



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Paolo DeMaria  
Superintendent of Instruction  
Ohio Department of Education  
25 South Front Street  
Columbus, OH 43215

March 13, 2018

Dear Superintendent DeMaria:

I am writing in response to the Ohio Department of Education (ODE)'s request on November 20, 2017, (and amended on January 24, 2018), for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), 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. ODE requested this waiver because, based on State data for the 2016-2017 school year, ODE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017-2018 school year.

After reviewing ODE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, the following waiver for school year (SY) 2017–2018:

- A waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that ODE may assess with an AA-AAAS more than 1.0 percent of the total number of students in the of Ohio who are assessed in a reading/language arts, mathematics and science.

As part of this waiver, ODE assured that the State educational agency:

- 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 prior school year (2016–2017) 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 each local educational agency (LEA) assessing more than 1.0 percent of its students with an AA-AAAS to submit information justifying such need.
- 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 or community school at risk of assessing more than 1.0 percent of students with an AA-AAAS is following all State guidelines (with the exception of incorporating

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principles of universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

- Will implement, consistent with the plan submitted in its waiver request, its system improvements and monitor future administrations as described in their waiver request and within their stated timelines, in order to avoid exceeding the 1.0% cap.

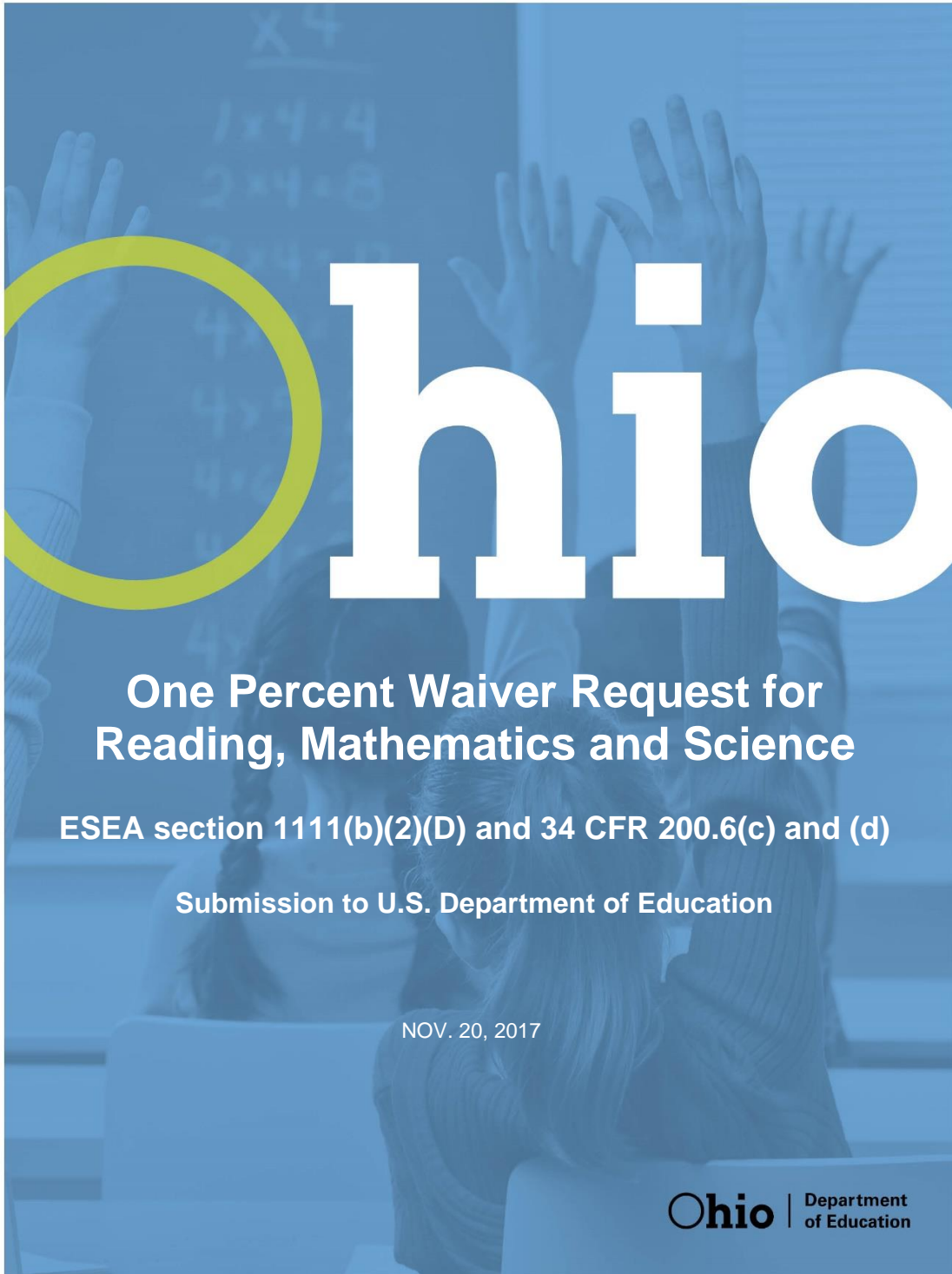
I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact Mario A. Nunez of my staff at [Mario.Nunez@ed.gov](mailto:Mario.Nunez@ed.gov).

Sincerely,

/s/

Jason Botel,  
Principal Deputy Assistant Secretary,  
Delegated the Authority to Perform the Functions and  
Duties of the Assistant Secretary of Elementary and  
Secondary Education

cc: Jeremy Marks, Director, ODE Office of Federal Programs  
Kimberly S. Monachino, Director, ODE Office of Exceptional Children  
Brian Roget, Director, Office of Curriculum and Assessment



# Ohio

## One Percent Waiver Request for Reading, Mathematics and Science

ESEA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d)

Submission to U.S. Department of Education

NOV. 20, 2017

**Ohio** | Department of Education

## INTRODUCTION

A new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), amended by the Every Student Succeeds Act of 2015 (ESSA), addresses alternate assessments for students with the most significant cognitive disabilities. Each state must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation in the alternate assessment in a subject. Ohio's 2016-2017 alternate assessment participation rate was approximately 1.7 percent in reading, 1.8 percent in mathematics and 1.9 percent in science. Due to these past rates, Ohio anticipates exceeding the 1 percent threshold for the 2018-2019 administration of the alternate assessment in reading, math and science and must submit a waiver request.

## ONE PERCENT WAIVER REQUEST

In accordance with 34 CFR 200.6(c)(4), a state waiver request must:

1. Be submitted at least 90 days prior to the start of the state's testing window for the relevant subject;

Ohio's assessment window for the Alternate Assessment for Students with Significant Cognitive Disabilities (AASCD) is open from Feb. 20, 2018, through April 13, 2018. Ninety days prior to the start of Ohio's testing window (Nov. 20, 2017), the Department will submit a waiver request to the United States Department of Education in each of the subject areas listed above.

2. 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 who took an alternate assessment;

Ohio's state-level data from school year 2016-2017 show the number and percentage of students in each subgroup of students who took an alternate assessment. See Table 1.

**TABLE 1: Participation in Alternate Assessment by Content**

Subject	Number of students who took the standard assessment	Number of students who took the alternate assessment	All Students Tested	Percentage Alternately Assessed
Reading	1,041,857	18,187	1,060,044	1.72%
Math	991,828	18,210	1,010,038	1.80%
Science	397,360	7,777	405,137	1.92%

- b. The state measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup enrolled in grades for which the assessment is required.

Ohio follows the federal requirements for participation in statewide assessments outlined in ESEA. Students in grades 3 through 8 are required to take both reading and mathematics assessments annually. Students in grades 5 and 8 must to take a science assessment. Ohio met federal requirements for statewide test participation in 2016-2017 through the administration of Ohio's State Tests. Data in Table 2 indicate that the Department measured achievement for more than 95 percent of all students enrolled in grades for which an

assessment is required. The Department measured achievement for more than 95 percent of students in the children with disabilities subgroup enrolled in grades for which an assessment is required. See Table 2.

**TABLE 2: Participation Rate of All Students and Students with Disabilities**

<b>Participation in Math and Reading Achievement Tests for Required Grades (3-8)</b>						
Subject	All Students Tested	All Students Enrolled	% Achievement Measured for All Students	Students with Disabilities Tested	Students with Disabilities Enrolled	% Achievement Measured for SWD
Reading	777,286	779,328	<b>99.7%</b>	118,117	118,122	<b>100.0%</b>
Math	740,002	779,328	<b>95.0%</b>	117,033	118,122	<b>99.1%</b>
<b>Participation in Science Achievement Test for Required Grades (5 &amp; 8)</b>						
Science	259,041	259,882	<b>99.7%</b>	39,392	39,558	<b>99.6%</b>

**3. Include assurances from the state that it has verified that each district or community school that the state anticipates will assess more than 1 percent of its assessed students in any subject using an alternate assessment followed the state’s guidelines for participation in the alternate assessment.**

The Ohio Department of Education anticipates exceeding the 1 percent threshold of assessed students in all subject areas for the 2018-2019 school year. Data show that a considerable number of districts and community schools in the state will exceed the 1 percent threshold and need to submit a justification form indicating how they have implemented the state guidelines for participation in the AASCD.

Districts and community schools that exceed the 1 percent participation rate must submit a justification form by Dec. 1, 2017. The Department hosted two webinars on Sept. 6 and 13, 2017, for all districts and community schools. The webinars focused on 1 percent alternate assessment participation calculation, timelines for submitting districts’ and community schools’ justification forms and the state waiver process.

The justification form requires each district and community school to submit anticipated alternate assessment participation data for the 2018-2019 school year and a description of how the district will assure that individualized education program (IEP) teams are adhering to the criteria, outlined in the alternate assessment participation guidelines, to determine student eligibility for AASCD participation. To assist districts and community schools in calculating their anticipated participation rates, the Department sent alternate assessment participation rates for 2016-2017 to all district and community school superintendents and special education leaders.

The Department will provide guidance and support to all districts and community schools assessing more than 1 percent of students using an alternate assessment. Guidance and support will focus on the state’s guidelines for participation in AASCD and ensuring that IEP

teams are assigning students to assessments appropriate to their needs. A detailed description of these supports is available in the next section of this document.

Districts and community schools may view a recording of the [webinar online](#) or download a PDF of the [PowerPoint slides](#). In addition, Ohio's guidelines for participation in the alternate assessment are available on the [Department's website](#).

#### **4. States will address any disproportionality in the percentage of students in any subgroup taking an alternate assessment.**

The Department will continue to address disproportionality in the percentage of students in any subgroup taking the AASCD through multiple activities as described in the tiered support system below. In particular, the following steps address disproportionality concerns:

- Calculating and analyzing participation rates among subgroups;
- Identifying subgroups over-represented in the AASCD participation counts;
- Continuing support and guidance for appropriate use of the [participation guidelines for Ohio's alternate assessment](#);
- Posting and implementing the [companion document](#) to the participation guidelines;
- Maintaining and updating AASCD [online resources](#); and
- Reporting assessment data publicly.

#### **5. A state's waiver request must include a plan and timeline.**

The Department will continue to work to ensure appropriate participation in the AASCD, with the goal of reducing the number of participating students to under 1 percent, through a multifaceted approach. A system of Tiered Intervention and Monitoring will be used to assist all districts and community schools over the 1 percent threshold. The primary goal of Tiered Intervention and Monitoring is to improve district implementation of state guidelines for participation in the AASCD. The Department will provide professional learning and other resources to all districts and community schools. For those districts and community schools with a higher level of need, the Department will provide monitoring and evaluation processes. The Department also will review statewide training sufficiency and address any disproportionality in the state.

##### **Tiered Intervention and Monitoring Plan**

Implementation of a system of Tiered Intervention and Monitoring will include collaboration with the state's 16 regional [State Support Teams \(SSTs\)](#), including the continuation of the practices, process and products already in place to improve use of the AASCD. The Department will analyze levels of districts' and community schools' needs beginning with reported counts of participating students. The Department will then consider the following factors to determine levels of needed support (minimal, moderate or significant):

- Justification submitted to the Department;
- Trend data; and
- Participation rate and counts by disability categories.

**Tier 1** support is provided to all districts and community schools. This level of support is available statewide to districts and community schools identified as being above the 1 percent participation threshold as well as any district seeking assistance.

##### **Technical Assistance and Professional Learning**

- SSTs will continue to provide training on decision-making processes for AASCD participation.
- The Department will lead [webinars](#) on appropriate AASCD participation and post recordings of the webinars for public use.
- The Department will support SSTs through regularly scheduled meetings, trainings for SST consultants, and technical support as needed.
- The Department will continue to provide web-based resources including an [Online AASCD training PowerPoint refresher](#).
- Parent and family engagement staff will work with districts and community schools to ensure families understand how IEP decisions about AASCD participation are appropriately made and the implications of participation in the AASCD for students.
- Monthly meetings of state support team directors will continue to ensure communication and training on the topic of participation guidelines and support for IEP teams.
- Technical support from the Department [is available to all stakeholders through](#) phone support and a dedicated email address [AAparticipation@education.ohio.gov](mailto:AAparticipation@education.ohio.gov).

#### **Web-Based Resources**

The Department will continue to add to AASCD and IEP team resources available via the Department's website and assessment portal. Resources currently include:

- [AASCD fact sheets](#);
- [AASCD Participation Flowchart](#);
- [Companion document](#) to the flowchart;
- [Participation Guidelines for Ohio Alternate Assessment](#);
- [Decision Framework for Alternate Assessment Participation Guidelines](#);
- [Ohio Learning Standards-Extended](#); and
- [AASCD administration manuals and guidance documents](#).

**Tier 2** support is provided to districts and community schools that are identified as needing moderate support. This tier includes continued Tier 1 support.

#### **Additional Technical Assistance and Professional Learning**

- Department staff, in collaboration with SST staff, will lead regional and local professional learning opportunities focusing on analyzing data and reviewing special education records.
- Department staff, in collaboration with SST staff, will provide training opportunities for special education leaders as well as district and school administrators to improve local support for teachers and IEP teams.
- Department staff will review with district leaders the use of available resources, including the Department's web-based resources listed in Tier 1, to ensure IEP teams have the necessary resources and are using them properly.

#### **Additional Web-Based Resources**

- Online learning modules will be developed to assist with local monitoring and evaluation of AASCD policies, processes and practices.

**Tier 3** support is provided to districts and community schools that are identified as needing significant support. This tier includes continued Tier 1 and Tier 2 support.

#### **Additional Technical Assistance and Professional Learning**

- Districts and community schools will, with the assistance of the Department and SST staff, construct goals to be included in Strategic Improvement Plans (SIP) or [Corrective Action Plans](#) for appropriately identifying students for participation in the alternate assessment. Subsequent plans may include measurable outcomes, timelines, frameworks for technical assistance, updated procedures and training opportunities.
- The Department will review records (e.g., Evaluation Team Reports, Individualized Education Plans) and evaluate current determination processes, policies and procedures used to qualify students for participation in the AASCD.
- The Department and SST staff will engage in discussions with teachers, administrators, and IEP team members as part of monitoring processes and root cause analysis as needed.
- Parents and families will be notified of monitoring procedures and records reviews, and opportunities to ask questions and participate in discussions as members of the IEP teams.



### Timeline

Aug. 23-present: The Department convenes weekly 1 percent workgroup meetings.  
Sept. 6 and 13: Department webinars on 1 percent threshold.  
Oct. 6: Release of the [AASCD Companion Document](#).  
Oct. 18: Public comment period opens.  
Oct. 18-Nov. 18: The Department reviews comments and responds.  
Nov. 1: Alternate Assessment for Students with Cognitive Disabilities (AASCD) Advisory Committee meeting.  
Nov. 2: AASCD Train-the-Trainer meeting.  
Nov. 18: Public comment period closes.  
Nov. 20: The Department submits state waiver to the U.S. Department of Education.  
Dec. 1: Submission of district justifications for exceeding 1 percent AASCD participation threshold due to the Department.  
Feb. 20, 2018: AASCD assessment window opens.  
April 13, 2018: AASCD assessment window closes.  
July 23, 2018: AASCD state student data files available to the Department.  
Aug. 3, 2018: AASCD interactive data posted for districts and community schools.

### NOTICE OF PUBLIC COMMENT PERIOD

**Evidence that the state provided notice and a reasonable opportunity for the public and districts and community schools to comment and provide input on the request. This evidence must include:**

- **Evidence or a description of the manner in which the state provided such notice to the public and interested districts and community schools;**
- **Copies of all comments that the state received from districts and community schools in response to this notice, with a description of how the state addressed the comments; and**
- **Evidence that the state also provided notice and a reasonable opportunity to comment to the public and districts and community schools in the manner in which the state customarily provides similar notice and opportunity to comment.**

The Department accepted public comments from Oct. 18 - Nov. 18, 2017. Districts received notification of the draft state waiver through [webinars](#) on Sept. 6 and 13, 2017. The Department sent an email invitation to comment on the waiver to all district and community school superintendents, district special education contacts and district testing coordinators. Notification for public comment was included in multiple editions of the Department's EdConnection newsletter. Responses to public comments are available [here](#).

**Table 1 (continued). Participation Rate of All Students in Alternate Assessments by Subgroup**  
**3-Year Comparison: SY2014-15 to SY2016-17**  
**State: Ohio**

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	Reading/Language Arts						Mathematics					
	2014-15		2015-16		2016-17		2014-15		2015-16		2016-17	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total Students Participating in Alternate Assessments	16,159	1.8	16,854	1.9	18,231	1.9	16,106	1.8	16,853	1.9	18,257	2.0
<b>Gender</b>												
Female	5,702	1.3	5,843	1.3	6,402	1.4	5,693	1.3	5,840	1.3	6,410	1.4
Male	10,457	2.2	11,011	2.4	11,829	2.4	10,413	2.2	11,013	2.4	11,847	2.5
Economically Disadvantaged	10,419	2.3	11,041	2.4	12,287	2.5	10,378	2.3	11,033	2.5	12,304	2.6
Students with disabilities	16,086	11.7	16,783	12.5	18,165	12.5	16,036	11.7	16,782	12.8	18,188	12.7
<b>Racial/Ethnic Groups</b>												
Asian \ Pacific Islander	223	1.1	237	1.1	281	1.3	223	1.1	237	1.2	280	1.3
Black (not Hispanic) African American	3,732	2.6	4,018	2.8	4,248	2.7	3,702	2.6	4,010	2.8	4,259	2.8
Native Hawaiian \ other Pacific Islander \ Pacific Islander	-	-	-	-	-	-	-	-	-	-	-	-
Hispanic	706	1.6	821	1.8	917	1.7	703	1.6	821	1.8	917	1.8
White (not Hispanic)\Caucasian	10,763	1.6	10,984	1.7	11,895	1.8	10,746	1.6	10,992	1.7	11,909	1.8
Multicultural \ Multiethnic \ Multiracial \ other	710	1.7	768	1.8	871	1.9	707	1.7	767	1.8	873	1.9
Limited English proficient (LEP) Student	404	1.6	503	1.9	582	1.8	404	1.6	506	1.9	583	1.8
Homeless enrolled	205	2.1	297	2.9	328	2.8	204	2.2	294	2.9	327	2.9

### Science

	2014-2015		2015-2016		2016-2017	
	Number	Percent	Number	Percent	Number	Percent
Total Students Participating in Alternate Assessments	6,873	1.7	7,108	1.9	7,796	1.9
<u>Gender</u>						
Female	2,508	1.3	2,520	1.4	2,780	1.4
Male	4,365	2.1	4,588	2.4	5,016	2.3
Economically Disadvantaged (ED) Students	4,302	2.2	4,479	2.5	5,109	2.5
Disability status (IDEA)	6,844	11.4	7,077	12.9	7,764	12.1
<u>Race/Ethnicity</u>						
Asian \ Pacific Islander	89	1.1	96	1.1	109	1.1
Black (not Hispanic) African American	1,551	2.5	1,567	2.7	1,807	2.6
Hispanic	290	1.7	301	1.7	344	1.5
White (not Hispanic) \ Caucasian	4,631	1.6	4,845	1.8	5,162	1.7
Multicultural \ Multiethnic \ Multiracial \ other	298	1.7	289	1.8	368	1.9
Limited English proficient (LEP) Student	153	1.7	179	2.0	207	1.6



# Report on Public Comments: One Percent Waiver Request for Reading, Mathematics and Science

## **Federal Requirement for State Waiver Requests**

The U.S. Department of Education (USDOE) requires state educational agencies (SEAs) who submit a request to waive the 1 percent participation threshold in the alternate assessment for students with significant cognitive disability (AASCD) in any subject area to provide a public comment period for the state's waiver request. The USDOE also requires that the waiver request includes evidence that the state provided notice and reasonable opportunity for the public and districts and community schools to provide input on the waiver request. This must include:

- Evidence or a description of the manner in which the state provided this notice to the public and interested districts;
- Copies of all comments the state received from districts in response to this notice, with a description of how the state addressed the comments; and
- Evidence that the state also provided notice and reasonable opportunity to comment to the public and districts in the manner in which the state customarily provides similar notice and opportunity to comment.

## **Public Comment: Ohio's One Percent Waiver Request for Reading, Mathematics and Science**

On Oct. 18, 2017, the Ohio Department of Education (Department) posted a Draft for Public Comment of its [One Percent Waiver Request for Reading, Mathematics and Science](#). An accompanying message invited citizens to use a posted survey to comment on the draft from then through Nov. 18, 2017. The Department had notified districts of the state waiver through webinars on Sept. 6 and 13, 2017. The Department also notified all district and community school superintendents, special education contacts and testing coordinators of the public comment opportunity through its e-newsletter, [EdConnection](#), and through its email service, GovDelivery.

During the survey window, the Department received written comments from 38 respondents. The Department was able to provide an appropriate general response to some of those comments. Other comments required individual responses. This document summarizes all public comments, shows the Department's response and notes any additional actions.

## Summary of Comments

**Many comments reflected confusion about the purpose and components of the state waiver and the difference between the state waiver application and district-level justification form.**

The draft One Percent Waiver Request for Reading, Mathematics and Science Ohio posted in October 2017 responded to the federal Every Students Succeeds Act (ESSA). A new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), amended by ESSA (2016), addresses alternate assessments for students with the most significant cognitive disabilities. Each state must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent statewide participation in the alternate assessment in any subject area. The state waiver does not address decisions regarding about individual students. Instead, local individualized education program (IEP) teams decide if students will participate in the alternate assessment.

The waiver process requires states to collect justifications from districts that expect to exceed 1 percent participation in the alternate assessment for students with significant cognitive disability (AASCD) in any subject area. In their justifications, districts must explain why more than 1 percent of students qualify for the alternate assessment, as well as district procedures for determining whether a student is qualified.

**Commenters asked for clarity about the basis and fairness of the 1 percent threshold for the state waiver request. Some commenters expressed the opinion that the state should not use the 1 percent threshold because it is unrealistically low or outdated.**

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a [memo](#) to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department.

**Comments included concerns about the application of a 1 percent threshold or “cap” on small districts and community schools, because just one or two students can affect district percentages significantly.**

The Department recognizes that the percentages of students taking the alternate assessment will vary from year to year for small districts, including community schools, due to small changes in student populations. The 1 percent threshold is *not* a cap for districts, and the state does not penalize districts for exceeding it. Instead, districts are asked to complete a justification explaining why they expect to exceed the threshold. They may cite a small population as a contributing factor in the justification.

**Commenters suggested the waiver should contain more detailed definitions of the terms slightly, moderately and significantly used in the system of tiered intervention and monitoring.**

***One commenter suggested the use of participation percentages to assign districts to each tier.***

Ohio's proposed system of tiered intervention to support districts exceeding the 1 percent threshold is similar to the multitiered support system for school improvement that is now in use by the state's 16 regional [State Support Teams \(SSTs\)](#). This tiered approach also will be familiar to educators who use similar systems to provide different levels of support to students based on their skills and knowledge levels.

After extensive discussion among its data and program specialists, the Ohio Department of Education determined that setting percentage-based thresholds for each tier would not account for differences in student populations, available student services, school practices and other local elements that might affect the use of the AASCD. The Department instead proposes a multifaceted approach to define the three levels of support commenters asked about. The current version of the state's waiver request includes a process that begins by analyzing the districts' counts of participating students. The Department then would determine whether to provide minimal, moderate or significant support based on these factors:

- Justification submitted to the Department;
- Trend data; and
- Participation rate and counts by disability categories.

The Department will work with State Support Teams when implementing the Tiered Intervention and Monitoring Plan to help ensure districts are using the AASCD properly. Regional SSTs also will continue using their existing practices, process and products to improve use of the AASCD.

***A prominent theme in the public comments was concern for how districts should identify students for participation in the Ohio Alternate Assessment for Students with Significant Cognitive Disabilities (AASCD). Commenters were concerned that IEP teams should be respected as professionals and not be limited by a 1 percent cap when determining AASCD participation.***

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section

1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

***A few commenters asked if 3 percent might be a more appropriate percentage for alternate assessment participation and about previous efforts to make a 2 percent modified assessment available.***

The Department follows the guidance of the U.S. Department of Education’s Office of Special Education and Rehabilitative Services when establishing rules for participation in the Ohio AASCD. Federal regulations no longer require an assessment of modified academic standards for students with disabilities. This proposed assessment would have provided an alternate assessment for the 2 percent of students with cognitive disabilities above the 1 percent significant threshold. For more information, see the [final regulations](#) related to the modified assessment (Aug. 21, 2015).

***Comments showed some confusion and included request for clarification on how the Department calculates the state participation rates.***

The data provided in Ohio’s One Percent Waiver Request align with the business rules used in the Ohio Department of Education’s Office of Accountability. The Department completes its calculation of the percentage of students participating in the Alternate Assessment for Students with Significant Cognitive Disabilities (AASCD) using its Data Warehouse. This source includes data collected through our Education Management Information System (EMIS) that have passed validation checks. The calculations of participation rates for reading and mathematics are very similar. To arrive at a percentage, The Department divides the number of students participating in the AASCD in Reading by the sum of students participating in all reading and English language arts tests, including the AASCD. Similarly, it divides the number of students participating in the AASCD in Mathematics by the sum of students participating in all mathematics tests, including the AASCD.

More specifically, calculations are done as follows:

- Reading numerator = AASCD in Reading
- Reading denominator = The sum of (Grades 03-08: Next Generation Reading plus any students who may have taken an End-of-Course exam in English I or English II) + (Grade 09: End-of-Course English I) + (Grade HS: End-of-Course English II) + (any grade level AASCD in Reading) □ Math numerator = AASCD in Mathematics
- Math denominator = The sum of (Grades 03-08: Next Generation Mathematics plus any students who may have taken an End-of-Course exam in Algebra I, Geometry, Math I, or Math II) + (Grade 09: End-of-Course Math I and Algebra I) + (High School: End-of Course Geometry and Math II) + (any grade level AASCD in Math).

Districts must report data accurately for students to be included in this calculation. For example, districts should report alternate assessments with a required test type of “ALT,” with appropriate test dates that fall within the school year for which they are being reported.



***Comments included suggestions that students with significant cognitive disabilities should not be required to participate in state-wide standardized assessments.***

The Individuals with Disabilities Education Act (IDEA, 1997), most recently reauthorized in 2004, mandates that *all* children, including those with the most significant cognitive disabilities:

- Have access to the general curriculum;
- Be involved in the general curriculum; and  Progress in the general curriculum.

The phrase “general curriculum” refers to curriculum that uses the same grade-level academic content standards (called learning standards in Ohio) that guide instruction for other students. Federal guidelines allow for use of alternate or extended academic content standards aligned to grade-level academic content standards for students with cognitive disabilities. IDEA also requires that all students participate in statewide assessments. Federal laws require all states, districts and schools to administer state tests to all students. IEP teams cannot exempt students from participating in these. The role of the IEP team is to determine *how* a student will participate in state tests, not *if* they will participate.

***Some commenters asked what the consequences are for states that continue to exceed the 1 percent alternate assessment threshold.***

The U.S. Department of Education has not yet given Ohio clarification on the consequences of exceeding the threshold.

Respondent ID	Do you have any comments on the strengths of the waiver?	Do you have any comments on areas of improvement for the waiver?	Do you have any other comments, questions, or concerns?	ODE response
6526638456	<p>The strength of the waiver is negated by the very fact that applying an "across the board" number to students who are unique individuals with formidable learning challenges is irresponsible and, in my opinion, unethical. Do those who create such formulas have any familiarity with students who, only a few years ago, would have been receiving authentic, appropriate and necessary instruction in life and social skills in conjunction with comprehensive training to increase their ability to function as productive citizens, NOT to increase their ability to take developmentally inappropriate tests.</p>	<p>The improve would be to eliminate this waiver altogether, return students who have Significant Cognitive Disabilities to programs that are designed to increase the skills they do have so they can leave school as individuals who are able to take care of themselves and contribute to society as determined by their comprehensive program of instruction NOT by a test.</p>	<p>When will we return education to the stakeholders who truly understand how to design instruction that facilitates creative problem-solvers instead of drilling kids to regurgitate isolated facts on tests???</p>	<p>Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.</p>

6519186364

Why 1%, who came up with this number and why is it 1%? Some school districts are going to have a greater number of students who need to be alternate assessed. If students fall in a certain category they fall in a certain category. We are testing students on IEP's who will never pass the test; even with the best accommodations. When are people going to wake up and see that all of this testing is hurting our students. It has been a huge waste of time and money. I have never seen any good information that has come from it. The effort to make public schools look bad is not working. We struggle to provide the services our students need and at the same time the charter schools are making money like crazy. Our whole system is screwed up and this is another part that is just crazy.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6490637338

I believe that every student must be educated with high standards and expectations. I also believe that it is unfair for legislation to set a cap on the percentage of students that can participate in an educational program. This is especially difficult for me to understand as I have spent by career developing educational programs that are designed to meet the individual needs of the students. Once again the government agency has designed an expectation for these students to fit into without looking at the individual needs of each student. If 1.9% of the student population meets the requirements to participate in the alternate assessment then there should not be a waiver. This is the need of the student.

Please work to develop a system that allows educators to make the best decision for every student based on their individual needs.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

Providing tiered responses to districts is a strength.

Provide districts with a reasonable annual participation goal to reduce participation.

The federal Department of Education should eliminate the 1% cap.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6490449396

6489186101

I really think it's ridiculous that you cap it to 1%. In a school that is located in a poverty stricken area with students with many needs this is really unfair and injustice to these kids to have a cap on the number of students who can be alternately assessed. We are really doing a disservice by having to pick and choose from the nerdiest kids who should all be taking this test. Instead we are putting them through hell along with their parents to make them sit through a test that tells us absolutely about nothing about our students.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

The %'s of Students with Significant Cognitive Disabilities vary in numbers due to diversity of regional populations. The waiver is necessary when a populations exceeds that 1% cap.

N/A

N/A

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6487769767

The waiver is fine but the 1% cap is too low for some districts

Stop making education so political and more student focused. Take into consideration the social concerns of some of the students, the home life, social economic status as well as the academic abilities of the student. In no way should a SWD be tested with the same test the Valedictorian of their class is tested with. But I guess you can always say "WE ARE TESTING AND TORTURING OUR OHIO STUDENTS"

When a district is running 18-22 % SWD's, the 1% should be looked at on a district by district basis.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6487282259



6479520242

My students are in the 1% and are the most medically fragile and behaviorally challenged served in a DD separate facility program. Days were spent testing a student in the spring that would be deceased due to their medically fragile condition. They did not want to participate, but we plugged along. This is not the first student in our school to be tested that would not survive the rest of the year. These students should be waived from taking the Alternate Assessment as well as regular testing unless the parents insist at an IEP that their child be tested, not the other way around. When they agree to placement at a separate facility, they should be made aware that if they want testing or intensive measures that the placement may not be the best choice for them. Our school is not a daycare, but is not a testing center either. Students should be encouraged to perform to the best of their ability and teachers should presume competence, but not have to push students into testing that causes illness, fatigue, seizures or behaviors that cause injury to self or others to gain another meaningless score.

The Individuals with Disabilities Education Act (IDEA, 1997), most recently reauthorized in 2004, mandates that all children, including those with the most significant cognitive disabilities:

- Have access to the general curriculum;
- Be involved in the general curriculum; and
- Progress in the general curriculum.

The phrase “general curriculum” refers to curriculum that uses the same grade-level academic content standards (called learning standards in Ohio) that guide instruction for other students. Federal guidelines allow for use of alternate or extended academic content standards aligned to grade-level academic content standards for students with cognitive disabilities. IDEA also requires that all students participate in statewide assessments. Federal laws require all states, districts and schools to administer state tests to all students. The role of the IEP team is to determine how a student will participate in state tests, not if they will participate.

The requested for a waiver is supported.

Ohio should ensure that the students identified as in need of AASCD meet the criteria for having the tests administered. Districts should not use the waiver to enhance rating.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the

U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

64765285  
63

6472710289

It is extremely difficult to predict 1% when total school enrollment is less than 1,000 students. Our district was under 10 students until 4 alternate assessment students moved in at the beginning of the year. I do not feel the school district or the state should be

penalized  
on areas  
that are  
out of our  
control.  
Number  
games are  
not

The Department recognizes that the percentages of students taking the alternate assessment will vary from year to year for small districts, including community schools, due to small changes in student populations. The 1 percent threshold is NOT a cap for districts, and the state does not penalize districts for exceeding it. Instead, districts are asked to complete a justification explaining why they expect to exceed the

a viable solution for this particular category threshold. They may cite a small population as a

contributing factor in the justification.

6470262820 no

no

no

Not applicable

6470127955

As a school of choice we have no control over the number of students that come to us with AA on their IEP already. Try recommending taking it away. Who are we to undo the work of the previous IEP team who worked with that student for a long period of time just to make our 1%.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6465960477

The 1% participation rate for the alternative assessment is unrealistically low. One need only look at the normal curve and see that students performing at or below the one percentile would have a standard score on achievement tests as high as 67. Students performing at the 2 percentile would have a standard score on achievement in cognitive abilities of between 68 and 70. It is extremely unlikely that there would be a significant performance difference for those students scoring at the 67 standard score level as compared to the 70 standard score level, yet the students scoring 70 are not offered the alternative assessment according to the federal guidelines. I perceived this to be unfair.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

-Doesn't allow for the individual nature of students' needs -  
Undermines the decision making frameworks for IEP teams to use to decide who should appropriately place children on alternate assessments -Doesn't represent the actual population

6463650248

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

How fair will that be for districts who excessively identify students as special needs?

Address the elective classes where students do not receive any additional assistance (inclusion).

6463359064

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

The waiver is a needed bandaid for an outdated ceiling that needs to be adjusted to todays population - there are new norms being missed

It is absurd that we still are using the 1 percent reference point - that was established decades ago...

As a member of SAPEC - I shared in committee and now with you, this data point of 1 percent is antiquated and needs to be adjusted -

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6463353074



Nicely outlined plan.

ODE should articulate that an arbitrary 1% decision at the Federal level should not influence local control and decision making. Anything under 2% means that 98% of the remaining student population is taking the general assessment. That should be a sufficient target.

I am concerned that there will be "tiered" support offered to districts to encourage/require 1% or less participation for AASCD. I don't know what that means or what it will look like but I don't anticipate it being anything we want any part of.

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

6463323247

6462726498

I would think it makes more sense to have some guidelines that school psychs could use to make the determination on whether a student is eligible for AASCD. Much like having basic reading checked on an ETR allows the student for text to speech on the AIR ELA test. Could data from a student's ETR be used to determine AASCD instead of just saying a 1% cap?

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

The waiver will address the need to appropriately measure student achievement for those that are most in need of support. It will result in fair assessment. It will allow for districts with more than 1% of students who NEED to be alternatively assessed to do so fairly, and provide the alternative equally to those in need of it.

Waivers should be granted equitably, not equally. For some districts, 1% is appropriate, for others, it is not as there may be more students who require alternate assessments.

Thank you for taking public comment.

The draft One Percent Waiver Request for Reading, Mathematics and Science Ohio posted in October 2017 responded to the federal Every Students Succeeds Act (ESSA). A new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), amended by ESSA (2016), addresses alternate assessments for students with the most significant cognitive disabilities. Each state must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent statewide participation in the alternate assessment in any subject area. The state waiver does not address decisions regarding about individual students. Instead, local individualized education program (IEP) teams decide if students will participate in the alternate assessment.

The waiver process requires states to collect justifications from districts that expect to exceed 1 percent participation in the alternate assessment for students with significant cognitive disability (AASCD) in any subject area. In their justifications, districts must explain why more than 1 percent of students qualify for the alternate assessment, as well as district procedures for determining whether a student is qualified.

6462576308

I don't see any strengths within the waiver. This seems to be yet another instance of Congress feeling we do not know how to do our jobs.

It seems as though the waiver is counter to the foundation of IDEIA as IEP teams should be able to make such decisions using the provided flow chart. However, districts and state departments of education should not be penalized for such decisions.

Remove the 1% cap.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6462361482

Ohio should submit a waiver to the US Dept. of Ed. for exceeding the 1%. Educators make decisions based on the best interest of EACH student not some arbitrary numbers game. It is a disservice to our students to place a percentage on student growth and success.

Data needs to be collected and shared with the US Dept. of Ed. on Ohio's student with significant cognitive disabilities and the increase in those students.

The best interest of our students should take precedent over a determining percentage to take a test.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6462339319

Students benefit from this waiver.

Considering that 10% of students are on an IEP, I think the percentage should be based on evidence of a need which dictates the percentage, not a given number.

6462181366

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

I think it is a good idea to make Ohio state why they would wver go over that 1%. There are some kids that may have a diagnosis people would assume should automatically would take an alternate assessments but their parents really worked hard on early intervention and the USDOE should push states to really educate SWD rather than babysitting and having low expectations.

I think waivers should be very limited - if you keep giving loopholes to the law; adult behaviors will never change.

6461197123

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

How limitations can be placed on the population with needs that warrant this is difficult to understand. A team of professionals decides this so for us not to have a waiver would not make sense.

6461168303

Only divine powers can tell us what percent of the population will need require AASCD.

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.



The words "slightly, moderately and significantly" need to be defined or have a percentage applied.

6461003874

Ohio's proposed system of tiered intervention to support districts exceeding the 1 percent threshold is similar to the multitiered support system for school improvement that is now in use by the state's 16 regional State Support Teams (SSTs). This tiered approach also will be familiar to educators who use similar systems to provide different levels of support to students based on their skills and knowledge levels.

After extensive discussion among its data and program specialists, the Ohio Department of Education determined that setting percentage-based thresholds for each tier would not account for differences in student populations, available student services, school practices and other local elements that might affect the use of the AASCD. The Department instead proposes a multifaceted approach to define the three levels of support commenters asked about. The current version of the state's waiver request includes a process that begins by analyzing the districts' counts of participating students. The Department then would determine whether to provide minimal, moderate or significant support based on these factors: Justification submitted to the Department; Trend data; and Participation rate and counts by disability categories. The Department will work with State Support Teams when implementing the Tiered Intervention and Monitoring Plan to help ensure districts are using the AASCD properly. Regional SSTs also will continue using their existing practices, process and products to improve use of the AASCD.

I see no benefit to putting a 'cap' on a value such as this.

6460871128

How will these waivers be used? Will States submitting waivers be punished in some way because they went over the cap?

The U.S. Department of Education has not given Ohio clarification on the consequences of exceeding the threshold.

6460766739

Per ODE's email we just received, "Due to this rate, Ohio must request a waiver to the 1 percent cap for the 2018-2019 administration of the alternate assessment" Is that school year correct, or should it be the 2017-2018 (current) year?

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

Cognitive Disabilities are not evenly distributed throughout the nation, state or school districts. Why would we have a percent set up so low that most schools can not meet it?

What are we supposed to do with the students above the 1% who then are supposedly qualified to take the EOC assessments, but we can not exempt them from them for graduation purposes. Life is tough enough for these kids who have to work five times harder than the kids without learning disabilities- why are we punishing them even more? We can not expect a fish to climb a tree- so why does making CD students test the same as General Education students make sense?

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

6460745249

It is very difficult in some districts to cap their AASCD at 1%. From year to year we will have students with significant disabilities and there is no way they can participate in standard state assessments.

I have also learned lately that students who take AASCD and meet these requirements will not count as earning their diploma by meeting the same requirements as their nondisabled peers. This seems to not be a student centered decision and will have big impact on our HS graduation rate.

I would suggest that students who qualify for AASCD be removed from the overall graduation calculation.

The Department recognizes that the percentages of students taking the alternate assessment will vary from year to year for small districts, including community schools, due to small changes in student populations. The 1 percent threshold is NOT a cap for districts, and the state does not penalize districts for exceeding it. Instead, districts are asked to complete a justification explaining why they expect to exceed the threshold. They may cite a small population as a contributing factor in the justification.

6460740356

I believe there should be some accountability, but if the need for alternate assessments are there for our students, that is what we should do for them regardless of a waiver.

I think we should do away with it.

Our district, which is very small is sitting at 1.6%. Students with intense needs move here because of our great programs for them. We follow the decision making rubric and I cannot get our number lower. I think ESSA needs to revisit their "cap" for AASCD.

The Department recognizes that the percentages of students taking the alternate assessment will vary from year to year for small districts, including community schools, due to small changes in student populations. The 1 percent threshold is NOT a cap for districts, and the state does not penalize districts for exceeding it. Instead, districts are asked to complete a justification explaining why they expect to exceed the threshold. They may cite a small population as a contributing factor in the justification.

6460735717

I believe the 1% cap on students eligible for alternate assessment is ludicrous! The law makers have never stepped foot in the building I work in or have seen the severity of the disabilities that the students have, which preclude them from participating in any type of general standardized assessment.

There should not have to be any type of waiver, perhaps specific guidelines guiding the decisions for who is eligible for the alternate assessment need to be more encompassing to not exclude students that truly cannot participate in the general standardized assessments in any type of meaningful way.

I challenge the law makers to enter my work setting, get to know my students, and then see how utterly ridiculous it is to ask some of them to participate in standardized state testing because of the limits in the number of students that can take alternate assessment that they have imposed.

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

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6460626842

There is no evidence to support that only 1% of the population requires an alternate assessment. Alternate assessment decisions are made based on the needs of individual students and should not be confined to a specific percentage.

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

Statistically speaking, the waiver should automatically be 3% across all students. In some communities, the waiver should be as high as 5%

States should appeal to the Federal Government to do away with Alternate Assessment and move to non-testing of significantly disabled students.

Why do we devote so much time to testing and so little time to learning?

Due to a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent participation, statewide, in alternate assessment in any subject area. In May 2017, the U.S. Department of Education, sent a memo to state assessment directors providing guidance on the content required for state waivers. Federal law requires Ohio to submit a waiver to exceed the 1 percent threshold set by the federal department. Federal regulation, not the Ohio Department of Education, established the use of 1 percent as a threshold. The Ohio Department of Education must observe that regulation.

6460619661

There are some students with severe cognitive delays that absolutely need an alternate method of assessment. To place them in front of a computer or paper test would be a waste of time for staff and student. Thus, if required, we must assess to provide some type of a score to the feds.

I really don't think our district over-identifies students for alternate assessment even though we are over the 1% cap. Participation on the test needs to be a team decision whether over the 1% or not. An arbitrary cap is absurd.

I'm not sure we learn that much from standardized assessments. We give testing too much prominence.

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.

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If the 1% cap includes those (tested) students within grades 3-12, how does "the number" become finite given the number of students who do/do not take retakes at the high school level. The 'final' number could be altered throughout the year, and more specifically throughout the testing window. At any time a student could decide to (re)take an assessment. Through pre-id grades 3-8 are fairly consistent based on enrollment and preidentification, however there is more movement at the high school level as far as "numbers tested"

The draft One Percent Waiver Request for Reading, Mathematics and Science Ohio posted in October 2017 responded to the federal Every Student Succeeds Act (ESSA). A new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), amended by ESSA (2016), addresses alternate assessments for students with the most significant cognitive disabilities. Each state must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1 percent statewide participation in the alternate assessment in any subject area. The state waiver does not address decisions regarding individual students. Instead, local individualized education program (IEP) teams decide if students will participate in the alternate assessment. The waiver process requires states to collect justifications from districts that expect to exceed 1 percent participation in the alternate assessment for students with significant cognitive disability (AASCD) in any subject area. In their justifications, districts must explain why more than 1 percent of students qualify for the alternate assessment, as well as district procedures for determining whether a student is qualified.

6460566382	No.	Yes. See below.	When testing students, we were told that 3% of the population should be tested differently, based on their disability. 1% to be Alternately Assessed and 2% would have a modified assessment. ODE was to give us a modified test for the 2%. The 2% are still here with no test that fits. So, now that Ohio is over the 1%, the districts have to fill out a waiver. We get how to identify the 1%. What we are still waiting for is how to test the 2%. Not fair to point to districts as being over the 1%.	The Department follows the guidance of the U.S. Department of Education's Office of Special Education and Rehabilitative Services when establishing rules for participation in the Ohio AASCD. Federal regulations no longer require an assessment of modified academic standards for students with disabilities. This proposed assessment would have provided an alternate assessment for the 2 percent of students with cognitive disabilities above the 1 percent significant threshold. For more information, see the final regulations related to the modified assessment (Aug. 21, 2015).
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6460521244	I think it will be a disservice to students who qualify for the waiver not to be able to take an alternate assessment because we may go over the 1% total for the state.	Seek the waiver for what is best for those students who qualify for an alternate assessment.	The Department recognizes that the percentages of students taking the alternate assessment will vary from year to year for small districts, including community schools, due to small changes in student populations. The 1 percent threshold is NOT a cap for districts, and the state does not penalize districts for exceeding it. Instead, districts are asked to complete a justification explaining why they expect to exceed the threshold. They may cite a small population as a contributing factor in the justification.
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Should be based on student needs  
not on an arbitrary number

Should be based on student needs    none  
not on an arbitrary number

6460520033

Whether a student is qualified to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to help IEP teams identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an alternate assessment to 1 percent of the total number of students in the state who are assessed in that subject. Federal regulation 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.