



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Johnny Key
Commissioner of Education
Division of Elementary and Secondary Education
Four Capitol Mall
Little Rock, AR 72201

August 4, 2020

Dear Commissioner Key:

I am writing in response to the Arkansas Division of Elementary and Secondary Education's (Arkansas DESE's) request on June 14, 2020, for a waiver extension 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 (AA-AAAS) more than 1.0 percent of the total number of students in the State. Upon receipt of a waiver extension from the U.S. Department of Education (the Department) on March 27, 2020, statewide testing was cancelled in Arkansas for the 2019-2020 school year due to COVID-19.

After reviewing Arkansas DESE's waiver extension request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2020-2021, a one-year 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 reading/language arts, mathematics, and science.

As part of this waiver extension, Arkansas DESE assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implementing 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.
- Assessed in the most recent years for which data was available, (2018-2019) at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which an assessment is 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 AAAAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State, and it will make such information publicly available.
- 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) (with the exception of incorporating principles of universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

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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.

- Will implement, consistent with the plan submitted in Arkansas DESE waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the one percent cap.

I want to remind you of the requirement in 34 CFR § 200.6(c)(3)(iv) that the State must make publicly available the information submitted by an LEA justifying the need of the LEA 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 make available your State's plan and timeline and your progress to date in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by Arkansas DESE, I expect to see positive results of this plan in the 2020-2021 school year and beyond. Any future requests for an extension of this waiver will be contingent on both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS in all tested subjects.

Finally, in order to help all States support implementation of the 1.0 percent participation threshold for AA-AAAS participation, the Department is supporting work by the National Center on Educational Outcomes (NCEO). I note that Arkansas DESE's 1.0 percent disproportionality methodology will follow the NCEO guidelines (e.g., determining relative risk of participating in the alternate assessment). In 2019, NCEO had published several resources that may be helpful to stakeholders in your State. They may be found online at https://nceo.info/Assessments/alternate_assessments.

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/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

cc: Matt Sewell, Director Special Education Unit

June 14, 2020

Donald Peasley, Ph.D.
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Dr. Peasley:

I am writing to request an extension of the waiver received by the Arkansas Division of Elementary and Secondary Education (DESE) on January 29, 2020, regarding our state exceeding the one percent threshold on the number of assessed students who will participate in alternate assessments aligned with alternate achievement standards (AA-AAS). Upon receipt of a waiver from the U.S. Department of Education on March 27, 2020, statewide testing was canceled in Arkansas for the 2019-20 school year. The attached waiver extension request is based on 2018-19 testing data.

2018-19 Alternate Assessment Percentages:

- English Language Arts: 1.32%
- Mathematics: 1.32%
- Science: 1.29%

As mentioned, statewide testing was canceled for the 2019-20 school year. Enrollment data from the two testing portals indicate a significant decrease in the students who were expected to participate in the alternate assessment for 2019-20. That enrollment data indicate that Arkansas had 1.13% of its testing population enrolled in the alternate assessment for 2019-20. This data is encouraging when compared to the 1.32% who participated in the alternate assessment in 2018-19.

I anticipate that Arkansas will continue to lower the grade-level percentage of students taking the alternate assessment in the next year, largely due to the April 2020 update to the alternate assessment criteria. DESE staff will continue to provide oversight and training activities regarding the need to assess students with disabilities appropriately and will maintain frequent

communication with districts, especially those that assess more than one percent of their students using the alternate assessment. The DESE is also providing virtual trainings throughout Summer 2020 pertaining to the updated criteria.

Arkansas is requesting a waiver in the subjects of English language arts, mathematics, and science based on the criteria provided in § 200.6(c)(4) of the regulations of the Every Student Succeeds ACT (ESSA). I am also enclosing the additional required components of this waiver extension request as attachments to this memo, as outlined in the ESSA, pursuant to Section 8401 under Part D of the ESSA, as amended through P.L. 114-95.

I look forward to your consideration of our request for a waiver extension of this ESSA provision. Please contact me at matt.sewell@arkansas.gov with any additional questions you may have. Thank you for your attention to this information.

Sincerely,
Matt Sewell, Director
Special Education Unit
Division of Elementary and Secondary Education
Arkansas Department of Education

The waiver request documents are included in the following attachments:

- Attachment 1 includes the DESE's Notice of Public Comment.
- Attachment 2 includes the DESE's Commissioner's Memo.
- Attachment 3 includes the public notice on the DESE Assessment Unit's website.
- Attachment 4 includes the public notice on the DESE Special Education Unit's website.
- Attachment 5 includes an email sent to all LEAs.
- Attachment 6 includes the notice of waiver request posted for public comment in the *Arkansas Democrat Gazette*.
- Attachment 7 includes the Public Comments and Responses
- Attachment 8 includes the Arkansas Alternate Assessment Waiver Extension Request

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
WAIVER EXTENSION REQUEST**

PURSUANT TO 34 C.F.R. §200.6(c)(4)

May 8, 2020

Pursuant to 34 C.F.R. §200.6(c)(4), the Arkansas Division of Elementary and Secondary Education is seeking a waiver extension of 34 C.F.R. §200.6(c)(2) for the 2020-21 school year from the Secretary for the United States Department of Education. This regulation limits the total number of students assessed in a subject area using an alternate assessment to no more than one percent (1.0%) of the total number of students assessed in the state.

Specifically, 34 C.F.R. §200.6(c)(2) provides:

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 % of the total number of students in the State who are assessed in that subject.

NOTICE OF PUBLIC COMMENT PERIOD

Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments shall be accepted from May 12, 2020, to June 12, 2020.

You may send written comments on the proposed waiver to: Robin Stripling, Curriculum and Assessment Coordinator; Arkansas Department of Education; 1401 West Capitol, Suite 450; Little Rock, Arkansas 72201. Ms. Stripling may be reached by telephone at 501-682-4221, by fax at 501-682-4248, or via email at robin.stripling@arkansas.gov.

On March 20, 2020, the Arkansas Division of Elementary and Secondary Education (DESE) submitted a request to the U.S. Department of Education for a waiver of statewide assessment, accountability, and reporting requirements in the Elementary and Secondary Education Act (ESEA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19). On March 27, 2020, DESE's request was approved. Since there is no 2019-20 testing data to report, this waiver extension request will be based on 2018-19 testing data.

The original alternate assessment waiver request and subsequent alternate assessment waiver extension requests were submitted prior to the spring testing window. Arkansas has moved to an embedded alternate assessment that is administered throughout the school year; therefore, this extension request is being submitted much earlier than previous requests.

The requirements for a state education agency to seek a waiver extension are set forth in 34 C.F.R. §200.6(c)(4) and reproduced below. The Division of Elementary and Secondary Education (DESE) is requesting a waiver extension in response to the requirements set forth in 34 C.F.R. §200.6(c)(4) because the 2018-19 data on the percentage of students participating in Arkansas's alternate assessments was 1.32% in literacy, 1.32% in mathematics, and 1.29% in science. These percentages were higher than the 2017-18 year because the data included one additional grade

level assessed for English Language Arts (ELA) and Mathematics, and five additional grade levels assessed in Science. The DESE has transitioned from the Multi-State Alternate Assessment (MSAA) to the Dynamic Learning Maps (DLM). During the 2017-18 school year, the MSAA was administered to grades three through eight and one grade in high school (grade eleven) for ELA and mathematics. During the 2017-18 school year, a portfolio assessment was utilized in grades five, seven, and ten for science*.

During the 2018-19 school year, the DLM was administered to grades three through eight and two grades in high school (grades nine and ten) for ELA, mathematics, and science. This change allowed the grades and subjects alternately assessed to align with the grades and subjects assessed on the general assessment. The ACT Aspire, Arkansas’s general assessment is administered in grades three through ten for ELA, mathematics, and science. The ACT Aspire was administered in eight grade levels in both 2017-18 and 2018-19. The addition of one grade level of assessment administration in ELA and mathematics and five additional grade levels in science caused our overall alternate assessment percentages to rise when compared to the previous year. However, by comparing data for each assessed grade in 2018-19 with data from the same group of students the previous year, it is evident that Arkansas made progress in lowering the percentages of students participating in the alternate assessment for each group of students.

For example, the 2017-18 ELA alternate percentage for third graders was 1.43%. The 2018-19 percentage for that same group of students as fourth graders was 1.36%.

2018 % ELA Alt	2019 % ELA Alt
3rd - 1.43	4th - 1.36

Percentages for all 2017-18 and 2018-19 assessed grades levels are in the table below.

2018 % ELA Alt	2019 % ELA Alt	2018 % Math Alt	2019 % Math Alt	2018 % Science Alt	2019 % Science Alt
Seven Grade Levels Tested	Eight Grade Levels Tested	Seven Grade Levels Tested	Eight Grade Levels Tested	Three Grade Levels Tested	Eight Grade Levels Tested
2nd - no statewide test	3rd - 1.43	2nd - no statewide test	3rd - 1.43	2nd - no statewide test	3rd - 1.4
3rd - 1.43	4th - 1.36	3rd - 1.42	4th - 1.36	3rd - Alt Not Tested	4th - 1.34
4th - 1.42	5th - 1.32	4th - 1.41	5th - 1.32	4th - Alt Not Tested	5th - 1.3
5th - 1.51	6th - 1.39	5th - 1.5	6th - 1.39	5th - 1.51	6th - 1.37
6th - 1.41	7th - 1.35	6th - 1.41	7th - 1.35	6th - Alt Not Tested	7th - 1.32
7th - 1.26	8th - 1.16	7th - 1.27	8th - 1.15	7th - 1.26	8th - 1.13
8th - 1.32	9th - 1.2	8th - 1.32	9th - 1.21	8th - Alt Not Tested	9th - 1.17

9th - Alt Not Tested	10th - 1.36	9th - Alt Not Tested	10th - 1.35	9th - Alt Not Tested	10th - 1.32
11th (Counted as 10th) - 1.27	Not Tested	11th (Counted as 10th) - 1.26	11th - Not Tested	10th - 1.46	11th - Not Tested
Total - 1.21 Seven Grade Levels Tested	Total - 1.32 Eight Grade Levels Tested	Total - 1.2 Seven Grade Levels Tested	Total - 1.32 Eight Grade Levels Tested	Total - 0.54 Three Grade Levels Tested	Total - 1.29 Eight Grade Levels Tested

Note: Bold font indicates grades that were newly tested grades in 2019.

Ninth graders were not alternately assessed in 2017-18. If ninth graders had not been included in the 2018-19 calculation, the participation rate for ELA and Mathematics would have been 1.18% and 1.15% in Science as shown in the table below.

Comparison of Participation Rate Percentages for 2017-18 and 2018-19 School Years:

Content Area	AA Participation Rate Percentage 2017-18 Grades 3-8 and 11 Seven Grade Levels	AA Participation Rate Percentage 2018-19 Grades 3-10 Eight Grade Levels	2018-19 AA Participation Rate of 3-8 and 10 (Ninth Graders Excluded) Seven Grade Levels
ELA	1.21	1.32	1.18
Math	1.20	1.32	1.18
Science	*0.54% (three grade levels)	1.29	1.15

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—

Requirement 1 (§200.6(c)(4) Submission 90-Days Prior to State Testing Window Opening

(i) *Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;*

The DESE is submitting a waiver extension request to the U.S. Department of Education 90 days prior to the start of Arkansas's testing window for its alternate assessment in the areas it was over 1.0% in 2018-19. The subject areas were literacy, mathematics, and science. The alternate assessment window start date for each subject will be September 14, 2020.

Requirement 2 (§200.6(c)(4) State-Level Data

(ii) *Provide State-level data, from the current or previous school year, to show—*

(A) *The number and percentage of students in each subgroup of students defined in section*

1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards; and

Count of students participating in the Arkansas Alternate Assessment in school year 2018-19 by subgroups and subject matter:

Subject	Alternate Assessment Student Count	Federal Race Category							Gender		English Learner Status		Free/Reduced Lunch Status		Migrant Status		Homeless Status	
		Number	Hispanic	American Indian/ Alaska Native	Asian	Black	Hawaiian/ Pacific Islander	White	Two or More Races	Male	Female	Yes	No	Yes	No	Yes	No	Yes
Reading Language Arts	3912	486	17	44	1046	31	2188	100	2597	1315	327	3585	2981	931	23	3899	146	3766
Math	3908	486	17	43	1045	31	2187	99	2595	1313	326	3582	2980	928	23	3885	145	3763
Science	3831	473	16	43	1026	31	2143	99	1018	549	106	1461	1234	333			48	1514

Percent of students participating in the Arkansas Alternate Assessment in school year 2018-19 by subgroups and subject matter:

Subject	Alternate Assessment Student Count	Federal Race Category							Gender		English Learner Status		Free/Reduced Lunch Status		Migrant Status		Homeless Status	
		Percentage (%)	Hispanic	American Indian/ Alaska Native	Asian	Black	Hawaiian/ Pacific Islander	White	Two or More Races	Male	Female	Yes	No	Yes	No	Yes	No	Yes
Reading Language Arts	1.21	1.05	1.39	1.03	1.58	1.07	1.13	1.04	1.57	0.84	1.16	1.21	1.45	0.79	1.09	1.20	1.41	1.20
Math	1.20	1.04	1.34	1.05	1.56	1.07	1.13	1.04	1.56	0.83	1.15	1.21	1.44	0.78	1.09	1.20	1.42	1.19
Science	0.54	0.45	0.43	0.36	0.72	0.46	0.50	0.51	0.68	0.38	0.45	0.54	0.66	0.32	0.43	0.53	0.58	0.53

(B) *The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under § 200.5(a);*

Arkansas requires that all students enrolled in public schools be assessed with the general assessment, the general assessment with accommodations, or with an alternate assessment. Arkansas follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95% participation. See chart below for evidence.

Percent of students participating in the general assessment, the general assessment with accommodations, or with an alternate assessment in school year 2018-19:

Subgroups grade 3-10	Percent of Students Tested ELA	Percent of Students Tested in Math	Percent of Students Tested in Science
All Students	99.13	99.19	99.06
Hispanic	99.29	99.36	99.25
Black	98.7	98.82	98.63
White	99.24	99.29	99.17
English Learner Status	99.33	99.41	99.32
Free/Reduced Lunch Status	99.01	99.09	98.93
Special Education	98.71	98.84	97.95
Migrant	98.54	98.64	98.64
Homeless	97.85	97.91	97.74
Foster Children	96.27	96.49	95.75
Male	99.01	99.08	98.91
Female	99.26	99.31	99.22

Requirement 3 (§200.6(c)(4) Assurances

(iii) *Include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are*

administered under § 200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—

(A) Followed each of the State's guidelines under paragraph (d) of this section, except paragraph (d)(6); and

LEAs that assessed more than 1.0% of their tested population in 2018-19 with the alternate assessment submitted justification for those assessment decisions in the fall of 2019. As part of the justification, LEAs were asked to confirm the use of the Arkansas Alternate Assessment Participation Manual for making assessment determinations for students, including the Participation Decision Documentation form. This document provides guidelines for qualifying students to take the AA and states --

IEP Team Statement of Assurance: Our decision was based on multiple pieces of evidence that, when taken together, demonstrated that the Arkansas Alternate Assessment Program is the most appropriate assessment for this student; that his/her academic instruction will be based on the Essential Elements linked to the Arkansas Academic Standards; that the Additional Considerations listed above were not used to make this decision; and that any additional implications of this decision were discussed thoroughly. Each of us agrees with the participation decision in the Arkansas Alternate Assessment Program: *(signatures of participants)*

LEAs that completed justification documentation in the fall of 2019 will be required to submit updated assessment data including the percentage of students who are anticipated to participate in the alternate assessment for the 2020-21 school year. LEAs will again be required to provide the statement of assurance.

(B) Will address any disproportionality in the percentage of students in any subgroup under section 1111(c)(2)(A), (B), or (D) of the Act taking an alternate assessment aligned with alternate academic achievement standards;

The DESE gathered district data on the current and previous years' participation rates for the alternate assessment. It is important for the DESE to identify whether students taking Arkansas's alternate assessment are students clustered in "subgroups," such as racial/ethnic groups, gender, English learner status, or economically disadvantaged. The DESE will continue to review data collected through the State reporting system on the demographics of students participating in the alternate assessment to identify patterns and outliers such as educational environment, disability type, EL status, etc., for purposes of analysis. For districts that are over the 1.0% threshold, this data will help the DESE identify any trends that may contribute to potential disproportionality in specific subgroups and grade levels of students taking alternate assessments.

The DESE will address any disproportionate representation of students taking the alternate assessment by undertaking the following activities:

- Monitoring alternate assessment data;
- Requiring justification from districts that exceed the one percent threshold; and
- Providing training to districts on participation guidelines for alternate assessments.

Requirement 4 (§200.6(c)(4) State Plan and Timeline

(iv) *Include a plan and timeline by which—*

(A) *The State will improve the implementation of its guidelines under paragraph (d) of this section, including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in paragraph (c)(2) of this section in each subject for which assessments are administered under § 200.2(a)(1) in future school years;*

On January 14, 2020, the DESE Special Education Unit presented alternate assessment data to the Advisory Council for the Education of Children with Disabilities. The purpose of this presentation was to ascertain whether or not the State should begin work to update the alternate assessment participation criteria. The advisory group indicated that the participation criteria should be updated.

A workgroup of special education directors and DESE staff met on February 14, 2020, to review the previous criteria and to provide recommendations for the updated criteria. The updated criteria was submitted to and approved by the DESE Office of Legal Services. The DESE Special Education Unit released the updated alternate assessment participation criteria to the state's special education directors on April 1, 2020. Online trainings pertaining to the new criteria are scheduled for May 14, May 18, May 19, May 20, May 28, June 2, and June 10. Additional trainings will be provided throughout the summer and fall of 2020.

(B) *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 of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and **implement** the guidelines established by the State under paragraph (d) of this section so that all students are appropriately assessed; and*

During the summer and fall of 2020, the DESE will continue to provide professional learning opportunities for IEP team members and other educators. These learning opportunities will focus on the purpose of the alternate assessment, the characteristics of students who are eligible to participate in the alternate assessment based on the revised Arkansas Alternate Assessment Participation Manual, instructional supports for students with significant cognitive disabilities, and inclusive practices.

All educators, including those who are not currently members of IEP teams, must have a solid understanding of how to make appropriate instruction and assessment decisions for all students, including students who may be candidates to participate in an alternate assessment. The DESE has made resources available on the accessibility features and accommodations for the general assessment, as those features and accommodations enable most students with disabilities to meaningfully participate in the general assessment.

The DESE has made informational resources available to parents of students with disabilities regarding the assessment in which their child will participate so parents can contribute to the IEP decision-making process. Parent informational resources include:

- “A Family's Guide to Special Education in Arkansas”

- Requirements of the alternate assessment; and
- Accommodations that enable students to participate in the general assessment.

The DESE will continue to monitor data and require annual justifications from LEAs that have exceeded the 1.0% cap. Justifications submitted in fall 2020 will include confirmation of training specific to the new Arkansas Alternate Assessment Participation Manual. Those LEAs that were significantly over the 1.0% threshold in 2019 and those that do not provide adequate justification will receive more intensive monitoring and technical assistance. Based on each local school district's justification documentation and anticipated percentage of students who will take the alternate assessment in 2020-21, tiers of required actions will be put into place. The required actions for the 2020-21 year have yet to be determined; the 2019-20 required actions were as follows:

- Districts provided training for all special education staff. This training included the State's definition of students with the most significant cognitive disability with specific guidance pertaining to deficits in adaptive skills and the State's alternate assessment guidance document.
- Districts completed a student information document for each student who participated in the alternate assessment. The following student information was submitted:
 - IDEA eligibility category
 - An indication of whether or not the student's IDEA eligibility category includes intellectual or cognitive impairment as a characteristic
 - Adaptive skill deficits and the instrument(s) used to determine adaptive skill deficits
 - An answer to the question, "Did the IEP team determine that the student will likely not be able to live independently?"
- Districts who are significantly over the 1% had an onsite monitoring. District staff and the DESE Special Education Unit staff reviewed assessment decisions for students who were scheduled to participate in the alternate assessment in 2019-20.
- In collaboration with the DESE Special Education Unit staff, districts reviewed student data to determine any disproportionality in the group of students who participated in the alternate assessment.

(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section; and

LEAs who were significantly over the 1.0% threshold in school year 2018-19 were required to analyze the data by subgroup to determine whether disproportionality existed for students participating in the alternate assessment. Analysis consisted of reviewing current and previous years' alternate assessment participation rates to determine if assessment decisions were consistently made regardless of eligibility category, race, gender, economic status, English Learner status or placement.

For LEAs whose data indicate disproportionate representation, more intensive monitoring and/or technical assistance was provided. The DESE Special Education Unit staff encouraged these districts to attend the 2019 Disproportionality Institute provided by the Arkansas IDEA Data and Research Office. The DESE Special Education Unit staff reviewed assessment decision documentation with LEAs for students who participated in the alternate assessment in the 2019-20 school year. The review included:

- Race
- Gender
- English learner status
- Economic status
- Homeless status
- Migrant status

Requirement 5 (§200.6(c)(4)(v)): Substantial Progress

(v) *If the State is requesting to extend a waiver for an additional year, meet the requirements in paragraph (c)(4)(i) through (iv) of this section and demonstrate substantial progress towards achieving each component of the prior year’s plan and timeline required under paragraph (c)(4)(iv) of this section.*

While there is no official data for the 2019-20 school year, enrollment data in the two testing portals indicate that the percentage of Arkansas students participating in the alternate assessment would have gone down significantly. The DESE Assessment Unit data indicated that 298,241 students were enrolled in the Arkansas general assessment, ACT Aspire. Dynamic Learning Maps, the Arkansas alternate assessment, reports that 3,412 students were enrolled in early March. Therefore, 1.13% of the students enrolled in a testing portal were enrolled in the DLM. This is a significant drop from 1.32% in 2018-19. With the newly updated alternate assessment participation criteria, the DESE Special Education Unit expects to see even further reduction for the coming year.

As stated above, in 2018-19 Arkansas administered the alternate assessment to one additional grade level in ELA and Mathematics and five additional grade levels in Science while the grade levels for the general assessment stayed the same. This caused our overall percentages to increase. If, however, Arkansas had administered the alternate assessment in ELA and mathematics to the same number of grades as in 2017-18, the percentages would have gone down.

Comparison of Participation Rate Percentages for 2017-18 and 2018-19 School Years:

Content Area	AA Participation Rate Percentage 2017-18 Grades 3-8 and 11 Seven Grade Levels	AA Participation Rate Percentage 2018-19 Grades 3-10 Eight Grade Levels	2018-19 AA Participation Rate of 3-8 and 10 (Ninth Graders Excluded) Seven Grade Levels
ELA	1.21	1.32	1.18
Math	1.20	1.32	1.18
Science	0.54% (three grade levels)	1.29	1.15

Additionally, the number of LEAs administering the alternate assessment to more than 1% of students decreased significantly. (In 2017-18 the alternate assessment in science consisted of a portfolio in grades five, seven, and ten. In 2018-19, the alternate assessment in science was the DLM which was administered in grades three through ten.)

Comparison of Districts exceeding 1.0% cap for 2017-18 and 2018-19 School Years:

Content Area	Number of LEAs Exceeding 1.0% cap in 2017-18	Number of LEAs Exceeding 1.0% cap in 2018-19	Difference in Number
ELA	140	120	-20
Math	140	120	-20
Science			

Comparison of *ELA* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
All Students	1.21	1.32	0.11
Hispanic	1.05	1.21	0.16
American Indian/Alaskan Native	1.39	0.94	-0.45
Asian	1.03	0.91	-0.12
Black	1.58	1.79	0.21
Hawaiian/Pacific Islander	1.07	1.18	0.11
White	1.13	1.22	0.09
Two or more races	1.04	1.22	0.18
English Learner Status	1.23	1.31	0.08
Free/Reduced Lunch Status	1.67	1.56	-0.11
Male	1.76	1.80	0.04
Female	0.96	0.87	-0.09

Migrant	1.09	1.10	0.01
Homeless	1.41	1.74	0.33

Comparison of *MATH* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
All Students	1.20	1.32	0.12
Hispanic	1.04	1.21	0.17
American Indian/Alaskan Native	1.34	0.94	-0.40
Asian	1.05	0.88	-0.17
Black	1.56	1.78	0.22
Hawaiian/Pacific Islander	1.07	1.17	0.10
White	1.13	1.22	0.09
Two or more races	1.04	1.21	0.17
English Learner Status	1.15	1.49	0.34
Free/Reduced Lunch Status	1.44	1.55	0.11
Male	1.56	1.80	0.24
Female	0.84	0.87	0.03
Migrant	1.09	1.10	0.01

Homeless	1.42	1.73	0.31
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Comparison of *SCIENCE* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
All Students	0.54%	1.30	1.29
Hispanic	0.45%	1.18	1.18
American Indian/Alaskan Native	0.43%	0.88	0.88
Asian	0.36%	0.88	0.88
Black	0.72%	1.75	1.74
Hawaiian/Pacific Islander	0.46%	1.17	1.17
White	0.50%	1.19	1.19
Two or more races	0.51%	1.21	1.20
English Learner Status	0.45	0.48	0.03
Free/Reduced Lunch Status	0.66	0.64	-0.02
Male	0.68	0.71	0.03
Female	0.38	0.36	-0.02
Migrant	0.43	0.43	0.00
Homeless	0.58	0.57	-0.01



Arkansas Department of Education

Johnny Key, Commissioner

Transforming Arkansas to lead the nation in student-focused education

Commissioner's Memo
5/23/2020

Input Sought on Proposed Waiver to Law that Limits Participation on Alternate Assessments

Memo Information

Memo Number **LS-20-105**

Memo Date 5/23/2020

Memo Type Regulatory

Unit Learning Services

Regulatory Authority 34 C.F.R. §200.6(c)(2)

Response Required NO

Attention Federal Programs; Superintendents; Assistant Superintendent; Principals; Test Coordinators; Teachers; Curriculum Coordinators; School Counselors; Techstart Coordinators or Contact Name

Primary Contact Information

Name Robin Stripling

Phone Number 501-682-4221

Email Robin.Stripling@arkansas.gov

Memo Reference

No references available.

Memo Text

The Arkansas Division of Elementary and Secondary Education (DESE) is seeking public comment on its request for a waiver extension of 34 C.F.R. §200.6(c)(2), which limits the total number of students assessed in a subject area using an alternate assessment to no more than 1% of the total number of students assessed in the State.

According to 34 C.F.R. §200.6(c)(4), "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 [of Education] waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year."

Arkansas, based upon historical data, anticipates that between 1.1% and 1.2% of students assessed will be assessed using the alternate assessment. Since this exceeds the 1% limit, Arkansas must request a waiver to the 1% threshold for one year (34 C.F.R. §200.6(c)(4)).

DESE plans to submit the waiver extension request to the U.S. Department of Education in the areas of English Language Arts, Mathematics, and Science. The waiver extension request states that DESE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students who are participating have the most significant cognitive disabilities, the only population of students who should take the alternate assessment. In addition, the waiver extension request states that DESE will collect and analyze alternate assessment data, require justification from districts that exceed the 1% threshold, and address any disproportionality in the percentage of students taking the alternate assessment. The proposed waiver extension request is available for review from Tuesday, May 12, 2020, to Friday, June 12, 2020, on the DESE Special Education Unit website under Curriculum and Assessment/Assessment (tinyurl.com/ADEspedassessment). A digital copy of the waiver request may be obtained by clicking on the link below or by emailing Robin.Stripling@arkansas.gov.

Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)

(4). Written comments will be accepted from Tuesday, May 12, 2020, to Friday, June 12, 2020. Please email comments to Robin Stripling at robin.stripling@arkansas.gov.

<http://dese.ade.arkansas.gov/divisions/learning-services/special-education/curriculum-assessment/assessment>

<https://arksped.k12.ar.us/documents/curriculumAssessment/Assessment/For-Public-Comment-2020-Arkansas-Alternate-Assessment-Waiver-Extension-Request.pdf>

Attachments

No attachments available



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& SECONDARY EDUCATION

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The Arkansas Division of Elementary and Secondary Education (DESE) is seeking public comment on its request for a waiver extension of 34 C.F.R. §200.6(c)(2), which limits the total number of students assessed in a subject area using an alternate assessment to no more than one percent (1%) of the total number of students assessed in the state.

The proposed waiver extension request will be available for review from Tuesday, May 12, 2020, to Friday, June 12, 2020. The waiver extension request may be reviewed clicking on the link below or by emailing Robin Stripling at robin.stripling@arkansas.gov. Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). **Written comments will be accepted from Tuesday, May 12, 2020, to Friday, June 12, 2020. Please email comments to Robin Stripling at robin.stripling@arkansas.gov.**

Arkansas Alternate Assessment Waiver Request

Every student attending an Arkansas public school shall participate in the statewide program of educational assessments required in Act 930 of 2017 and established by the State Board.

The 2020 spring testing windows for ACT Aspire, DLM, and K-2 assessments have been cancelled. For additional information, please see Commissioner's Memo [LS-20-089](#).

The assessments administered to Arkansas students are detailed below.

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ASSESSMENT

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1% Alternate Assessment Threshold

The Arkansas Department of Education (ADE) Division of Elementary and Secondary Education (DESE) is seeking public comment on its request for a waiver extension of 34 C.F.R. §200.6(c)(2), which limits the total number of students assessed in a subject area using an alternate assessment to no more than one percent (1%) of the total number of students assessed in the state.

The proposed waiver extension request will be available for review from Tuesday, May 12, 2020, to Friday, June 12, 2020. The waiver extension request may be reviewed clicking on the link below or by emailing Robin Stripling at robin.stripling@arkansas.gov. Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). **Written comments will be accepted from Tuesday, May 12, 2020, to Friday, June 12, 2020. Please email comments to Robin Stripling at robin.stripling@arkansas.gov.**

[Districts required to provide justifications for alternate assessment participation](#)

Subject: 1% Alternate Assessment Waiver Extension Request

Date: Monday, May 18, 2020 at 11:43:15 AM Central Daylight Time

From: Beverly Leonard (ADE)

Please see the following email from Robin Stripling, Curriculum and Assessment Coordinator for the Special Education Unit.

To LEA Supervisors and Early Childhood Coordinators:

The Arkansas Division of Elementary and Secondary Education (DESE) is seeking public comment on its request for a waiver extension of 34 C.F.R. §200.6(c)(2) that limits the total number of students assessed in a subject area using an alternate assessment to no more than one percent (1%) of the total number of students assessed in the state. Since statewide testing was canceled for Spring 2020, 2018-19 data must be used. The request for public comment is linked to the [Special Education Unit's assessment page](#).

If you have any questions, please feel free to contact me,
Robin

Robin Stripling

Curriculum and Assessment Coordinator
Arkansas Department of Education
Division of Elementary and Secondary Education
Special Education Unit
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Little Rock, Arkansas 72201
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INPUT SOUGHT ON PROPOSED WAIVER EXTENSION TO LAW THAT LIMITS ALTERNATE ASSESSMENTS

(Little Rock, AR) – The Arkansas Division of Elementary and Secondary Education (DESE) is seeking public comment on its request for a waiver extension of 34 C.F.R. §200.6(c)(2), which limits the total number of students assessed in a subject area using an alternate assessment at no more than one percent (1%) of the total number of students assessed in the state.

The proposed waiver extension request will be available for review from May 12, 2020, to June 12, 2020 on the DESE Special Education website under Curriculum and Assessment. A digital copy of the waiver extension request may be obtained by emailing Robin Stripling at robin.stripling@arkansas.gov. Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4) by emailing them to Robin Stripling (robin.stripling@arkansas.gov).

Written comments will be accepted from May 12, 2020, to June 12, 2020.

The waiver request may be viewed at tinyurl.com/ADEspecialassessment:

<http://dese.ade.arkansas.gov/divisions/learning-services/special-education/curriculum-assessment/assessment>

75270601f

**Responses to Public Comments
Related to Waiver Request Pursuant to 34 C.F.R. §200.6(c)(4)**

**Special Education Unit
Arkansas Division of Elementary and Secondary Education**

- I. Pursuant to 34 C.F.R. §200.6(c)(4), the Arkansas Division of Elementary and Secondary Education (DESE) will seek a waiver for the 2020-21 school year from the Secretary for the United States Department of Education. The regulation in question, found at 34 C.F.R. 200.6(c)(2), requires State Education Agencies such as the DESE to limit the total number of students assessed in a subject area using an alternate assessment. The limit on the percentage of students assessed by the alternate assessment is set by the federal regulation, stating there shall be no more than one percent (1%) of the total number of students taking the alternate assessment assessed in each subject area.

Written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4) were received during the public comment period scheduled for May 12, 2020, through June 12, 2020.

- II. The following individuals submitted written comments:

<u>Name and Title</u>	<u>Agency</u>
1. Lorrie Sadler Special Education Supervisor	Midland and Mountain View Districts
2. Annita Blauser Special Education Director	Beebe Public Schools

Comments and Responses:

1. I am certain that this is a topic that will forever be debated in Special Education. With that being said, I feel the US DOE is going to have to revisit this percentage because the number of children with significant cognitive abilities is greater than 1% and to only allow that level of testing usage for this population of children seems to be discriminatory. Now, I am not saying that should it increase to 5% that all districts should take advantage of that and test 5% with alternate assessment but a higher percentage would allow for the variability that exists in this population of students. The educators wouldn't feel so hard pressed to "pick and choose" so to speak and if they decided that alternate assessment was best practice for their students, there wouldn't be that feeling of indecision over having to decide.

Lorrie Sadler
LEA Supervisor: Midland and Mountain View

Response: The agency appreciates your thoughtful comment pertaining to the alternate assessment waiver extension request.

No amendments were made in response to this comment.

2. On behalf of Beebe Public Schools, we believe that consideration for Alternative Assessment should always be based on individual needs which include both adaptive behavior as well as IQ. IQ cutoff should be flexible and individualized. Still, the success of a SPED student taking a grade level exam and being expected to perform at grade level is really unfair to students and local agencies. A growth model would be the best route to determine student achievement for our SPED population. We are, as other LEA's, dealing with more and more mental health issues with students and severe disabilities than what is reflected by the "Norm."

Thank you for your consideration,

Annita Blausen, K-12 District Special Education Director/ Dyslexia Director Beebe Public Schools

Response: The agency appreciates your thoughtful comment pertaining to the alternate assessment waiver extension request.

No amendments were made in response to this comment.

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
WAIVER EXTENSION REQUEST**

PURSUANT TO 34 C.F.R. §200.6(c)(4)

June 14, 2020

Pursuant to 34 C.F.R. §200.6(c)(4), the Division of Elementary and Secondary Education is seeking a waiver extension of 34 C.F.R. §200.6(c)(2) for the 2020-21 school year from the Secretary for the United States Department of Education. This regulation limits the total number of students assessed in a subject area using an alternate assessment to no more than one percent (1.0%) of the total number of students assessed in the state.

Specifically, 34 C.F.R. §200.6(c)(2) provides:

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 % of the total number of students in the State who are assessed in that subject.

The requirements for a state education agency to seek a waiver extension are set forth in 34 C.F.R §200.6(c)(4) and reproduced below. The Arkansas Division of Elementary and Secondary Education (DESE) is requesting a waiver extension in response to the requirements set forth in 34 C.F.R. §200.6(c)(4) because the most recent data on the percentage of students participating in Arkansas's alternate assessments is 1.32% in literacy, 1.32% in mathematics, and 1.29% in science. These percentages reflect 2018-19 data because statewide assessments were canceled on March 27, 2020, for the 2019-20 school year. Preliminary enrollment data, however, indicate that Arkansas had 1.13% of its testing population enrolled in the alternate assessment for 2019-20, a significant decrease.

The 2018-19 percentages were higher than the 2017-18 year because the alternate assessment data included one additional grade level assessed for English Language Arts (ELA) and Mathematics, and five additional grade levels assessed in Science. The DESE transitioned from the Multi-State Alternate Assessment (MSAA) to the Dynamic Learning Maps (DLM) for 2018-19. During the 2017-18 school year, the MSAA was administered to grades three through eight and one grade in high school (grade eleven) for ELA and mathematics. During the 2017-18 school year, a portfolio assessment was utilized in grades five, seven, and ten for science*.

During the 2018-19 school year, the DLM was administered to grades three through eight and two grades in high school (grades nine and ten) for ELA, mathematics, and science. This change allowed the grades and subjects alternately assessed to align with the grades and subjects assessed on the general assessment. The ACT Aspire, Arkansas's general assessment is administered in grades three through ten for ELA, mathematics, and science. The ACT Aspire was administered in eight grade levels in both 2017-18 and 2018-19. The addition of one grade level of alternate assessment administration in ELA and mathematics and five additional grade levels in science in 2018-19 caused our overall alternate assessment percentages to rise when compared to the previous year. However, by comparing data for each assessed grade in 2018-19 with data from the same group of students the previous year, it is evident that Arkansas made

progress in lowering the percentages of students participating in the alternate assessment for each group of students.

For example, the 2017-18 ELA alternate percentage for third graders was 1.43%. The 2018-19 percentage for that same group of students as fourth graders was 1.36%.

2018 % ELA Alt	2019 % ELA Alt
3rd - 1.43	4th - 1.36

Percentages for all 2017-18 and 2018-19 assessed grades levels are in the table below.

2018 % ELA Alt	2019 % ELA Alt	2018 % Math Alt	2019 % Math Alt	2018 % Science Alt	2019 % Science Alt
Seven Grade Levels Tested	Eight Grade Levels Tested	Seven Grade Levels Tested	Eight Grade Levels Tested	Three Grade Levels Tested	Eight Grade Levels Tested
2nd - no statewide test	3rd - 1.43	2nd - no statewide test	3rd - 1.43	2nd - no statewide test	3rd - 1.4
3rd - 1.43	4th - 1.36	3rd - 1.42	4th - 1.36	3rd - Alt Not Tested	4th - 1.34
4th - 1.42	5th - 1.32	4th - 1.41	5th - 1.32	4th - Alt Not Tested	5th - 1.3
5th - 1.51	6th - 1.39	5th - 1.5	6th - 1.39	5th - 1.51	6th - 1.37
6th - 1.41	7th - 1.35	6th - 1.41	7th - 1.35	6th - Alt Not Tested	7th - 1.32
7th - 1.26	8th - 1.16	7th - 1.27	8th - 1.15	7th - 1.26	8th - 1.13
8th - 1.32	9th - 1.2	8th - 1.32	9th - 1.21	8th - Alt Not Tested	9th - 1.17
9th - Alt Not Tested	10th - 1.36	9th - Alt Not Tested	10th - 1.35	9th - Alt Not Tested	10th - 1.32
10th - Alt Not Tested	11th - Alt Not Tested	10th - Alt Not Tested	11th - Alt Not Tested	10th - 1.46	11th - Not Tested
11th - 1.27	12th - Not Tested	11th - 1.26	12th - Not Tested	11th - Not Tested	12th - Not Tested
Total - 1.21 Seven Grade Levels Tested	Total - 1.32 Eight Grade Levels Tested	Total - 1.2 Seven Grade Levels Tested	Total - 1.32 Eight Grade Levels Tested	Total - 0.54 Three Grade Levels Tested	Total - 1.29 Eight Grade Levels Tested

Note: Bold font indicates grades that were newly tested grades in 2019.

Ninth graders were not alternately assessed in 2017-18. If ninth graders were not included in the 2018-19 calculation, the participation rate for ELA and Mathematics would have been 1.18% and 1.15% in Science as shown in the table below.

Comparison of Participation Rate Percentages for 2017-18 and 2018-19 School Years:

Content Area	AA Participation Rate Percentage 2017-18 Grades 3-8 and 11 Seven Grade Levels	AA Participation Rate Percentage 2018-19 Grades 3-10 Eight Grade Levels	2018-19 AA Participation Rate of 3-8 and 10 (Ninth Graders Excluded) Seven Grade Levels
ELA	1.21	1.32	1.18
Math	1.20	1.32	1.18
Science	*0.54% (three grade levels)	1.29	1.15

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—

Requirement 1 (§200.6(c)(4) Submission 90-Days Prior to State Testing Window Opening

(i) *Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;*

The DESE is submitting a waiver extension request to the U.S. Department of Education 90 days prior to the start of Arkansas's testing window for its alternate assessment in the areas it was over 1.0% in 2018-19. The subject areas are literacy, mathematics, and science. The alternate assessment window start date for each subject will be September 14, 2020.

Requirement 2 (§200.6(c)(4) State-Level Data

(ii) *Provide State-level data, from the current or previous school year, to show—*

(A) *The number and percentage of students in each subgroup of students defined in section 1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards; and*

Count of students participating in the Arkansas Alternate Assessment in school year 2018-19 by subgroups and subject matter:

Subject	Alternate Assessment Student Count	Federal Race Category							Gender		English Learner Status		Free/Reduced Lunch Status		Migrant Status		Homeless Status	
		Number	Hispanic	American Indian/ Alaska Native	Asian	Black	Hawaiian/ Pacific Islander	White	Two or More Races	Male	Female	Yes	No	Yes	No	Yes	No	Yes
Reading Language Arts	3912	486	17	44	1046	31	2188	100	2597	1315	327	3585	2981	931	23	3899	146	3766
Math	3908	486	17	43	1045	31	2187	99	2595	1313	326	3582	2980	928	23	3885	145	3763
Science	3831	473	16	43	1026	31	2143	99	1018	549	106	1461	1234	333			48	1514

Percent of students participating in the Arkansas Alternate Assessment in school year 2018-19 by subgroups and subject matter:

Subject	Alternate Assessment Student Count	Federal Race Category							Gender		English Learner Status		Free/Reduced Lunch Status		Migrant Status		Homeless Status	
		Percentage (%)	Hispanic	American Indian/ Alaska Native	Asian	Black	Hawaiian/ Pacific Islander	White	Two or More Races	Male	Female	Yes	No	Yes	No	Yes	No	Yes
Reading Language Arts	1.21	1.05	1.39	1.03	1.58	1.07	1.13	1.04	1.57	0.84	1.16	1.21	1.45	0.79	1.09	1.20	1.41	1.20
Math	1.20	1.04	1.34	1.05	1.56	1.07	1.13	1.04	1.56	0.83	1.15	1.21	1.44	0.78	1.09	1.20	1.42	1.19
Science	0.54	0.45	0.43	0.36	0.72	0.46	0.50	0.51	0.68	0.38	0.45	0.54	0.66	0.32	0.43	0.53	0.58	0.53

(B) *The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under § 200.5(a);*

Arkansas requires that all students enrolled in public schools be assessed with the general assessment, the general assessment with accommodations, or with an alternate assessment. Arkansas follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95% participation. See chart below for evidence.

Percent of students participating in the general assessment, the general assessment with accommodations, or with an alternate assessment in school year 2018-19:

Subgroups grade 3-10	Percent of Students Tested ELA	Percent of Students Tested in Math	Percent of Students Tested in Science
All Students	99.13	99.19	99.06
Hispanic	99.29	99.36	99.25
Black	98.7	98.82	98.63
White	99.24	99.29	99.17
English Learner Status	99.33	99.41	99.32
Free/Reduced Lunch Status	99.01	99.09	98.93
Special Education	98.71	98.84	97.95
Migrant	98.54	98.64	98.64
Homeless	97.85	97.91	97.74
Foster Children	96.27	96.49	95.75
Male	99.01	99.08	98.91
Female	99.26	99.31	99.22

Requirement 3 (§200.6(c)(4) Assurances

(iii) *Include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are administered under § 200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—*

(A) *Followed each of the State's guidelines under paragraph (d) of this section, except paragraph (d)(6); and*

LEAs that assessed more than 1.0% of their tested population in 2018-19 with the alternate assessment submitted justification for those assessment decisions. As part of this justification, LEAs were asked to confirm the use of the Guidance for IEP Teams on Participation Decisions for the Arkansas Alternate Assessment Program for making assessment determinations for students, including the Participation Decision Documentation form. This document provided guidelines for qualifying students to take the Alternate Assessment and stated --

IEP Team Statement of Assurance: Our decision was based on multiple pieces of evidence that, when taken together, demonstrated that the Arkansas Alternate Assessment Program is the most appropriate assessment for this student; that his/her academic instruction will be based on the Essential Elements linked to the Arkansas Academic Standards; that the Additional Considerations listed above were not used to make this decision; and that any additional implications of this decision were discussed thoroughly. Each of us agrees with the participation decision in the Arkansas Alternate Assessment Program: *(signatures of participants)*

Based on the LEA justifications submitted in the fall of 2019, a tiered set of actions were required for the LEAs that anticipated alternately assessing more than 1.0% of their tested population in 2019-20. After completing the required actions, the district's special education supervisor and the district's superintendent provided signatures assuring that all required actions had been completed and, "All special education teachers who guide IEP teams in making alternate assessment decisions use the alternate assessment guidelines with fidelity."

LEAs that assessed more than 1.0% of their tested population in 2018-19 with the alternate assessment will again submit justification for those assessment decisions in the fall of 2020. Those justification documents will be submitted by September 18, 2020. LEAs will be asked to confirm the use of the newly updated Arkansas Alternate Assessment Participation Manual that was released in April 2020.

Based on the LEA justifications that will be submitted by September 18, 2020, a tiered set of actions will be required for LEAs that anticipate alternately assessing more than 1.0% of their tested population in 2020-21. These districts will be required to submit signatures from the district's special education supervisor and the district's superintendent assuring that all required actions have been completed and, "All special education teachers who guide IEP teams in making alternate assessment decisions use the new Arkansas Alternate Assessment Participation Manual with fidelity. That manual was updated in April 2020 and includes the following:

- Participating students have
 - IQs typically below 55 or 3 standard deviations below the mean.
 - Adaptive behavior scores typically two or three standard deviations below the mean in

- two or more areas.
- Disabilities that are pervasive, affecting student functioning across all academic, social, and community settings. The students are expected to require intensive supports throughout life.
- Needs that require substantial modifications in content expectations.

(B) Will address any disproportionality in the percentage of students in any subgroup under section 1111(c)(2)(A), (B), or (D) of the Act taking an alternate assessment aligned with alternate academic achievement standards;

The DESE gathered district data on the previous years’ participation rates for the alternate assessment. It is important for the DESE to identify whether students taking Arkansas’s alternate assessment are students clustered in “subgroups,” such as racial/ethnic groups, gender, English learner status, or economically disadvantaged. The DESE will continue to review data collected through the State reporting system on the demographics of students participating in the alternate assessment to identify patterns and outliers such as educational environment, disability type, EL status, etc., for purposes of analysis. For districts that are over the 1.0% threshold, this data will help the DESE identify any trends that may contribute to potential disproportionality in specific subgroups and grade levels of students taking alternate assessments.

The DESE will address any disproportionate representation of students taking the alternate assessment by undertaking the following activities:

- Monitoring alternate assessment data;
- Requiring justification from districts that exceed the one percent threshold; and
- Providing training to districts on participation guidelines for alternate assessments.

The 1% disproportionality methodology will follow the NCEO guidelines

- Alternate Assessment compared to Regular Assessment
- Calculate the percentage of each for focal group
- % in alternate divided by the % in regular; resulting in a relative risk.
- Relative risk > 3
- Secondary criteria: Must have at least 15 students taking the alternate assessment in the district and more than 5 students in the analysis subgroup. The 15 N size aligns with the ESSA subgroup

The Focal groups will include:

- Race/ethnicity
- FRL
- English Learner status
- Homeless Status
- Migrant Status
- Gender

Data Examples

Race	H (1)	N (2)	A (3)	B (4)	P (5)	W (6)	T (7)	Total (8)
-------------	--------------	--------------	--------------	--------------	--------------	--------------	--------------	------------------

Alternate #								
% Alternate	H (1) / Total (8)	N (2) / Total (8)	A (3) / Total (8)	B (4) / Total (8)	P (5) / Total (8)	W (6) / Total (8)	T (7) / Total (8)	
	%	%	%	%	%	%	%	
Race	H (9)	N (10)	A (11)	B (12)	P (13)	W (14)	T (15)	Total (16)
Regular #								
% Regular	H (9)/ Total (16)	N (10) / Total (16)	A (11) / Total (16)	B (12) / Total (16)	P (13) / Total (16)	W (14) / Total (16)	T (15) / Total (16)	
	%	%	%	%	%	%	%	
Relative Risk	Alt%/Reg%	Alt%/Reg%	Alt%/Reg%	Alt%/Reg%	Alt%/Reg%	Alt%/Reg%	Alt%/Reg%	Alt%/Reg %

H=Hispanic N=Native American/Alaskan A=Asian B=Black (non-Hispanic)
P=Hawaiian/Pacific Islander W=White (non-Hispanic) T=Two or more races (non-Hispanic)

Example for all others

FRL or EL or HS or MS	Alternate Focal Group = Y (17)	Regular Focal Groups = Y (18)
Counts		
	Alt Focal group (17) / Total (8)	Regular Focal group (18) / Total (16)
Percentages		
Relative Risk	Alt % / Reg %	

Requirement 4 (§200.6(c)(4) State Plan and Timeline

(iv) Include a plan and timeline by which—

(A) The State will improve the implementation of its guidelines under paragraph (d) of this section, including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in paragraph (c)(2) of this section in each subject for which assessments are administered under § 200.2(a)(1) in future school years;

On January 14, 2020, the DESE Special Education Unit presented alternate assessment data to the Advisory Council for the Education of Children with Disabilities. The purpose of this presentation was to ascertain whether or not the State should begin work to update the alternate assessment participation criteria. The advisory group indicated that the participation criteria should be updated.

A workgroup of special education directors and DESE staff met on February 14, 2020, to review the previous criteria and to provide recommendations for the updated criteria. The updated criteria was submitted to and approved by the DESE Office of Legal Services. The DESE Special Education Unit released the updated alternate assessment participation criteria to the state's special education directors on April 1, 2020. Online trainings pertaining to the new criteria have been held on May 14, May 18, May 19, May 20, May 22, May 26, May 28, June 2, and June 10. Additional trainings will be provided throughout the summer and fall of 2020.

*(B) 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 of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and **implement** the guidelines established by the State under paragraph (d) of this section so that all students are appropriately assessed; and*

During the summer and fall of 2020, the DESE will continue to provide professional learning opportunities for IEP team members and other educators. These learning opportunities will focus on the purpose of the alternate assessment, the characteristics of students who are eligible to participate in the alternate assessment based on the revised Arkansas Alternate Assessment Participation Manual, instructional supports for students with significant cognitive disabilities, and inclusive practices.

All educators, including those who are not currently members of IEP teams, must have a solid understanding of how to make appropriate instruction and assessment decisions for all students, including students who may be candidates to participate in an alternate assessment. The DESE has made resources available on the accessibility features and accommodations for the general assessment, as those features and accommodations enable most students with disabilities to meaningfully participate in the general assessment.

The DESE has made informational resources available to parents of students with disabilities regarding the assessment in which their child will participate so parents can contribute to the IEP decision-making process. Parent informational resources include:

- “A Family's Guide to Special Education in Arkansas”
- Requirements of the alternate assessment; and
- Accommodations that enable students to participate in the general assessment.

The DESE will continue to monitor data and require annual justifications from LEAs that have exceeded the 1.0% threshold. Justifications submitted in fall 2020 will include confirmation of training specific to the new Arkansas Alternate Assessment Participation Manual. Those LEAs that

were significantly over the 1.0% threshold in 2018-19 and those that do not provide adequate justification will receive more intensive monitoring and technical assistance. Based on each local school district's justification documentation and anticipated percentage of students who will take the alternate assessment in 2020-21, tiers of required actions will be put into place. The required actions for the 2020-21 year will be as follows:

- Districts will provide training for all special education staff. This training must include the State's definition of students with the most significant cognitive disabilities with specific guidance pertaining to deficits in adaptive skills and the updated Arkansas Alternate Assessment Participation Manual.
- Districts will complete a student information document for each student who is anticipated to participate in the alternate assessment. The following student information will be submitted:
 - IDEA eligibility category
 - The date the IEP team determined that the student meets the updated eligibility criteria for participation
 - An indication of whether or not the student's IDEA eligibility category includes intellectual or cognitive impairment as a characteristic
 - Data obtained from the most recent evaluation that includes intellectual/cognitive testing
 - Adaptive skill deficits and the instrument(s) used to determine adaptive skill deficits
 - A date to answer the question, "What was the date that the IEP team determined that the student will likely not be able to live independently?"
- Districts who are significantly over the 1% will have an onsite monitoring. District staff and the DESE Special Education Unit staff will review assessment decisions for students who are scheduled to participate in the alternate assessment in 2020-21.
- In collaboration with the DESE Special Education Unit staff, districts will review student data to determine any disproportionality in the group of students who participate in the alternate assessment.

(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section; and

For LEAs who were significantly over the 1.0% threshold in school year 2018-19, data were analyzed by subgroup to determine whether disproportionality existed for students participating in the alternate assessment. Analysis consisted of reviewing current and previous years' alternate assessment participation rates to determine if assessment decisions were consistently made regardless of eligibility category, race, gender, economic status, English Learner status or placement.

For LEAs whose data indicate disproportionate representation, more intensive monitoring and/or technical assistance was provided. The DESE Special Education Unit staff encouraged these districts to attend the 2020 Disproportionality Institute provided by the Arkansas IDEA Data and Research Office on February 4-5, 2020. The DESE Special Education Unit staff reviewed assessment decision documentation with LEAs for students who participated in the alternate assessment in the 2018-19 school year. The review included:

- Race
- Gender

- English learner status
- Economic status
- Homeless status
- Migrant status

For districts who anticipate alternate assessing more than 1% of their tested students in 2020-21, data will again be analyzed for disproportionate representation. If disproportionate representation is indicated, intensive monitoring and/or technical assistance will be provided in collaboration with the Arkansas IDEA Data and Research Office.

Requirement 5 (§200.6(c)(4)(v)): Substantial Progress

(v) If the State is requesting to extend a waiver for an additional year, meet the requirements in paragraph (c)(4)(i) through (iv) of this section and demonstrate substantial progress towards achieving each component of the prior year’s plan and timeline required under paragraph (c)(4)(iv) of this section.

While there is no official data for the 2019-20 school year, enrollment data in the two testing portals indicate that the percentage of Arkansas students participating in the alternate assessment would have gone down significantly. The DESE Assessment Unit data indicated that 298,241 students were enrolled in the Arkansas general assessment, ACT Aspire. Dynamic Learning Maps, the Arkansas alternate assessment, reports that 3,412 students were enrolled in early March. Therefore, 1.13% of the students enrolled in a testing portal were enrolled in the DLM. This is a significant drop from 1.32% in 2018-19. With the newly updated alternate assessment participation criteria, the DESE Special Education Unit expects to see even further reduction for the 2020-21 year.

As stated above, in 2018-19, Arkansas administered the alternate assessment to one additional grade level in ELA and Mathematics and five additional grade levels in Science while the grade levels for the general assessment stayed the same. This caused our overall percentages to increase for 2018-19. If, however, Arkansas had administered the alternate assessment in ELA and mathematics to the same number of grades as in 2017-18, the percentages would have gone down.

Comparison of Participation Rate Percentages for 2017-18 and 2018-19 School Years:

Content Area	AA Participation Rate Percentage 2017-18 Grades 3-8 and 11 Seven Grade Levels	AA Participation Rate Percentage 2018-19 Grades 3-10 Eight Grade Levels	2018-19 AA Participation Rate of 3-8 and 10 (Ninth Graders Excluded) Seven Grade Levels
ELA	1.21	1.32	1.18
Math	1.20	1.32	1.18
Science	0.54% (three grade levels)	1.29	1.15

The number of LEAs administering the alternate assessment to more than 1% of students decreased significantly in ELA and mathematics. (In 2017-18 the alternate assessment in science consisted of a portfolio in grades five, seven, and ten. In 2018-19, the alternate assessment in science was the DLM which was administered in grades three through ten.)

Comparison of Districts exceeding 1.0% cap for 2017-18 and 2018-19 School Years:

Content Area	Number of LEAs Exceeding 1.0% cap in 2017-18	Number of LEAs Exceeding 1.0% cap in 2018-19	Difference in Number
ELA	140	120	-20
Math	140	120	-20
Science			

Comparison of *ELA* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
All Students	1.21	1.32	0.11
Hispanic	1.05	1.21	0.16
American Indian/Alaskan Native	1.39	0.94	-0.45
Asian	1.03	0.91	-0.12
Black	1.58	1.79	0.21
Hawaiian/Pacific Islander	1.07	1.18	0.11
White	1.13	1.22	0.09
Two or more races	1.04	1.22	0.18
English Learner Status	1.23	1.31	0.08
Free/Reduced Lunch Status	1.67	1.56	-0.11
Male	1.76	1.80	0.04

Female	0.96	0.87	-0.09
Migrant	1.09	1.10	0.01
Homeless	1.41	1.74	0.33

Comparison of *MATH* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
All Students	1.20	1.32	0.12
Hispanic	1.04	1.21	0.17
American Indian/Alaskan Native	1.34	0.94	-0.40
Asian	1.05	0.88	-0.17
Black	1.56	1.78	0.22
Hawaiian/Pacific Islander	1.07	1.17	0.10
White	1.13	1.22	0.09
Two or more races	1.04	1.21	0.17
English Learner Status	1.15	1.49	0.34
Free/Reduced Lunch Status	1.44	1.55	0.11
Male	1.56	1.80	0.24
Female	0.84	0.87	0.03
Migrant	1.09	1.10	0.01
Homeless	1.42	1.73	0.31

Comparison of *SCIENCE* Arkansas AA Participation rate Percentages for 2017-18 and 2018-19:

Student Sub-Group	AA Participation Rate Percentage 2017-2018	AA Participation Rate Percentage 2018-2019	Difference in Percentage
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All Students	0.54%	1.30	1.29
Hispanic	0.45%	1.18	1.18
American Indian/Alaskan Native	0.43%	0.88	0.88
Asian	0.36%	0.88	0.88
Black	0.72%	1.75	1.74
Hawaiian/Pacific Islander	0.46%	1.17	1.17
White	0.50%	1.19	1.19
Two or more races	0.51%	1.21	1.20
English Learner Status	0.45	0.48	0.03
Free/Reduced Lunch Status	0.66	0.64	-0.02
Male	0.68	0.71	0.03
Female	0.38	0.36	-0.02
Migrant	0.43	0.43	0.00
Homeless	0.58	0.57	-0.01

Public Comment

The DESE provided information to stakeholders including notification regarding the requirements pursuant to ESEA §111(b)(2)(D) and 34 CFR 200.6(c) and (d) to the 1.0% threshold on the Arkansas Alternate Assessment participation, a copy of the Arkansas One Percent Waiver Extension Request, and guidelines for submitting comments to the DESE. To ensure public access, a copy of the Arkansas One Percent Waiver Extension Request and guidelines for providing comment were made available through a DESE Commissioner’s Memo, postings on the DESE Assessment Unit and DESE Special Education webpages, an email announcement to all special education supervisors, and a notice printed in the statewide *Arkansas Democrat Gazette* newspaper. The DESE allowed 30 days for public comment, closing on June 12. Two comments were received. No changes were made to the waiver extension request based on the comments. (See Attachment 7.)