0.85	3918	26	0.66
<b>Low-Income</b>	21261	235	1.11	21045	225	1.07
<b>ELL</b>	8301	12	0.14	8910	13	0.15
<b>Homeless</b>	1715	34	1.98	1674	29	1.73



Table 4: Science Alternate Assessment Participation Rates by Subgroup

Science	2023			2024		
	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment	Total Students Assessed	Total Assessed in Alternate Assessment	1% Assessed in Alternate Assessment
<b>All Students</b>	32281	301	0.93	32244	312	0.97
<b>Female</b>	15706	90	0.57	15757	94	0.60
<b>Male</b>	<u>16575</u>	<u>211</u>	<u>1.27</u>	<u>16487</u>	<u>218</u>	1.32
<b>Hispanic</b>	6455	48	0.74	6657	55	0.83
<b>American Indian</b>	166	1	0.60	135	0	0.00
<b>African American</b>	9964	117	1.17	10062	118	1.17
<b>White</b>	12754	116	0.91	12291	113	0.92
<b>Asian American</b>	1350	5	0.37	1411	14	0.99
<b>Hawaiian/ Pacific Islander</b>	51	0	0.00	46	0	0.00
<b>Multiracial</b>	1539	14	0.91	1642	12	0.73
<b>Low-Income</b>	9118	91	1.00	9187	98	1.07
<b>ELL</b>	3382	1	0.03	3833	3	0.08
<b>Homeless</b>	728	17	2.34	721	12	1.66

**Requirement 2 (B)** - (§200.6(c)(4)(ii)(B)): Provide State-level data from the current or previous year on the overall assessment participation rate for all students and for students with disabilities.

DDOE addressed participation through the State’s ESSA State Assessment participation requirement. Delaware’s ESSA plan requires LEAs under 95% participation to create an action plan and engage in the monitoring of participation throughout the state assessment window for 2024-2025.

From 2023-2024, the state has demonstrated an increased participation rate of students with disabilities on the state assessments. ELA had 95.03%, Math had 94.66%, and Science had 91.78% of students with disabilities participating across all the assessments (Table 5).

For all students, Delaware exceeded the 95% participation rate requirement at just over 97% for ELA and Math and over 95% for science. (Table 6). For our students participating in the alternate assessment, we also showed

gains, though we are still below 95% participation. Participation of students on the alternate assessment increased approximately 3.5% for ELA, 3.2% for Math and 4.5% for Science (Table 7).

This is because of the efforts of our department in monitoring participation, communicating with LEAs, incorporating new procedures for tracking and monitoring performance. With these continued efforts, the State envisions to meet this requirement by the 2025 SY administration for students on the alternate assessment.

Table 5: Participation Rates of Students w/ Disabilities (SWDs) in DeSSA Assessments by Content Area

Content Area	Eligible SWDs 2023	SWD Participants 2023	Participation Rate 2023
ELA	13684	12896	94.24
MATH	13678	12880	94.17
SCIENCE	6075	5537	91.14
Content Area	Eligible SWDs 2024	SWD Participants 2024	Participation Rate 2024
ELA	14085	13385	95.03
MATH	14086	13334	94.66
SCIENCE	6072	5573	91.78

Table 6: Participation Rates for All Students in DeSSA Assessments by Content Area

Content Area	Total Eligible Participants 2023	Total Participants 2023	Participation Rate 2023
ELA	73612	71592	97.26
MATH	74016	71938	97.19
SCIENCE	33993	32281	94.96
Content Area	Total Eligible Participants 2024	Total Participants 2024	Participation Rate 2024
ELA	73319	71559	97.60
MATH	74023	72167	97.49
SCIENCE	33788	32244	95.43

Table 7: Participation Rates in DeSSA-Alternate by Content Area

Content Area	Total Eligible 2023	Total Participants 2023	Participation Rate 2023
ELA	844	759	89.93
MATH	844	761	90.17
SCI	348	301	86.49
Content Area	Total Eligible 2024	Total Participants 2024	Participation Rate 2024
ELA	808	755	93.44
MATH	808	755	93.44
SCI	343	312	90.96

**Requirement 3 (A) – (§200.6(c)(4)(iii)(A)):** Provide assurance that districts over 1.0 percent participation in the alternate assessment followed the state’s participation guidelines.

DDOE RESPONSE	Evidence and Additional Information
<p>DDOE has verified that each district with more than 1.0 percent participation followed the state’s guidelines for participation.</p>	<p>In Delaware, all LEAs are required to complete a yearly justification form. Through our 2023-2024 Justification Form, all LEAs confirmed assurances of the following:</p> <ul style="list-style-type: none"> <li>• The IEP team adheres to the DeSSA-Alternate Assessment Decision-Making Tool (Appendix B-3) when making decisions for students to participate in the alternate assessment.</li> <li>• Special educators are trained to administer the DeSSA-Alternate Assessment.</li> <li>• IEP team leaders attend the statewide PD: Alternate Assessment Participation Decision-Making Tool Workshop.</li> <li>• Special educators and IEP team leaders attend the statewide webinar: State Guidelines and Participation Criteria to keep up to date on changes in the Decision-Making Tool.</li> </ul> <p>For LEAs over the one percent, The LEAs must respond to the following questions:</p> <ul style="list-style-type: none"> <li>• Is there a high incidence of students with disabilities in the district? If yes, please elaborate.</li> <li>• Is there a school, community or health program in the district that draws large numbers of students with significant intellectual disabilities? If Yes, please elaborate.</li> </ul> <p>The LEA Superintendent and Special Education Administrator are both required to sign the justification document to provide assurance that the contents of the LEA’s plan are accurate. The Justification and assurance information received is compiled and posted on the DDOE webpage.</p> <p>“By submitting this application, the district verifies that all students participating in the DeSSA-Alt meet the Delaware Department of Education’s DeSSA-Alt Decision-Making Tool.”</p>

**Requirement 3 (B)** – (§200.6(c)(4)(iii)(B)): *Provide assurance that any disproportionality in students taking the alternate assessment will be addressed.*

DDOE RESPONSE	Evidence and Additional Information
<p>DDOE has verified that LEAs provided assurance that any disproportionality in students taking the alternate assessment will be addressed.</p>	<p>In Delaware, all LEAs are required to complete a yearly justification form. Through our 2023-2024 Justification Form, all LEAs confirmed assurances of the following:</p> <ul style="list-style-type: none"> <li>• Address any disproportionality in the subgroups that arise from students participating in the alternate assessment.</li> </ul> <p>For those LEAs over the one percent who are placed on Tier 2 Supports, they must provide subgroup data using a Tier 2 Subgroup Data Report</p> <p>The annual participation and performance data are provided by the alternate assessment vendor and uploaded to the EdInsight Reports data management system.</p>

**Requirement 4 (A)** – (§200.6(c)(4)(iv)(A)): *Submit a plan and timeline by which the State will improve the implementation of its participation guidelines, including if necessary, revising its definition of “students with the most significant cognitive disabilities” in future school years.*

The state will continue to meet all other requirements of section 1111 of 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.

The state plan and timeline intended to address the reduction of percentages exceeding the one percent cap of alternate assessment participation will be included, pursuant to the additional federal requirements detailed in 34 C.F.R. §200.6(c)(4). This plan will also include State guidelines clarification, professional development, oversight, and support for identified areas of need. Consistent with the plan submitted in this waiver request, DDOE will implement system improvements and monitor future administrations to avoid exceeding the 1% cap.

DDOE RESPONSE	Evidence and Additional Information
<p>The DDOE improved its participation guidelines, including its definition of students with the most significant cognitive disabilities.</p>	<p>The DDOE worked in conjunction stakeholders during the 2017-18 school year to develop a state definition of “students with the most significant cognitive disabilities.”</p> <p>After in-depth research and the inclusion of stakeholder input, in Fall 2022, the state revised its definition of “students with the most significant disabilities” to include a focus on the word pervasive. This definition was also added to the state decision-making tool.</p> <p>Each year this definition is reviewed by stakeholders and our DDOE one percent cap team.</p>

	<p>The <u>DeSSA-Alt Decision-Making Tool</u> is posted on the <u>One Percent Threshold for Statewide Alternate Assessments webpage</u> and is in Appendix (B-3) in the Delaware Accessibility Guidelines. The decision to participate in the AA-AAAS is made by the Individualized Education Program (IEP) team and documented accordingly in the student's IEP. The department also created the following resource for IEP Teams.</p> <ul style="list-style-type: none"> <li>• <u>Guidance and Procedures for Implementing the Decision-Making Tool</u></li> </ul> <p>These guidance documents are meant to assist IEP teams during the decision-making process when determining the appropriateness of a student’s participation in the DeSSA-Alternate Assessment.</p> <p>The DDOE participates in the bi-monthly NCEO 1% calls to increase knowledge on how Delaware can continue to move forward in reducing the One Percent.</p> <p>The DDOE staff takes part in the CCSSO meetings to increase knowledge around assessing students with the most significant cognitive disabilities.</p> <p>The DDOE provides yearly professional development on the Decision-Making Tool and revisions are shared with stakeholders.</p>
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**Requirement 4 (B) – (§200.6(c)(4)(iv)(B)):** *Submit a plan and timeline by which the State will take additional steps to support and provide appropriate oversight to each LEA that the state anticipates will assess more than 1.0 percent with the alternate assessment.*

<b>DDOE RESPONSE</b>	<b>Evidence and Additional Information</b>
<p>DDOE will provide support and appropriate oversight to each LEA that the state anticipates will assess more than 1.0 percent with the DeSSA.</p>	<p>DDOE will employ a multi-faceted, three-tiered approach to providing LEA support and appropriate oversight. Previously, the accountability process was based on a four-tier model. However, to reinforce the state’s MTSS framework for tiered intervention and support, in Jun. 2023, the DDOE adjusted to a three-tiered model: universal, secondary and tertiary.</p> <p>The following criteria will be applied for tiered supports.</p> <p>All LEAs will participate in Tier 1 support.</p> <p>1) <b>Universal (Tier 1) supports</b> will include:</p> <ul style="list-style-type: none"> <li>• Complete the <u>Justification Form</u></li> <li>• Complete the Professional Development Module on the Decision-Making Tool and review the implications of assessing students on the alternate assessment;</li> <li>• <b>Business Rules:</b></li> </ul>

DDOE RESPONSE	Evidence and Additional Information
	<ul style="list-style-type: none"> <li>• A school with a total testing population of 300 or less will be placed on Tier 1.</li> <li>• LEAs with special schools (or separate school settings) with a high incidence of students with complex needs will be placed on Tier 1. <ul style="list-style-type: none"> <li>▪ As a condition of this business rule, LEAs with special schools will annually: <ul style="list-style-type: none"> <li>• Complete a file review of at least 10% of their students participating in the Alternate Assessment using the <b><u>Alternate Assessment IEP Review Self-Evaluation form</u></b> for each student</li> <li>• Submit the summary and analysis reports for their file review using the <b><u>LEA Self-Assessment Review Summary Report</u></b> LEAs with special schools who do not annually complete the above requirements will be moved to Tier 2 support.</li> </ul> </li> </ul> </li> </ul> <p>2) <b>Secondary (Tier 2) Supports:</b> LEAs who exceed the 1.0 percent cap will receive Tier 2 support. Secondary supports will include:</p> <ul style="list-style-type: none"> <li>• Complete a file review of students provided by DDOE utilizing the <b><u>Alternate Assessment IEP Review Self-Evaluation form</u></b> <ul style="list-style-type: none"> <li>○ DDOE will randomly select 10% of the students participating in the Alternate Assessment and provide the roster to the LEA for their file review.</li> </ul> </li> <li>• Compose a summary and analysis of the file review using the <b><u>LEA Self-Assessment Review Summary Report</u></b></li> <li>• Complete <b><u>Tier 2 Subgroup Data Report form</u></b> – provide subgroup data and identify and disproportionality</li> <li>• Develop a corrective action plan to address non-compliance as identified by the LEA</li> <li>• Submit the summary and analysis of the file reviews and intervention plan to DDOE OAA</li> </ul> <p>3) <b>Tertiary (Tier 3) Supports:</b> LEAs who exceed the 1.0 percent cap for three or more years will receive Tier 3 support. Tertiary support will include:</p> <ul style="list-style-type: none"> <li>• DDOE will monitor each LEAs alternate assessment IEPs with a monitoring checklist;</li> </ul>

DDOE RESPONSE	Evidence and Additional Information
	<ul style="list-style-type: none"> <li>• DDOE will meet with each LEA via Zoom or onsite meeting to review results of monitoring.</li> <li>• DDOE and the LEA will meet to collaboratively develop an intervention plan to address the outcomes of the monitoring activities.</li> <li>• DDOE will provide accountability for the completion of the LEA’s intervention plan activities.</li> </ul>
<p>DDOE will provide a range of professional learning opportunities to support LEAs in the identification and participation of students on the DeSSA.</p>	<p>Professional development workshops, asynchronous modules and recorded videos offered to LEAs state-wide.</p> <p>The DDOE has developed decision-making resources and guidance documents for LEAs and will continuously review and revise as necessary.</p> <p>The DDOE also provides resources for parents to make sure that parents understand all the implications of participating in the alternate assessment. More resources are available on the webpage.</p> <ul style="list-style-type: none"> <li>• <a href="#">Parent Guide for the Alternate Assessment</a></li> <li>• <a href="#">What Parents need to know about the Accessibility Supports on Statewide Assessments</a></li> <li>• <a href="#">DeSSA-Alt Fact Sheet</a></li> <li>• <a href="#">Delaware's High School Diploma versus Diploma of Alternate Achievement Standards</a></li> </ul> <p>Individualized support framed around LEA needs is also available.</p> <p>The DDOE will address overall trends and overarching needs by participating in and/or providing the following:</p> <ul style="list-style-type: none"> <li>• Data collection, analyses, and reporting of overall data and subgroup data</li> <li>• Corrective Active Plans for LEAs who exceed one percent</li> <li>• Revisions of the and Guidance on the Decision-Making Tool, as needed, for participation in alternate assessments</li> <li>• An informational session detailing the components of the Decision-Making Tool.</li> <li>• Training on Universal Design for Learning and IEP accommodations training for staff and families</li> <li>• Increase marketing for the awareness of the one percent and solicit feedback related to the one percent threshold for alternate assessments, the state plan, along with related state and LEA level data stakeholder groups including <ul style="list-style-type: none"> <li>○ Access to General Curriculum committee</li> </ul> </li> </ul>



DDOE RESPONSE	Evidence and Additional Information
	<ul style="list-style-type: none"> <li>○ Governor’s Advisory Council for Exceptional Citizens (GACEC-state advisory council)</li> <li>○ Public Comment</li> <li>● Recorded trainings and updates related to the definition, participation guidelines, and one percent topics</li> <li>● One percent data compiled from justification forms returned by LEAs</li> <li>● Publicly post justification forms, state waiver request, public comment request, and waiver plan with timeline</li> <li>● Ensure support and guidance for all LEAs</li> <li>● Using the Companion document for the State Guidelines during IEP meetings</li> </ul>

**Delaware’s Timeline**

Timeframe	Tasks 2023-2024
<b>June 2024</b>	<ul style="list-style-type: none"> <li>● Review and Revise current Waiver Request</li> <li>● Review our Participation results to determine whether the State will meet the 95 percent participation criteria.</li> <li>● Attend CCSSO in June 2024 to learn updates from USED regarding the 1.0 percent cap.</li> </ul>
<b>July 2024</b>	<ul style="list-style-type: none"> <li>● DDOE posted the Waiver Request for Public Comment on July 9, 2024. This will be out for comment for 30 days.</li> </ul> <p><b>Submit <a href="#">New Waiver Request</a> by July 9, 2024</b></p> <ul style="list-style-type: none"> <li>● Preliminary review of data shows that the state should have made 95% in ELA, Math and Science for all students participating in the general and alternate assessments.</li> </ul>
<b>July 9 – Aug. 9, 2024</b>	<p>Public comment period on the waiver request.</p> <ul style="list-style-type: none"> <li>● The state will share information about the public comment period to DTCs, Spec Ed Leaderships, Principal’s Memo.</li> <li>● District Test Coordinators received information in a special email dated 7/9/2024.</li> <li>● The Public Comment notice was posted on our <a href="#">DDOE Announcements Webpage</a> on July 9, 2024.</li> </ul>
<b>Jul. 2024 - Jun. 2025</b>	<p>One Percent Cap Team meetings</p> <ul style="list-style-type: none"> <li>● Review the participation data related to the One Percent Cap – The data will help the state determine next steps as far as 95% Participation Plans, Technical Supports</li> <li>● Review the TAC requests surrounding the 1.0 percent cap, including the data review conducted by the state.</li> </ul>

	<ul style="list-style-type: none"> <li>• Discuss any other issues and regulations around the 1% Cap brought by public comment, or from the field.</li> <li>• Disseminating the Justification form to the districts</li> </ul>
<b>September 2024</b>	<p>Share out with Special Education Leadership and District Test Coordinators on the following:</p> <ul style="list-style-type: none"> <li>• Alternate assessment dates</li> <li>• Waiver Request submission</li> <li>• Justification form completion update</li> </ul>
<b>Oct. 2024</b>	Justification forms information is then compiled into a spreadsheet and posted on our website.
<b>Aug. 2024 – Mar. 2025</b>	<p>Professional Development</p> <ul style="list-style-type: none"> <li>• State provides webinars and other online professional development related to the tool</li> <li>• Alternate Achievement Standards training for teachers of students on the alternate assessments.</li> <li>• Ongoing consultation with One Percent Cap Group</li> <li>• Address concerns around the 1% Cap</li> <li>• Address technical assistance requests surrounding the 1% Cap</li> </ul>
<b>December 2024</b>	<ul style="list-style-type: none"> <li>• Notify LEAs placed on Tier 2 support. The LEAs will conduct an internal review of 10% of its students placed on the alternate assessment and submit the summary reports to DDOE. LEAs on Tier 2 support will also be required to submit information on their subgroups. This will be reviewed for any disproportionality in the subgroups.</li> <li>• LEAs with special schools will also conduct an internal review of 10% of its students placed on the alternate assessment and submit a summary report to DDOE.</li> </ul>
<b>Jan. 2024 – Jun. 2025</b>	<p>Review the Self-Assessment for LEAs with Special Schools Review the Plans for LEAs on Tier 2. Provide processes for self-evaluation and corrective action plans. Check if these LEAs made 95% participation.</p> <p>DDOE will also conduct IEP reviews of LEAs with students on the alternate assessment in conjunction with ECR. OAA will review the IEPs of students who are placed on the alternate assessment and provide feedback or technical assistance as needed.</p>
<b>June 2025</b>	Work on Waiver Request submission to USED if we have exceeded the 1.0 percent cap.

**Requirement 4 (C) – (§200.6(c)(4)(iv)(C)):** *Submit a plan and timeline by which the State will address any disproportionality in the percentage of students taking the alternate assessment.*

<b>DDOE RESPONSE</b>	<b>Evidence and Additional Information</b>
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<p>The DDOE will address disproportionality concerns in the percentage of students in any subgroup taking the DeSSA-Alternate assessment.</p>	<p>If disproportionality is triggered, the DDOE will address disproportionality concerns in the percentage of students in any subgroup of the DeSSA-Alternate through the following plan:</p> <ul style="list-style-type: none"> <li>• Calculate and analyze participation rates among subgroups at the state and district levels;</li> <li>• Identify subgroups over-represented in the DeSSA-Alternate participation counts;</li> <li>• Review district justifications and data to identify unusual patterns and high participation rates across subgroups.</li> <li>• Analyze subgroup data over time to identify trends in subgroup participation with the goal of decreasing disproportionality;</li> <li>• Continue support and guidance for appropriate use of the DeSSA-Alt Decision-Making Tool;</li> <li>• Revise and deliver professional develop on the required usage of the developed Companion Guide for the DeSSA-Alternate Decision-Making Tool;</li> <li>• Engage with stakeholder groups to address disproportionalities and ensure only students with the most significant cognitive disabilities are participating in the DeSSA-Alternate;</li> <li>• Report Assessment Data and Justification Forms on the DDOE Office of Assessment and Accountability webpage.</li> <li>• Create a <a href="#">Guidance and Procedures for Calculating Disproportionality for the DeSSA-Alternate Assessment</a> for the DeSSA-Alternate Assessment document provides a definition for disproportionality as well as step-by-step instructions on calculating disproportionality.</li> </ul> <p>The following can be used as references to address disproportionality concerns in subgroups:</p> <ul style="list-style-type: none"> <li>• <a href="#">Guidance for Examining District Alternate Assessment Participation Rates</a></li> <li>• <a href="#">Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments</a></li> <li>• <a href="#">Guidance for Examining Participation Rates and Disproportionality</a></li> </ul>
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**Requirement 5 – (§200.6(c)(4)(v)):** *Demonstrate substantial progress toward each component of the prior year’s plan and timeline, which was required under Requirement 4 (C).*

DDOE aims to make substantial progress toward meeting the 1% cap for the alternate assessment. If granted a Waiver, the State will make every effort to meet the 95% participation requirements and to also meet the assurances of the waiver request outlined in the State Plan and timeline activities.

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**Public Notice and Comment Period**  
Waiver Request- Pursuant to 34 C.F.R. §200.6(c)(4)  
July 9, 2024

The Delaware Department of Education (DDOE) Office of Assessment is seeking comments on the following waiver extension request. DDOE will request a waiver from the United States Department of Education for the 2023-2024 school year, pursuant to the regulation found at 34 C.F.R. §200.6(c)(4) requiring State Education Agencies (SEAs) to limit the number of students participating in state alternate assessment in a required subject area to be at or below one percent of the total number of all students taking the state level assessment.

34 C.F.R. §200.6(c)(2) states:

*For each subject for which assessments are administered under §200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.*

State Education Agencies requesting a waiver are required to adhere to the requirements stipulated at 34 C.F.R. §200.6(c)(4) and may be found below. DDOE is requesting a waiver extension for the anticipated greater than one percent alternate assessment participation in accordance with waiver requirements below.

*If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under §200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—(i) Be submitted at least 90 days prior to the start of the State’s testing window for the relevant subject;*

Pursuant to the stated federal requirements, DDOE will submit a one-year waiver extension request, along with a plan and timeline intended to begin to address the reduction of percentages exceeding the one percent cap of alternate assessment participation. The following information, as detailed in 34 C.F.R. §200.6(c)(4), will be included in the waiver:

- Delaware state-level data including
  - subgroup counts and percentages
  - participation rates in alternate assessments
- State assurances that LEAs exceeding the one percent cap followed State guidelines in determining eligibility for participation in alternate assessments
- A statewide plan and timeline including
  - Clarification of State guidelines, in conjunction with professional development, to expand understanding and implementation of the guidelines and the identification process
  - Support and oversight for LEAs exceeding the one percent cap, as well as addressing any identified areas of disproportionality

#### **NOTIFICATION OF PUBLIC COMMENT PERIOD**

**Prior to the submission of this new waiver request to exceed one percent alternate assessment participation, the DDOE is providing notification and requesting public comment. Comments on this proposed Delaware waiver pursuant to 34 C.F.R. §200.6(c)(4) may be submitted in writing from July 9 – August 9, 2024, to Michelle Jackson, Delaware Department of Education, Office of Assessment, 401 Federal Street, Suite 2, Dover DE 19901 or through email at [Michelle.Jackson@doe.k12.de.us](mailto:Michelle.Jackson@doe.k12.de.us).**

**Notification of this waiver request submission is being posted publicly on the DDOE website. Additionally, this information will be disseminated to LEA superintendents, district and charter leadership and coordinators, special education leadership, parent advisory and stakeholder groups, as well as educators. Comments received will be attached to the waiver request submission being sent to the US Department of Education.**