



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 31, 2025

The Honorable Cynthia Marten
Secretary of Education
Delaware Department of Education
The Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901-3639

Dear Secretary Marten:

I am writing in response to the Delaware Department of Education's (DDOE's) request on July 23, 2025, with additional information provided on August 26, 2025, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AAAAS) more than 1.0 percent of the total number of students in the State. DDOE requested this waiver because, based on State data for the 2024-2025 school year, DDOE has concluded that it will 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 2025-2026 school year.

After reviewing DDOE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2025-2026, a one-year waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of the total number of students in the State who are assessed in R/LA and mathematics using an AA-AAAS.

However, I am declining to exercise my authority under section 8401(b) of the ESEA, for the 2025-2026 school year, a one-year waiver of section 1111(b)(2)(D)(i)(I) of the ESEA in science. I am declining the request for science because DDOE did not meet the 95 percent assessment participation requirement in 34 CFR § 200.6(c)(4)(ii) in science for students with disabilities during the 2024-2025 school year. I also note that DDOE has assessed fewer than 1.0 percent of students on the AA-AAAS in science for each of the past three years and, as a result, DDOE may no longer need a waiver.

If the data reported by DDOE are erroneous and the State can demonstrate that it has assessed at least 95 percent of students with disabilities in science during the 2024-2025 school year, DDOE may revise its waiver extension 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 science waiver request must be submitted no later than 60 days from the date of this letter. DDOE may revise the science waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F). The revised waiver request must address how the requirements are met in 34 CFR 200.6(c)(4). The revised waiver request for science must be submitted no later than 60 days from the date of this letter.

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<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

As part of this waiver in R/LA and mathematics, 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.
- 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.
- 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 Department is granting the waiver in R/LA and mathematics and because the State has been under 1.0 percent in science, the Department is removing the existing grant condition on DDOE’s FY 2025 Title I, Part A grant award regarding AA-AAAS participation.

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 DDOE, I expect to continue to see positive results of this plan in 2025-2026 and beyond. DDOE has reduced the number and percentage of students assessed on an AA-AAAS over the past several years (from 2017-2018 to 2024-2025). 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 current 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,

/s/

Kirsten Baesler
Assistant Secretary
Office of Elementary and Secondary Education

Page 3 – The Honorable Cynthia Marten

cc: April McCrae, Director, Assessment and Accountability
Michelle Jackson, Education Associate, Special Populations



DELAWARE'S ALTERNATE ASSESSMENT PARTICIPATION WAIVER REQUEST 2025-2026

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) was developed 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 Reading/LA, 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 reading/LA, 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, Delaware is submitting an Alternate Assessment Participation Waiver Request for 2025-2026. The state has implemented several initiatives to reduce the alternate participation rates. A focus on standardization of guidance, monitoring, professional development, and additional technical support has been outlined in Delaware's Waiver Plan. 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.

The Delaware Department of Education has identified the following strategic refinements:

- Revise and review the requirement for participation in the alternate assessment through the use of a Decision-Making Tool.

- Audit the participation rates for each Local Education Agency (LEA through the completion of yearly Justification Forms.
- Development and implementation of a 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 2025 administration participation rates for the school year were 1.11 in Reading/Language Arts, 1.10 in Mathematics, and .94 in Science. These participation rates demonstrate a rise from the 2024 administration year. Previously the state had been experiencing a downward trend toward the 1% cap threshold. The state is now conducting internal reviews and discussions surrounding our data and our decision-making tool in order to address the increase in our participation rate.

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

| Content Area | Total Number of Assessed Students 2025 | Number of Students Assessed in the Alternate Assessment 2025 | Percentage of Students Assessed in the Alternate Assessment 2025 |
|--------------|--|--|--|
| R/LA | 72358 | 801 | 1.11 |
| Math | 72673 | 799 | 1.10 |
| Science | 31915 | 299 | 0.94 |

One Percent Cap Waiver Request Requirements

Requirement 1 – In accordance with 34 CFR 200.6(c)(4), a State waiver must:

Be submitted at least 90 days prior to the start of the State’s testing window for the relevant subject.

Status: Completed

Delaware’s Dynamic Learning Maps (DLM) testing window runs from September 8, 2025, to May 15, 2026, for English/language arts, mathematics, and science. In submitting this waiver request on July 23, 2025, the state will have met this requirement. Since state data was not yet available, the state will resubmit once the data tables have been added. As the waiver is out for public comment, the state will also provide this information when resubmitting in August.

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.

Status: Completed

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: R/LA Alternate Assessment Participation Rates by Subgroup

| Group | Total Students Assessed | Total Assessed in Alternate Assessment | Percentage Assessed in Alternate Assessment |
|----------------------------|--------------------------------|---|--|
| All Students | 72358 | 801 | 1.11 |
| Female | 35520 | 227 | 0.64 |
| Male | 36838 | 574 | 1.56 |
| Hispanic | 14454 | 148 | 1.02 |
| American Indian | | | |
| African American | 22432 | 294 | 1.31 |
| White | 27495 | 278 | 1.01 |
| Asian-American | 3393 | | |
| Hawaiian/ Pacific Islander | | | |
| Multiracial | 4214 | | |
| Low-Income | 20445 | 220 | 1.08 |
| ELL | 8801 | | |
| Homeless | 1647 | | |

Table 3: Mathematics Alternate Assessment Participation Rates by Subgroup

| Group | Total Students Assessed | Total Assessed in Alternate Assessment | Percentage Assessed in Alternate Assessment |
|----------------------------|--------------------------------|---|--|
| All Students | 72673 | 799 | 1.10 |
| Female | 35677 | 225 | 0.63 |
| Male | 36996 | 574 | 1.55 |
| Hispanic | 14670 | | |
| American Indian | 260 | | |
| African American | 22460 | 293 | 1.30 |
| White | 27516 | 278 | 1.01 |
| Asian-American | 3447 | | |
| Hawaiian/ Pacific Islander | 113 | | |
| Multiracial | 4207 | | |
| Low-Income | 20450 | 220 | 1.08 |
| ELL | 9217 | | |
| Homeless | 1668 | | |

Table 4: Science Alternate Assessment Participation Rates by Subgroup

| Group | Total Students Assessed | Total Assessed in Alternate Assessment | Percentage Assessed in Alternate Assessment |
|----------------------------|-------------------------|--|---|
| All Students | 31915 | 299 | 0.94 |
| Female | 15530 | 88 | 0.57 |
| Male | 16385 | 211 | 1.29 |
| Hispanic | 6680 | | |
| American Indian | 111 | | |
| African American | 9981 | 114 | 1.14 |
| White | 11866 | | |
| Asian-American | 1419 | | |
| Hawaiian/ Pacific Islander | 61 | | |
| Multiracial | 1797 | | |
| Low-Income | 8618 | | |
| ELL | 3885 | | |
| Homeless | 660 | | |

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.

Status: Completed

The state met the participation criteria of 95% for students with disabilities in reading/language arts and mathematics (Table 5). The state achieved 95% for all students in all content areas as depicted on Table 6. Delaware also met the participation criteria for students on the alternate assessment for reading/language and mathematics (Table 7). However, the state failed to meet the participation rate for science

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 2025-2026. With these continued efforts, the State envisions it will meet this requirement by the 2026 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 2025 | SWD Participants 2025 | Participation Rate 2025 |
|--------------|--------------------|-----------------------|-------------------------|
| R/LA | 14352 | 13690 | 95.39 |
| MATH | 14358 | 13649 | 95.06 |
| SCIENCE | 6287 | 5794 | 92.16 |

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

| Content Area | Total Eligible Participants 2025 | Total Participants 2025 | Participation Rate 2025 |
|--------------|----------------------------------|-------------------------|-------------------------|
| R/LA | 73299 | 71542 | 97.60 |
| MATH | 74001 | 72148 | 97.50 |
| SCIENCE | 33778 | 32236 | 95.43 |

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

| Content Area | Total Eligible 2025 | Total Participants 2025 | Participation Rate 2025 |
|--------------|---------------------|-------------------------|-------------------------|
| R/LA | 840 | 801 | 95.36 |
| MATH | 841 | 799 | 95.01 |
| SCIENCE | 340 | 299 | 87.94 |

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.

Status: Completed

In 2024-2025, Delaware revised its previous justification and assurances form. The [2024-2025 Justification Form](#) was deployed in September 2024. Delaware required all of its LEAs to complete and submit the completed form to its help desk by October 18, 2024. This information is then compiled and posted to our website. ([Compilation of Justification Forms](#)).

The LEAs were required to:

- Provide assurances that the team adhered to the Decision-Making Tool
- Provide the participation data in each content area
- Ensure that all pertinent staff were trained to administer the alternate assessment and attend professional learning related to the state guidelines and participation criteria
- Identify their tiered level of support. Those LEAs over the 1.0 percent cap would conduct a [Self-Assessment Review](#) and then create a corrective action plan, if needed to the state.
- Review the [DOE-Guidance-on-Implementing-the-Decision-Making-Tool.pdf](#) to determine next steps.

The [2025 Justification form](#) is available, and LEAs will be required to be completed by October 17, 2025.

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

Status: Completed

Through our [2024-2025 Justification Form](#), all LEAs confirmed assurances that it will address any disproportionality in the subgroups that arise from students participating in the alternate assessment.

Disproportionality Analysis: Delaware’s Exceptional Children’s Workgroup team conducts detailed analyses of alternate assessment participation data across multiple student subgroups to identify and address

disproportionality and potential over-identification. This includes examining factors such as race, ethnicity, disability category, English learner status, and socioeconomic indicators. Insights from these analyses are used to inform LEA support and improve eligibility decision-making practices.

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.

Status: Completed

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’s [DeSSA-Alt Decision-Making Tool](#), which is posted on the [One Percent Threshold for Statewide Alternate Assessments webpage](#). The One-Percent Cap Team reviews the definition yearly.

September 2025: Review and research definitions based on other states definitions, NCEO guidance, stakeholder input. Revise as needed and solicit feedback.

November 2025: Present the revised state definition to stakeholder groups and update the tool as needed.

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.

Status: Completed

- I. To provide appropriate oversight to each LEA that will assess more than 1.0 percent with the alternate assessment, the state has adopted a multi-faceted, three-tiered approach to providing LEA support and appropriate oversight. The three-tiered model: universal, secondary, and tertiary.

1) **Universal (Tier 1) supports:**

- All LEAs must complete the [Justification Form](#) by October 12, 2025.
- All LEAs pertinent staff must complete the Professional Development Module on the Decision-Making Tool and review the implications of assessing students on the alternate assessment (see section II)

Business Rules:

- A school with a total testing population of 300 or less will be placed on Tier 1.
- LEAs with special schools (or separate school settings) with a high incidence of students with complex needs will be placed on Tier 1. As a condition of this business rule, LEAs with special schools will annually:
 - Complete a file review of at least 10% of their students participating in the Alternate Assessment using the [LEA Self-Assessment Form](#).
 - LEAs with special schools who do not annually complete the above requirements will be moved to Tier 2 support.

- 2) **Secondary (Tier 2) Supports:** LEAs who exceed the 1.0 percent cap will receive Tier 2 support. Secondary supports will include:
- Complete a file review of students provided by DDOE utilizing the [LEA Self-Assessment Form](#).
 - DDOE will randomly select 10% of the students participating in the Alternate Assessment and provide the roster to the LEA for their file review.
 - Complete **Tier 2 Subgroup Data Report form** – provide subgroup data and identify and disproportionality
 - Develop a corrective action plan to address non-compliance as identified by the LEA
 - Submit the summary and analysis of the file reviews and intervention plan to DDOE OAA
- 3) **Tertiary (Tier 3) Supports:** LEAs who exceed the 1.0 percent cap for three or more years will receive Tier 3 support. Tertiary support will include:
- DDOE will monitor each LEAs alternate assessment IEPs with a monitoring checklist;
 - DDOE will meet with each LEA via Zoom or onsite meeting to review results of monitoring.
 - DDOE and the LEA will meet to collaboratively develop an intervention plan to address the outcomes of the monitoring activities.
 - DDOE will provide accountability for the completion of the LEA’s intervention plan activities.
- II. The state will provide a range of professional learning opportunities to support LEAs in the identification and participation of students on the alternate assessment.
1. Professional development workshops, asynchronous modules and recorded videos offered to LEAs state-wide.
 2. The DDOE has developed decision-making resources and guidance documents for LEAs and will continuously review and revise as necessary.
 3. 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 [One Percent Threshold](#) page.
 - [Alternate assessment family guide](#)
 - [What families need to know about statewide assessment accessibility support](#)
 - [DeSSA-Alt fact sheet](#)
 - [Delaware high school diploma vs Diploma of Alternate Achievement Standards](#)
 -

The dates and times for all the professional learning workshops are released on our yearly Special Populations Calendar, which is in the process of being updated for the 2025-2026 school year.

III. Delaware’s Timeline

| Timeframe | Tasks 2025-2026 |
|------------------|---|
| June 2025 | <ul style="list-style-type: none"> • Review and Revise current Waiver Request • Review our Participation results to determine whether the State will meet the 95 percent participation criteria. • Participate in Council of Chief State School Officers (CCSSO) Assessment and Instruction for Special Education Students (ASES) collaborative. |
| July 2025 | <ul style="list-style-type: none"> • Participate in National Center on Educational Outcomes (NCEO) 1% Community of Practice. |

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|--------------------------------|---|
| | <ul style="list-style-type: none"> Review and revise state level policies, procedures and practices pertaining to the AA-AAS |
| July 23 – Aug. 23, 2025 | <ul style="list-style-type: none"> Submit 2025-2026 Waiver Request <p>Public comment period on the waiver request.</p> <ul style="list-style-type: none"> DDOE posted the Waiver Request for Public Comment on July 23, 2025. This will be out for comment for 30 days. The state will share information about the public comment period with DTCs The Public Comment notice was posted on our DDOE Announcements Webpage on July 23, 2025. |
| Jul. 2025 - Jun. 2026 | <p>One Percent Cap Team meetings</p> <ul style="list-style-type: none"> Review the participation data related to the One Percent Review and revise the state definition Review the TAC requests surrounding the 1.0 percent cap, including the data review conducted by the state. Discuss any other issues and regulations around the 1% Cap brought by public comment, or from the field. Disseminating the Justification form to the districts Review and revise the current self assessment form, the justification form, the parent information flyers etc, the Tier 2 action plans. |
| August 27, 2025 | <p>Share with District Test Coordinators on the following:</p> <ul style="list-style-type: none"> Alternate assessment dates Waiver Request submission Justification form completion update |
| September 10, 2025 | <p>Share with Special Education Leadership on the following:</p> <ul style="list-style-type: none"> Alternate assessment dates Waiver Request submission Justification form completion update |
| September 15, 2025 | <p>Email Special Education information on the Justification forms that are due to the DDOE Help Desk by October 17, 2025</p> |
| Oct. 17, 2025 | <p>Compile Justification forms information into a spreadsheet and post on our website. DOE Review – Oct. 24, 2025</p> |
| Oct-Nov 2025 | <p>Presentation at Delaware OAA TAC meeting</p> |
| November 5, 2025 | <ul style="list-style-type: none"> Notify any LEAs placed on Tier 2 support by November 5, 2025. 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. (currently there are no LEAs on Tier 2) LEAs with special schools will conduct an internal review of 10% of its students placed on the alternate assessment and submit a summary report to DDOE. Due date: December 3, 2025 |
| Nov. 2025 | <ul style="list-style-type: none"> Workgroup and present the state definition to various stakeholders |
| Aug. 2025 – Mar. 2026 | <p>Professional Development</p> <ul style="list-style-type: none"> State provided webinars and other online professional development related to the decision making tool |

| | |
|-------------------------------------|--|
| | <ul style="list-style-type: none"> • Alternate Achievement Standards training for teachers of students on the alternate assessments. • Ongoing consultation with One Percent Cap Group • Address concerns around the 1% Cap • Provide technical assistance requests surrounding the 1% Cap |
| December 19, 2025 | <p>The state will:</p> <ul style="list-style-type: none"> • 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. |
| December 2025 - January 2026 | DDOE will 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. |
| Jan – Jun | Presentation at Delaware OAA TAC meeting – March 31 st – April 1st |
| June 2026 | Work on Waiver Request submission to USED if we anticipate we will exceed 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.

Status: Completed

October- November 2025: 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:

- Calculate and analyze participation rates among subgroups at the state and district levels;
- Identify subgroups over-represented in the DeSSA-Alternate participation counts;
- Review district justifications and data to identify unusual patterns and high participation rates across subgroups.
- Analyze subgroup data over time to identify trends in subgroup participation with the goal of decreasing disproportionality;
- Continue support and guidance for appropriate use of the DeSSA-Alt Decision-Making Tool;
- Engage with stakeholder groups to address disproportionalities and ensure only students with the most significant cognitive disabilities are participating in the DeSSA-Alternate;
- Report Assessment Data and Justification Forms on the DDOE Office of Assessment and Accountability webpage.
- The following can be used as references to address disproportionality concerns in subgroups:
 - [Guidance for Examining District Alternate Assessment Participation Rates](#)
 - [Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments](#)

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.

Table 8: Percentage of Students Participating in Alternate Assessment Over Time

| Content Area | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 |
|--------------|------|------|------|------|------|------|------|------|
| ELA | 1.49 | 1.45 | | 1.35 | 1.17 | 1.06 | 1.06 | 1.11 |
| Math | 1.49 | 1.44 | | 1.35 | 1.17 | 1.06 | 1.05 | 1.10 |
| Science | 1.56 | 1.48 | | 1.64 | 1.03 | 0.93 | 0.97 | 0.94 |

Since our approval for a waiver request, Delaware has made gains in reducing the one percent cap. We did bump up a little bit this year and we have already begun internal data reviews and discussions to determine any future technical assistance or training we can provide. The state is also sharing information at our upcoming stakeholder meetings to solicit feedback.

Preliminary wonderings for 2025-2026:

- What students are first time alt participants?
 - Total amount
 - Student IDs
 - What school and grade?
- Comparative demographic data for last 3 years
 - Student IDs
 - Grade
 - School

| Accomplishments | |
|---|---|
| Tasks 2023-2024 | Outcomes |
| <ul style="list-style-type: none"> • Review and Revise current Waiver Request • Review our Participation results to determine whether the State will meet the 95 percent participation criteria. • Attend CCSSO in June 2024 to learn updates from USED regarding the 1.0 percent cap. | <p>Status: Completed</p> <p>The state attended CCSSO in June.</p> <p>The Waiver request was submitted July 9, 2024. The waiver included an updated timeline plan and business rules as well as evaluation process for our special schools.</p> |
| <ul style="list-style-type: none"> • DDOE posted the Waiver Request for Public Comment on July 9, 2024. This will be out for comment for 30 days. • Submit New Waiver Request by July 9, 2024 • 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. | <p>Status: Completed</p> <p>There were no public comments received.</p> <p>LEAs were placed on a 95% Participation plan.</p> |
| <p>Public comment period on the waiver request.</p> <ul style="list-style-type: none"> • The state will share information about the public comment period to DTCs, Spec Ed Leaderships, Principal’s Memo. | <p>Status: Completed</p> <p>There were no public comments received.</p> |

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| <ul style="list-style-type: none"> • District Test Coordinators received information in a special email dated 7/9/2024. • The Public Comment notice was posted on our DDOE Announcements Webpage on July 9, 2024. | |
| <p>One Percent Cap Team meetings</p> <ul style="list-style-type: none"> • 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 • Review the TAC requests surrounding the 1.0 percent cap, including the data review conducted by the state. • Discuss any other issues and regulations around the 1% Cap brought by public comment, or from the field. • Disseminating the Justification form to the districts | <p>Status: Completed</p> <p>Analysis of the data was completed. TAC October 2024.pptx – alt assessment proficiency data discussed. 1.0 percent cap waiver information shared. Alt IEP review process shared.</p> <p>TAC April 2025.pptx – Addressed TAC questions such as: Why is the percentage of students in the autism disability category (taking the ALT) high compared to the national percentage?</p> |
| <p>Share out with Special Education Leadership and District Test Coordinators on the following:</p> <ul style="list-style-type: none"> • Alternate assessment dates • Waiver Request submission • Justification form completion update | <p>Status: Completed</p> <p>This was shared at our September meetings.</p> |
| <p>Justification forms information is then compiled into a spreadsheet and posted on our website.</p> | <p>Status: Completed</p> <p>As outlined on Delaware’s Compilation of Justification Forms, for the 2024-2025 school year, the number of LEAs that exceeded the 1.0 percent cap in AA-AAAS participation was 4 for reading/language arts and mathematics, and 3 for science. Delaware developed a tiered support plan and also created business rules outlined in our Waiver Plan for our LEAs with special schools.</p> <p>Of the 42 LEAs, 3 did not complete the Justification Form, even with multiple email reminders and outreach efforts. The state perceives that 2 of the 3 non-completers exceeded the 1.0 percent threshold requirement. Therefore, the state is committed to ensure that all LEAs comply with this requirement by soliciting the assistance of the LEA superintendents when necessary.</p> |
| <p>Professional Development</p> <ul style="list-style-type: none"> • State provides webinars and other online professional development related to the tool | <p>The yearly Special Population Training Calendar outlined all of the trainings offered for 2024-2025 school year.</p> |

- Alternate Achievement Standards training for teachers of students on the alternate assessments.
- Ongoing consultation with One Percent Cap Group
- Address concerns around the 1% Cap
- Address technical assistance requests surrounding the 1% Cap

This past year, the following courses were revised and updated in our professional learning system: Courses 29974, 27748, 27749 and 27911

The team addresses concerns around the 1.0 percent through emails, and through in-person or virtual meetings when necessary.

One such example: A LEA approached us May 28, 2025 regarding their concerns for students they moved off the alternate assessment.

We met with the LEA on June 4, 2025, where they shared concerns around the communication aspect of the decision-making tool. This was not the first LEA to ask about this section of the tool.

Our next steps: The state met internally and reviewed the tool. At the conclusion, we added the words, ‘and/or’ to each of the description provided and the updated tool was posted to our website.

August 20, 2025 – the state met with the LEA and reviewed our decision. The LEA believed their issue was resolved.

SPEACS Program (Supporting Progressive and Equitable Access to Communication Supports): Delaware has developed and implemented the SPEACS program as a cornerstone of its literacy and communication initiative for students with the most significant cognitive disabilities. SPEACS uniquely combines *Comprehensive Literacy* and the *Science of Reading*, offering a layered approach that supports all students. Instruction begins with a comprehensive literacy framework to ensure equitable access for all learners. As students progress to the emergent stage, educators begin integrating Science of Reading principles—grounded in evidence-based practices—to develop decoding, phonemic awareness, and early reading skills. This blended approach is currently the only literacy research model available for students with cognitive disabilities.

SPEACS also directly addresses one of the most common misidentifications for alternate assessment—presumed lack of formal communication. Through the program’s emphasis on multiple communication modalities, including augmentative and alternative communication (AAC), educators are equipped to recognize that the absence of verbal language does not necessitate alternate assessment eligibility.

The DDOE provides **intensive coaching and technical assistance** to districts participating in SPEACS, helping them build capacity for high-quality communication and literacy instruction. A **four-part Professional Learning Series** supports the development of educators’ and administrators’ understanding of comprehensive literacy, the Science of Reading, and evidence-based strategies to support student progress.

Administrator Training on Evaluation Language: In collaboration with LEAs, DDOE provides specialized training for administrators on interpreting the strategic indicators within the DTGSS (Delaware Teacher Growth and Support System) evaluation framework. These trainings help ensure administrators understand that indicators referencing communication can include non-verbal modes of communication. This reduces the likelihood that students are misidentified for alternate assessments based on assumptions about oral language proficiency alone.

Data-Based Decision Making Modules: DDOE continues to promote data-informed instructional planning and eligibility determinations by developing and delivering training modules focused on effective use of student performance data. These resources are deployed statewide to support both educators and administrators in making appropriate, evidence-based assessment decisions.

- 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.
- 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.

Our new Waiver Plan commenced last year. LEAs wouldn’t be placed on Tier 2 support until year 3 if there has been no change in their numbers of students on the alternate assessment.

LEAs with Special Schools did conduct an internal review of their students.

Review the Self-Assessment for LEAs with Special Schools
 Review the Plans for LEAs on Tier 2. Provide processes for self-evaluation and corrective

November – December 2024, DDOE participated in an IEP file review of alternate assessment students. This led to discussions around the terminology of ‘modified’ curriculum and what that meant in terms of instruction

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| <p>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> | <p>and access to state standard. The state will be reviewing this more in the upcoming school year.</p> <p>The state also found that there were students who were placed on the alternate who were accessing the general curriculum. The state provided feedback, directing the LEAs to the tool, which states that the students need to be instructed on the alternate assessments.</p> |
| <p>Work on Waiver Request submission to USED if we have exceeded the 1.0 percent cap.</p> | <p>Since Delaware anticipates exceeding the cap, the state submitted a waiver in July 2025 for the upcoming school year.</p> |

Public Notice and Comment Period

Waiver Request- Pursuant to 34 C.F.R. §200.6(c)(4)
July 23, 2025

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 2025-2026 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 22 – August 22, 2025, 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.

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.