



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

February 27, 2025

The Honorable Robbie Fletcher
Commissioner of Education
Kentucky Department of Education
300 Sower Blvd, 5th Floor
Frankfort, KY 40601

Dear Commissioner Fletcher:

I am writing in response to the Kentucky Department of Education's (KDE's) request on August 14, 2024 (with additional information provided on January 8, 2025), for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), which stipulates that a State may not assess more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). KDE requested this waiver because, based on State data for the 2023-2024 school year, KDE concluded that it may exceed the 1.0 percent cap on AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2024-2025 school year.

After reviewing KDE's waiver request, I am declining to exercise my authority under section 8401(b) of the ESEA for a one-year waiver for the 2024-2025 school year of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of students with an AA-AAAS in R/LA, mathematics, and science.

I am declining KDE's request because I do not find that approving the waiver will advance student academic achievement, as required in ESEA section 8401(b)(1)(C). Specifically, Kentucky's assessment data for the 2023-2024 school year shows that rates of AA-AAAS participation increased in R/LA, mathematics, and science when compared to both the 2021-2022 and 2022-2023 school years. Further, because the State's AA-AAAS rates increased in the 2023-2024 school year, I find that the State has not demonstrated that it has met 34 CFR § 200.6(c)(4)(v), which requires the State educational agency (SEA) to demonstrate substantial progress in achieving each component of the prior year's plan and timeline to reduce AA-AAAS participation rates. The Department may take additional action if the State fails to make progress reducing the AA-AAAS participation rate in future years, including the 2024-2025 school year.

If KDE can demonstrate that the rate of participation on the AA-AAAS has in fact declined, and how granting this waiver would contribute to improved student achievement and is in the public interest, KDE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under ESEA section 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii) and (iii). The revised waiver request must be submitted no later than 60 days from the date of this letter.

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

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

Sincerely,

/s/

Ruth E. Ryder
Deputy Assistant Secretary for Policy and Programs
and Acting Assistant Secretary
Office of Elementary and Secondary Education

cc: Carol Morrison, KDE



Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

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August 14, 2024

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Curtis J. Kinnard, Ed. D.
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Dear Mr. Rooney and Dr. Kinnard:

The Every Student Succeeds Act (ESSA) amended a provision of Title 1 of the Elementary and Secondary Education Act of 1965 related to students participating in alternate assessments aligned with alternate academic achievement standards (AA-AAAS) of the statewide assessment. The ESSA requires state educational agencies (SEAs) to submit waiver requests to the United States Department of Education (USED) if more than 1.0% of students participate in the AA-AAAS. Kentucky was granted a waiver extension for the 2023-2024 school year for all subject areas.

Pursuant to 34 CFR §200.6(c)(4), the Kentucky Department of Education (KDE) hereby requests the Secretary of the USED approve the extension of its waiver for all subject areas for the 2024-2025 school year in anticipation of Kentucky exceeding 1.0% participation in the AA-AAAS in at least one subject area based upon an analysis of students eligible to participate in the AA-AAAS.

The KDE's application to extend its waiver provides evidence demonstrating:

- Kentucky continues to meet the requirements outlined in 34 CFR §200.6(c)(4)(i) through (iv).
- Kentucky provided updated information on each requirement in the previous year's submission.

- Kentucky will provide assessment eligibility data for the 2024-2025 school year.
- Kentucky has achieved substantial progress toward each component of the prior year's plan and timeline by including:
 - a description of how Kentucky improved the implementation of its guidelines for participation in the AA-AAAS of students with the most significant cognitive disabilities (see 34 CFR 200.6(d)(1));
 - a description of how Kentucky monitored and regularly evaluated each local educational agency (LEA) to ensure that the school staff who participated as members of an Individual Education Program (IEP) team understood and implemented the guidelines established by the KDE for participation in the AA-AAAS so all students are appropriately assessed; and
 - a description of how Kentucky continues to address any disproportionality in the percentage of students taking the AA-AAAS as identified through the data provided.

The KDE expects the efforts outlined in the attached 1.0% waiver extension request will continue to reduce the percentage of students participating in the AA-AAAS and facilitate Kentucky's progress toward meeting the 1.0% requirement set by ESSA.

Please contact Carol Ann Morrison at carol.morrison@education.ky.gov or (502) 564-4970, extension 4123, to discuss this request to extend Kentucky's participation waiver. We look forward to working with USED staff to achieve a positive response to the application.

Sincerely,



Dr. Robbie Fletcher
Commissioner of Education
Kentucky Department of Education

Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science
ESSA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d)
Submission to US Department of Education
Aug. 14, 2024

In accordance with [34 CFR 200.6\(c\)\(4\)](#), Kentucky is providing evidence of all requirements to extend Kentucky’s 1.0% waiver for Reading, Mathematics and Science. Please note, additional information will be included in an addendum after final participation data is available.

Requirement One (34 CFR 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 Kentucky Department of Education (KDE) is submitting a waiver extension request to the United States Department of Education (USED) 90 days prior to the start of the testing window for the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

Kentucky’s statewide assessment, the Kentucky Summative Assessment (KSA), first of two assessment windows for the AA-AAAS for students with significant cognitive disabilities is scheduled to begin on Nov. 12, 2024.

Evidence of Progress

The KDE sought public comment for the Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science. The public was notified through a press release that the public comment period was open from July 22 through July 31, 2024. The press release was posted on KDE’s website, shared on listservs used by local educational agencies (LEAs) and disseminated via email to other stakeholders including the state parent advisory group.

During the public comment period, the KDE received one written comment. Evidence related to the public comment period can be found in [SECTION 1: Requirement One of Appendix A: Documentation of Evidence](#).

Requirement Two (34 CFR 200.6(c)(4)) State Level Data

(ii) Provide state-level data, from the current or previous year, to show:

(A) the number and percent in each subgroup who took the AA-AAAS in the subject area:

The KDE reviewed eligibility data from Kentucky’s student information system (KSIS), known as Infinite Campus (IC), for the 2023-2024 school year. The purpose of this review was to determine the potential participation rates of students taking the AA-AAAS as preliminary data was unavailable for the required timeline of submission. Table One includes the number and percentage of Kentucky students eligible to participate in statewide assessments including

participation in the AA-AAAS. Eligibility data for the school year 2023-2024 is the raw number of students eligible to participate in state assessments provided by the student information system. The eligibility data does not include state-required review and validation at the state, LEA and school level that will impact final data for public reporting.

The eligibility data reviewed indicated at least 1.0% of Kentucky students were eligible to participate in each of the subject areas included in the AA-AAAS in the 2023-2024 school year. Therefore, based on these preliminary data, Kentucky anticipates exceeding the 1.0% threshold outlined in the ESSA for the 2024-2025 school year.

The final assessment data is not yet available. Once available, it will be publicly reported on the [Open House](#) website and the [Kentucky School Report Card](#). Therefore, in Table One, the KDE provided the number and percentage of all students, including each subgroup of students, who were eligible to participate in the AA-AAAS in the 2023-2024 school year by subject area.

Kentucky’s state assessment window for the AA-AAAS is scheduled to begin Nov. 12, 2024. Due to the requirement that states submit a waiver at least 90 days prior to the start of the assessment window, the assessment data was not available from the 2023-2024 school year before the deadline for submission of the waiver request. Therefore, Table One shows an estimate of students eligible to take the AA-AAAS based on December 1 Child Count data. When the final assessment data is available in January 2025, the KDE will review and submit the final data in an addendum. Table One will be updated at that time. Final data will be submitted to USED no later than February 28, 2025.

Table One: 2023-2024 school year AA-AAAS Eligible Students

| SUBJECT | ELIGIBLE TO PARTICIPATE IN AA-AAAS | ELIGIBLE TO PARTICIPATE IN IN STATEWIDE ASSESSMENT | PERCENT ELIGIBLE TO PARTICIPATE IN AA-AAAS |
|-------------------------------------|------------------------------------|--|--|
| Reading (elementary/middle/high) | 3,958 | 337,168 | 1.17% |
| Math (elementary/middle/high) | 3,958 | 337,168 | 1.17% |
| Science (elementary/middle) | 1,759 | 145,165 | 1.21% |

Evidence of Progress

The KDE will analyze various sources to measure progress made toward the previously approved 1.0% waiver from USED once final data is obtained in January 2025.

Table Two will demonstrate the overall rates of assessment participation for the 2023-2024 assessment year. When the final assessment data is available, the KDE will review and submit the final data in an addendum. Table Two will be updated at that time.

Data from the Kentucky Department of Education ED*Facts* submission for SY 2023-2024 Appended to document.

Table Two: Overall Rates of Assessment Participation for 2023-2024

| Group | All Students Grades 3-8 and High School (HS) Reading/Language Arts (R/LA) | Students with Disabilities Grades 3-8 and High School (R/LA) |
|-------------------------------|--|--|
| Students Assessed | | |
| Students Enrolled | | |
| Assessment Participation Rate | | |
| Group | All Students Grades 3-8 and High School Math | Students with Disabilities Grades 3-8 and High School Math |
| Students Assessed | | |
| Students Enrolled | | |
| Assessment Participation Rate | | |
| Group | All Students Grades 3-8 and High School Science | Students with Disabilities Grades 3-8 and High School Science |
| Students Assessed | | |
| Students Enrolled | | |
| Assessment Participation Rate | | |

Table Three will demonstrate the participation rates for each subgroup that participated in the AA-AAAS. When the final assessment data is available, the KDE will review and submit the final data in an addendum. Table Three will be updated at that time.

Table Three: AA-AAAS Participation Rates by Subgroup for 2023-2024

| Group | Total Number in Grades 3-8 and HS | Number Taking AA-AAAS in Grades 3-8 and HS | Percent Taking AA-AAAS in Grades 3-8 and HS |
|--------------|--|---|--|
| R/LA | | | |
| All Students | | | |
| Hispanic | | | |

Data from the Kentucky Department of Education ED*Facts* submission for SY 2023-2024 Appended to document.

| Group | Total Number in Grades 3-8 and HS | Number Taking AA-AAAS in Grades 3-8 and HS | Percent Taking AA-AAAS in Grades 3-8 and HS |
|--------------------------------|--|---|--|
| American Indian/Alaskan Native | | | |
| Asian | | | |
| Black | | | |
| Hawaiian/Pacific Islander | | | |
| White | | | |
| Two or More Races | | | |
| Male | | | |
| Female | | | |
| English Learner | | | |
| Economically Disadvantaged | | | |
| Mathematics | | | |
| All Students | | | |
| Hispanic | | | |
| American Indian/Alaskan Native | | | |
| Asian | | | |
| Black | | | |
| Hawaiian/Pacific Islander | | | |
| White | | | |
| Two or More Races | | | |
| Male | | | |
| Female | | | |
| English Learner | | | |
| Economically Disadvantaged | | | |
| Science | | | |
| All Students | | | |

Data from the Kentucky Department of Education ED*Facts* submission for SY 2023-2024 Appended to document.

| Group | Total Number in Grades 3-8 and HS | Number Taking AA-AAAS in Grades 3-8 and HS | Percent Taking AA-AAAS in Grades 3-8 and HS |
|--------------------------------|-----------------------------------|--|---|
| Hispanic | | | |
| American Indian/Alaskan Native | | | |
| Asian | | | |
| Black | | | |
| Hawaiian/Pacific Islander | | | |
| White | | | |
| Two or More Races | | | |
| Male | | | |
| Female | | | |
| English Learner | | | |
| Economically Disadvantaged | | | |

Table Four demonstrates the AA-AAAS rates by subject for the last five years. The data for the 2023-2024 school year is an estimate of students eligible to take the AA-AAAS based on December 1 Child Count data. The estimated data for the 2024-2025 is not yet available. When the final assessment data is available in January 2025, the KDE will review and submit the final data for 2023-2024 along with the estimated data for the 2024-2025 school year in an addendum. Table Four will be updated at that time.

Table Four: AA-AAAS Rates by Subject, by Year

| School Year | R/LA | Mathematics | Science |
|----------------------|-------|-------------|---------|
| 2024-2025 | | | |
| 2023-2024 (estimate) | 1.17% | 1.17% | 1.21% |
| 2022-2023 | 1.16% | 1.15% | 1.14% |
| 2021-2022 | 1.12% | 1.12% | 1.14% |
| 2020-2021 | 1.10% | 1.10% | 1.10% |

(B) Data showing at least 95% participation overall and for students with disabilities subgroup

Kentucky met, exceeded or had a waiver related to participation for the federal guidelines set at 95% participation for all students, including students with disabilities, in the Kentucky state assessment every year prior to 2023-2024.

Table Five will demonstrate the percentage of students with disabilities who participated in the AA-AAAS during the 2023-2024 school year. Table Five will be analyzed after the final participation data is calculated in January 2025. This section will be updated at that time and included in the addendum.

Table Five: 2023-2024 School Year Overall Statewide, Assessed by Subject

| Subject | Enrolled | Assessed | Percent Tested |
|---|----------|----------|----------------|
| Reading/Language Arts - All Students Total Grades 3 - 8 and High School (HS) | | | |
| Reading/Language Arts -Students with Disabilities (SWD) Total Grades 3 - 8 and HS | | | |
| Mathematics - All Students Total Grades 3 - 8 and HS | | | |
| Mathematics - SWD Total Grades 3 - 8 and HS | | | |
| Science - All Students Total Grades 3 - 8 and HS | | | |
| Science - SWD Total Grades 3 - 8 and HS | | | |

Requirement Three (34 CFR 200.6(c)(4)) Assurances

(iii) included assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0% of its assessed students in any subject area using AA-AAAS did the following:

(A) Each LEA follows the state’s participation guidelines:

With final assessment data for the 2023-2024 school year not yet available, the KDE required written assurances from all LEAs in the state. Written assurances were completed by the superintendent, Director of Special Education (DoSE) or a designee of the LEA. Evidence of written assurances can be found in [Appendix F](#) and [Appendix G](#).

When KDE has final participation data for the 2023-2024 school year, the KDE will contact all

LEAs who exceeded the 1.0% participation in the AA-AAAS in at least one subject area. Those LEAs will be required to provide the KDE with a detailed justification for exceeding the 1.0% threshold. The justification will confirm:

- IEP teams utilized the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) appropriately for each student who would participate in the alternate assessment;
- LEAs addressed any disproportionality in the percentage of students within each subgroup taking the AA-AAAS; and
- LEAs analyzed student data to make decisions for each student participating in the alternate assessment.

Information on how to view the Local District Justifications for Alternate Assessment Participation is published on the [Kentucky Alternate Assessment Participation Waiver webpage](#). The Justification Response form can be found in [Appendix H](#).

Evidence of Progress

The KDE required LEAs who had more than 1.0% of students participating in the 2022-2023 AA-AAAS to submit information to the state justifying the need to exceed the 1.0% threshold. The KDE developed a Justification Requirement Form to lead LEAs through a root cause analysis to determine why more than 1.0% of the student body was assessed using the AA-AAAS. The justification form is reviewed and revised annually by the KDE's Office of Special Education and Early Learning (OSEEL). LEAs who assessed more than 1.0% of students in any subject of the AA-AAAS were provided instructions on completing a Justification Requirement Form.

The Justification Requirement Form also required LEAs to report and document:

- Local training needs;
- Descriptions of appropriate training, support and oversight provided to IEP team members;
- Justification(s) for exceeding 1.0% participation;
- Analysis of AA-AAAS eligibility data; and
- Descriptions of the monitoring process used to monitor AA-AAAS participation and possible disproportionality.

The KDE, in collaboration with the University of Kentucky's (UK's) Human Development Institute (HDI), provided LEAs with six professional development modules related to AA-AAAS. The modules were required for all new and current IEP Team members, known in Kentucky as Admissions and Release Committee (ARC) members including special education teachers, ARC chairpersons and DoSEs.

- [Module 1: The KY 1% Alternate Assessment Waiver 3rd-12th Grade](#)
- [Module 2: Completing the Participation Guidelines for 3rd-12th Grade](#)
- [Module 3: Preparing for ARC- Participation Guidelines for 3rd-12th Grade](#)

- [Module 4: Learner Characteristic Inventory](#)
- [Module 5: Using Data Sources to Understand and Describe Alternate Assessment Population](#)
- [Module 6: Annual Review Guidance for Alternate Assessment](#)

The KDE will continue to provide guidance, support and oversight to all LEAs who anticipate exceeding the 1.0% threshold. More information on the KDE plan for guidance and oversight is provided in [Requirement 4\(B\)- 34 CFR 200.6\(c\)\(4\)\(iv\)](#) below.

(B) Assurance that LEAs over 1.0% will address any disproportionality in the students taking the AA-AAAS.

As part of the Justification Response Form, LEAs are required to describe the processes used to monitor AA-AAAS eligibility and possible disproportionality in participation.

The KDE will continue to review LEAs based on a rate comparison calculation to ensure disproportionality is addressed. The rate comparison calculation identifies when the data for any group is disproportionate to others not in the measured group.

Kentucky uses risk ratio calculation. A risk ratio is the comparison of two different risks: the risk for a specific student group to participate in the AA-AAAS compared to the risk for all students not in that student group to participate in an AA-AAAS.

For example,

- White students participating in the AA-AAAS: 2
- All white students assessed in the LEA: 250
- Non white students participating in the AA-AAAS:4
- Non white students assessed in the LEA: 2000
- The risk of white students participating in the AA-AAAS is $2/250=0.008=.8\%$
- The risk of non white students participating in the AA-AAAS is $4/2000=.002=.2\%$
- Risk ratio= $.8/.2=4.00$
- Therefore, white students are 4.00 times more likely than non white students to participate in the AA-AAAS.

In the event the data reveals any disproportionality in the percentage of students participating in the AA-AAAS, the KDE will address the issues as follows:

- Review LEAs with high rates of disproportionality
 - As stated in the National Center of Educational Outcomes (NCEO) 2019 brief titled, [Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments](#), “a risk ratio of 1.0 indicates that the proportion of focal group students who are AA-AAAS participants is the same as the focal group who are not AA-AAAS participants. In other words, there is no evidence of disproportionality when the risk ratio is at or very near 1.” The KDE referenced the principles established in the NCEO framework and example provided by

NCEO, reviewed Kentucky specific data and determined a 2.0 threshold was appropriate to determine disproportionality.

- Complete desk reviews of student files in the identified subgroup to determine if the decision for a student to participate in the AA-AAAS met regulatory requirements using the [Participation Guidelines for the Kentucky Alternate Assessment Review](#) document.
 - If the decision has not met regulatory requirements and noncompliance is found, the LEA is issued a Corrective Action Plan (CAP). The CAP must include a root cause analysis of systemic issues, a statement of noncompliance to be corrected, the steps the LEA will take to correct the problem and how compliance will be documented.
- Provide technical assistance if the decision for a student’s participation in the AA-AAAS did not meet the state criteria for a “significant cognitive disability”. The LEA may seek technical assistance from its Special Education Regional Technical Assistance Center (SERTAC) with the development of the CAP. These activities may include but are not limited to the following:
 - Assisting LEAs in developing action steps to correct any disproportionality issues identified;
 - Training for chairpersons of IEP team meetings;
 - Training for special education teachers;
 - Scheduled record reviews of students with disabilities eligible to participate in the AA-AAAS;
 - Training for LEA staff on IEPs; and
 - Resources for parents of students participating in the AA-AAAS.
- Assist LEAs in developing action steps to correct any issues identified with disproportionality.

Evidence of Progress

The KDE will examine statewide and LEA final data by subgroup and subject area for the 2023-2024 school year. The KDE will determine whether subgroups had a risk of disproportionate participation in the AA-AAAS using the recommended disproportionality calculator from the NCEO.

This information will be displayed in [Table Three](#) when the final data is calculated in January 2025.

Requirement Four (34 CFR 200.6(c)(4)) Plan and Timeline

(iv) The SEA must submit a plan and timeline by which the following will be accomplished:

(A) State will improve the implementation of its guidelines for participation in the AA-AAAS, including by reviewing and, if necessary, revising its definition of students with the most significant cognitive disabilities.

[Appendix K](#) includes the 2024-2025 school year proposed timeline for the KDE 1.0% waiver activities.

During the 2023-2024 assessment year, the KDE continued to meet and focus on analyzing data to identify trends and develop new training and guidance to educate staff and parents on AA-AAAS participation and students with cognitive disabilities.

The 2023-2024 Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science outlined plans to create parent resources, including parent training modules. In the 2023-2024 school year, the KDE began developing recorded parent modules to assist parents in understanding the AA-AAAS. The KDE met with stakeholders including the statewide parent advocacy group, Kentucky Special Parent Involvement Network (KY-SPIN), to gain input before publishing the modules. Five modules were developed and published:

- [Comparing the Regular State Assessment and Alternate Assessment](#)
- [Kentucky State Assessment Participation Options](#)
- [Regular Diploma vs. Alternative High School Diploma](#)
- [Accommodations vs. Modifications](#)
- [Completing the Kentucky Alternate Assessment Participation Guidelines](#)

The recorded parent modules can be found under parent resources on the [Kentucky Alternate Assessment Waiver](#) webpage. The modules were shared with stakeholders through OSEEL's weekly News You Can Use, which is distributed to local school districts and other stakeholders, including KY-SPIN.

The KDE will continue to collaborate with technical assistance (TA) centers funded by USED's Office of Special Education Programs (OSEP) and will maintain its involvement in the NCEO 1.0% Communities of Practice (CoP) to improve the KDE's ongoing work for students with the most significant cognitive disabilities.

The KDE will continue to seek feedback from stakeholders to review and, if necessary, revise state resources related to AA-AAAS participation and the definition of students with the most significant cognitive disabilities. If any revisions are required, the KDE will collaborate with the Special Education Regional Technical Assistance Centers (SERTACs) to develop training and guidance to support LEAs.

Evidence of Progress

The KDE worked with NCEO to support the KDE's ongoing work around students with significant cognitive disabilities during the 2023-2024 school year. For example, the KDE participated in NCEO sponsored activities including the 1% CoP bi-weekly calls, webinars and other state-sponsored convenings to improve the agency's ongoing work pertaining to students with significant cognitive disabilities and their participation in the AA-AAAS.

Additionally, the KDE participated in bi-annual collaboratives sponsored by the Council of Chief State School Officers (CCSSO). Through collaboration, the KDE was able to interact with other states to enhance state assessment, accountability and curriculum and instruction systems to provide equity and inclusion for students with disabilities.

The KDE developed five modules to assist parents of students with disabilities. The modules are meant to assist parents with understanding the differences in the regular state assessment and the alternate assessment including how participating in the AA-AAAS may impact the student after completing high school. The modules were developed with stakeholder input. They are recorded and available to the public under parent resources at the [Kentucky Alternate Assessment Participation Waiver webpage](#).

To improve the implementation of participation guidelines, the KDE completes an AA-AAAS participation desk review and issues technical assistance to LEAs as needed. This process allows the KDE and the LEA to identify the root causes of misidentification and documentation of errors. Once this is complete, the KDE and LEA develop a plan to train and implement the guidelines more efficiently. During the 2024-2025 school year, the KDE will provide support to LEAs and SERTACs to assist in analyzing 1% participation data.

(B) State will take additional steps to support and provide oversight to each LEA that the state anticipates will exceed the 1.0% threshold to ensure that only students with the most significant cognitive disabilities take an alternate assessment. 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 for participation in AA-AAAS so that all students are appropriately assessed.

The KDE and SERTACs will continue to support each LEA through guidance, training and coaching sessions which include:

- AA-AAAS eligibility requirements;
- IEP development and implementation; and
- Instructing and assessing students participating in the AA-AAAS.

More information about the training offered can be located on the SERTACs collaborative alternate assessment webpage. More information on the KDE trainings and guidance available to support LEAs in the implementation of the [Kentucky Alternate Assessment Participation Guidelines Documentation](#) form can be located on the [Kentucky Alternate Assessment Participation Waiver webpage](#).

The KDE will continue to provide oversight to LEAs through the AA-AAAS participation desk reviews. The KDE will follow the monitoring process to review a sample of due process files from IC for students found eligible to participate in the AA-AAAS. During the review, the KDE will monitor whether students met all eligibility criteria to participate in the AA-AAAS and will verify whether the LEA correctly utilized the Kentucky Alternate Assessment Participation Guidelines Documentation Form to document all IEP team decisions.

The KDE will continue to partner with the UK's HDI to provide universal trainings to all LEAs. All teachers working with students taking the AA-AAAS are required to complete AA-AAAS training annually from a KDE approved trainer, such as the UK's HDI. LEA administrative staff monitor and track the completion of trainings.

Requirement Five (34 CFR 200.6(c)(4)) Substantial Progress

(v) If the state is requesting to extend a waiver for an additional year, the state is to meet the requirements in paragraph (c)(4)(i) through (c)(4)(iv) and demonstrate substantial progress toward the achievement of each component of the prior year's plan and timeline, which was required under Requirement 4(C).

During the 2023-2024 school year, Kentucky required LEAs who had more than 1.0% of students eligible to participate in the AA-AAAS to submit information to the state justifying the need to exceed the 1.0% threshold. The KDE developed a Justification Requirement Form to lead LEAs through a root cause analysis to determine why more than 1.0% of the student body was assessed using the AA-AAAS. LEAs who assessed more than 1.0% of students in any subject of the AA-AAAS were provided the data along with instructions on completing a Justification Requirement Form.

The Justification Requirement Form also required LEAs to report and document:

- Local training needs;
- Descriptions of appropriate training, support and oversight provided to IEP team members;
- Justifications for exceeding 1.0% participation;
- Analysis of AA-AAAS eligibility data; and
- Descriptions of the monitoring process used to monitor AA-AAAS participation and possible disproportionality.

Kentucky's SERTACs received justification responses from LEAs which assisted SERTACs in determining needed training and support. In addition, the Justification Requirement Form, a summary of LEA responses and a list of LEAs that exceeded 1% participation are posted and available to the public on the [Kentucky Alternate Assessment Participation Waiver webpage](#).

The KDE, in collaboration with the UK's HDI, provided LEAs with six professional development modules related to AA-AAAS.

The KDE reviewed IEP team decisions regarding alternate assessment participation and determined whether these decisions were consistent with the Individuals with Disabilities Education Act (IDEA) and federal and state regulations [34 CFR § 300.320 \(a\)\(6\)\(ii\)](#) and [707 KAR 1:320, Section 5](#).

LEAs were required to follow the [Guidance for ARCs on Participation Decisions for the Kentucky Alternate Assessment](#) to ensure that students met all eligibility criteria for participating in the AA-AAAS. LEAs were required to document IEP team decisions on the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) or in the conference summary. The OSEEL conducted desk reviews to ensure that students were appropriately meeting eligibility criteria to participate in the AA-AAAS, and the IEP team decisions were appropriately documented.

All LEAs that assessed over 1.0% of their student population using the AA-AAAS were subject

to a data review. If an LEA was found to meet one or more of the criteria below, the OSEEL performed further monitoring by reviewing a sample of student due process files. The criteria for determining whether an LEA required additional monitoring included:

- The LEA exceeded the 1.0% AA-AAAS participation rate in the 2022-2023 school year. Through a desk review process, the OSEEL randomly reviewed 10% of school districts assessing greater than 1.0% of their population using the AA-AAAS.
- The district met state-established criteria for high disproportionality of racial or ethnic groups participating in the AA-AAAS during the 2022-2023 school year. The OSEEL used a comparison rate methodology to determine if disproportionality in AA-AAAS participation existed in districts. For AA-AAAS, disproportionality by race or ethnicity existed when the following occurred:
 - There were at least 30 students assessed, via both AA-AAAS and regular assessment, in the racial or ethnic group being examined;
 - There were at least 10 students in the racial or ethnic group being examined who were assessed via AA-AAAS; and
 - The rate at which students in the racial or ethnic group being examined was 2.0 times or greater than the rate in all other races who were identified.

The OSEEL required each LEA identified to provide a sample of due process records from the student information system, known as IC, for students found eligible to participate in the AA-AAAS. The student due process records were reviewed by an OSEEL team using the [Participation Guidelines for the Kentucky Alternate Assessment Record Review](#) document.

During the review, the OSEEL monitored whether the students had been appropriately identified as meeting all eligibility criteria to participate in the alternate assessment and verified whether the LEA correctly utilized the Kentucky Alternate Assessment Participation Guidelines Documentation Form to document all IEP team decisions, per [707 KAR 1:320, Section 5 \(11\)](#).

Table Six displays the results of desk reviews conducted for the last four years and demonstrates the progress Kentucky LEAs have made in determining AA-AAAS participation for individual students. The data shows that LEAs in Kentucky have made significant improvements in using the Kentucky Alternate Assessment Participation Guidelines in making individual decisions for students.

Table Six: Compliance Rates of LEAs that used AA-AAAS Participation Guidelines Appropriately

| School Year | Number of LEAs reviewed | Number of LEAs that demonstrated compliance | Compliance Rate of LEAs |
|-------------|-------------------------|---|-------------------------|
| 2019-2020 | 40 | 5 | 12.50% |
| 2020-2021 | 33 | 9 | 27.27% |

| | | | |
|-----------|----|----|--------|
| 2021-2022 | 14 | 11 | 78.57% |
| 2022-2023 | 14 | 9 | 64.28% |

While the AA-AAAS compliance rates of LEAs decreased slightly in the 2022-2023 school year, overall compliance continues to be significantly higher than when monitoring began in the 2019-2020 school year. The KDE analyzed monitoring data for the last two years and found the most common area of noncompliance was related to 707 KAR 1:320, Section 5 (11) which states if an IEP team “determines a child meets criteria for participation in the alternate portfolio, as provided in 703 KAR 5:070, it shall provide a statement of its decision and the reasons for the decision.” Based on the data from the last two years, the KDE determined that additional training is needed for LEAs in how to document an IEP team’s decision for determining a student eligible for AA-AAAS participation. To address improvement needs, the KDE will work with SERTACs to modify current AA-AAAS training. Additionally, the KDE submitted a proposal to the Kentucky Council for Exceptional Children (CEC) requesting to present a session on AA-AAAS, specifically focused on making participation decisions using the state guidelines. This session will be open to LEA staff across the state who work with students taking the AA-AAAS.

Alignment to Kentucky’s Vision for Public Education

[United We Learn](#) is Kentucky’s vision for the future of public education. This vision builds around three central themes: creating a more vibrant experience for every student, encouraging innovation in our schools – especially when it comes to assessment- and creating a bold new future for Kentucky’s schools through collaboration with our communities.

Building on the strength and success of KDE initiatives to date, education stakeholders are working on ways to enrich student experiences in our schools and improve learning outcomes for all students. The KDE’s work with alternate assessment participation aligns with the purpose and goals of Kentucky’s United We Learn vision. The KDE not only works to reduce participation in AA-AAAS to meet federal requirements but also to ensure each student has access to rigorous curriculum and assessments.

Appendix A: Documentation of Evidence

SECTION 1: INITIAL WAIVER REQUEST REQUIREMENTS

[Requirement One-34 CFR 200.6\(c\)\(4\)\(i\):](#)

| State Response | Supporting Evidence |
|---|--|
| <p>Kentucky indicated the dates of its upcoming AA-AAAS testing window. The state provided the opportunity for public comment and confirmed that the waiver request was submitted 90 days prior to the beginning of the testing window.</p> | <ul style="list-style-type: none"> • KDE Assessment Calendar • Appendix B: KDE’s news release of the public notice and comment period • Appendix C: Public notice of waiver request posted for public comment • Appendix D: Public comments received by the KDE • Appendix E: KDE’s response to the public comment (Statement of Consideration) |

[Requirement Two \(A\)- 34 CFR 200.6\(c\)\(4\)\(ii\)\(A\):](#)

| State Response | Supporting Evidence |
|---|---|
| <p>Kentucky will provide detailed data on AA-AAAS participation in 2023-2024 school year for all ESSA required subgroups.</p> | <ul style="list-style-type: none"> • KDE Assessment Calendar • Table One: School Year 2023-2024 eligible students • Table Two: Overall Rates of Assessment Participation for 2023-2024 When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. Table Two will be updated at that time. • Table Three: Alternate Assessment Participation Rates by Subgroup for 2023-2024 When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. Table Three will be updated at that time. • Table Four: AA-AAAS Rates by Subject, by Year |

Requirement Two (B)- 34 CFR 200.6(c)(4)(ii)(B):

| State Response | Supporting Evidence |
|---|--|
| <p>Kentucky will provide detailed data on overall assessment participation rates for all students and for students with disabilities to confirm that at least 95% of all students and at least 95% of students with disabilities participated in state assessments for the 2023-2024 school year.</p> | <ul style="list-style-type: none"> • Table Five: 2023-2024 School Year Overall Statewide, Assessed by Subject When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. Table Five will be updated at that time. • KDE School Report Card (2023-2024 data will be available in January 2025) |

Requirement Three (A)- 34 CFR 200.6(c)(4)(iii)(A):

| State Response | Supporting Evidence |
|--|--|
| <p>Kentucky provided an assurance that it has verified that each LEA with more than 1.0% participation in the AA-AAAS followed the State's guidelines for participation.</p> | <ul style="list-style-type: none"> • Appendix F: Assurances email sent to LEAs • Appendix G: Written Assurances Form • Appendix H: Justification Requirement Form • Appendix I: Universal training module outline-a series of six universal training modules are required for all IEP team members and are located on the UK HDI Learning Management System (LMS). The purpose of these training modules was to implement the requirements set forth in the ESSA and to support LEAs in the implementation of the Kentucky Alternate Assessment Participation Guidelines Documentation form. |

Requirement Three (B)- 34 CFR 200.6(c)(4)(iii)(B):

| State Response | Supporting Evidence |
|---|--|
| <p>Kentucky will provide an assurance that it has verified that each Kentucky LEA with more than 1.0% participation in the AA-AAAS will address any disproportionality in participation in the AA-AAAS.</p> | <ul style="list-style-type: none"> • Table Three: Alternate Assessment Participation Rates by Subgroup for 20223-2024 When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. Table Three will be updated at that time. |

| | |
|--|---|
| | <ul style="list-style-type: none"> • Public Reporting of AA-AAAS participation by subgroup is located in the School Report Card under Academic Performance, Assessment and Performance, State Assessments (Enrollment), Assessed vs. Not Assessed • See Requirement Four (B) and (C) in waiver request for documentation of state monitoring based on disproportionality rate comparison. |
|--|---|

[Requirement Four \(A\)- 34 CFR 200.6\(c\)\(4\)\(iv\)\(A\):](#)

| State Response | Supporting Evidence |
|--|---|
| Kentucky provided a plan and timeline for improving its alternate assessment guidelines. This plan will be updated once final participation data is calculated and analyzed. | <ul style="list-style-type: none"> • Appendix J: 2023-2024 Waiver Timeline- updated with completion dates • Appendix K: 2024-2025 Waiver Initiatives Timeline Draft • Parent Modules |

[Requirement Four \(B\)- 34 CFR 200.6\(c\)\(4\)\(iv\)\(B\):](#)

| State Response | Supporting Evidence |
|---|--|
| Kentucky provided a plan and timeline for additional steps it has taken to support and provide appropriate oversight of Kentucky LEAs expected to assess more than 1.0% on the AA-AAAS. | <ul style="list-style-type: none"> • Requirement Three and Requirement Four of the Kentucky 1.0% Waiver to be submitted by Aug. 13, 2024 that includes an outline of the state’s steps to support and provide appropriate oversight to each LEA that the state anticipates will assess more than 1.0% with the AA-AAAS • See examples of evidence in Requirement Four (A)- 34 CFR 200.6(c)(4)(iv)(A) above • Appendix J: 2023-2024 Waiver Timeline- updated with completion dates |

Requirement Four (C)- 34 CFR 200.6(c)(4)(iv)(C):

| State Response | Supporting Evidence |
|---|--|
| <p>Kentucky provided a plan and timeline for addressing any disproportionality. This plan will be updated once final participation data is calculated and analyzed.</p> | <ul style="list-style-type: none"> • See examples of evidence in Requirement Three (B)- 34 CFR 200.6(c)(4)(iii)(B) above • Requirement Four (C) of the Kentucky 1.0% Waiver submitted by Aug. 13, 2024, includes an outline of the steps the state took to address any disproportionality in the percentage of students taking the AA-AAAS. • Table Three: Alternate Assessment Participation Rates by Subgroup for 2023-2024 When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. Table Three will be updated at that time. • Public reporting of AA-AAAS participation by subgroup is located in the School Report Card under Academic Performance, Assessment and Performance, State Assessments (Enrollment), Assessed vs. Not Assessed table |

SECTION TWO: WAIVER CONTINUATION REQUESTS

Requirements 1, 2(A), 2(B), 3(A), 3(B), 4(A), 4(B), 4(C) [see Section 1]- Meet the requirements in paragraph (c)(4)(i) through (c)(4)(iv).

| State response | Supporting Evidence |
|--|--|
| <p>The state showed that it met each of the four requirements for waiver approval.</p> | <ul style="list-style-type: none"> • Kentucky’s state assessment window for the AA-AAAS is scheduled to begin Nov. 12, 2024. Due to the requirement that states submit a waiver at least 90 days prior to the assessment window, the data was unavailable for the 2023-2024 school year before the deadline for submission of the waiver request. When the final assessment data are available in January 2025, the KDE will review and submit the final data in an addendum. |

Requirement Five- 34 CFR 200.6(c)(4)(v):

| State Response | Supporting Evidence |
|---|---|
| <p>The state will show that it made progress toward its prior year’s plan and timeline.</p> | <p>Evidence to support this requirement includes:</p> <ul style="list-style-type: none"> • Appendix J: 2023-2024 Waiver Timeline-updated with completion dates • Table Three • Table Four • Table Six • Participation Guidelines for the Kentucky Alternate Assessment Record Review |

Appendix B: KDE's news release of the public notice and comment period



News Release

Media Contact: Jennifer Ginn
Director of Communications
Office: (502) 564-2000, ext. 4601
jennifer.ginn@education.ky.gov
Advisory 24-188

July 22, 2024

**SEEKING PUBLIC
COMMENT**



**Public comment sought on proposed
alternate assessment participation waiver**

(FRANKFORT, KY) – The Kentucky Department of Education (KDE) is seeking public comment on a request to the U.S. Department of Education (USED) to extend the waiver related to the number of students participating in the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

The AA-AAAS is aligned with alternate academic achievement standards on the annual statewide Kentucky Summative Assessment (KSA).

According to federal law, no more than 1% of the total number of students participating in a statewide assessment such as the KSA may take the AA-AAAS in each subject area tested.

Eligibility data from the 2023-2024 school year shows that slightly more than 1% of Kentucky's students were eligible to participate in AA-AAAS. Under [34 C.F.R. §200.6\(c\)\(4\)](#), if a state anticipates it will exceed the cap for any subject for which assessments are administered in a school year, the state may request that the U.S. secretary of education waive the cap for the relevant subject for one year. KDE plans to submit a request to extend the waiver to USED in reading, mathematics and science.

To receive an extended waiver, KDE must:

- Gather data on the characteristics of students participating in the AA-AAAS;
- Determine whether only those students who have significant cognitive disabilities are participating;
- Monitor alternate assessment data and request justification from all districts exceeding 1% participation in any subject; and
- Address any disproportionality in the percentage of students taking the alternate assessment.

As outlined in Kentucky's 2023-2024 1% Waiver Request for Reading, Mathematics and Science, the KDE Office of Special Education and Early Learning, special education regional technical assistance centers (SERTACs) and school districts have worked collaboratively to develop and implement guidance, training and monitoring to ensure only the students with the most significant cognitive disabilities are participating in the AA-AAAS. The proposed waiver details the progress made in 2023-2024 and the 2024-2025 school year plan.

The [proposed waiver](#) is available on KDE's website. General information on Kentucky's AA-AAAS is available on [KDE's Alternate Kentucky Summative Assessment \(AKSA\) webpage](#).

The public comment period will be July 22, 2024, through July 31, 2024. The public may send written comments on the proposed waiver to Carol Ann Morrison, Director, Division of IDEA Monitoring and Results, Office of Special Education and Early Learning, Kentucky Department of Education, 300 Sower Blvd., Fourth Floor, Frankfort, KY 40601.

Comments also may be submitted by email to [Carol Morrison](#), by telephone at (502) 564-4970 or by fax at (502) 564-4124.

Appendix C: Public notice of waiver request posted for public comment

KENTUCKY DEPARTMENT OF EDUCATION PUBLIC NOTICE AND COMMENT PERIOD

WAIVER REQUEST PURSUANT TO 34 CFR 200.6(c)(4)

Pursuant to [34 CFR 200.6\(c\)\(4\)](#), the Kentucky Department of Education (KDE) will seek to extend a waiver for the 2024-2025 school year from the Secretary for the United States Department of Education. The regulation in question, found at [34 CFR 200.6\(c\)\(2\)](#), requires state education agencies to limit the total number of students assessed in a subject area using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). The limit on the percentage of students assessed by the AA-AAAS is set by federal regulation, stating the total number of students assessed with the AA-AAAS per subject area shall not exceed 1.0%.

Specifically, [34 CFR 200.6\(c\)\(2\)](#) provides:

“For each subject for which assessments are administered under 34 CFR 200.2(a)(1), the total number of students assessed in that subject using an AA-AAAS 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 CFR 200.6\(c\)\(4\)](#). Written comments shall be accepted through July 31, 2024.

You may send written comments on the proposed waiver to: Carol Ann Morrison, Director, Division of IDEA Monitoring and Results, Office of Special Education and Early Learning, Kentucky Department of Education, 300 Sower Boulevard, Fourth Floor, Sower Building, Frankfort, KY 40601.

Comments may also be submitted electronically to carol.morrison@education.ky.gov. Also, comments may be submitted by telephone at (502) 564-4970 extension 4123, or by fax at (502) 564-4124.

The requirements for a state education agency to seek a waiver are set forth at [34 CFR 200.6\(c\)\(4\)](#) and are reproduced below. The KDE is requesting to extend a waiver previously granted by the United States Department of Education.

Appendix D: Public comments

From: Walls, Tara M. <tara.walls@jefferson.kyschools.us>
Sent: Tuesday, July 23, 2024 2:58 PM
To: Morrison, Carol - KDE Division Director <carol.morrison@education.ky.gov>
Subject: Kentucky's AA-AAAS Waiver Feedback

You don't often get email from tara.walls@jefferson.kyschools.us. [Learn why this is important](#)

Dear Ms. Morrison,

I wanted to write in response to feedback concerning the Ky AA-AAAS criteria. Our annual training indicates that a "significant cognitive disability" must be present. While I realize that a "cut off" score would not be appropriate and triangulation of data/committee input is required, I think giving a more concrete range of what is considered "significant" would be very helpful. After reviewing other state's procedures on AA, I noticed that some do include a score range to assist the ARC when making these decisions.

Thank you so much for your consideration and time,



Tara Walls
ECE Implementation Coach
Laukhuf Elementary School
5100 Capewood Drive Louisville, KY 40229
Phone: (502) 214-8442
Fax: (502) 214-8442

Appendix E: Statement of Consideration

**STATEMENT OF CONSIDERATION
 RESPONSE TO PUBLIC COMMENTS
 RELATING TO WAIVER REQUEST PURSUANT TO [34 C.F.R. §200.6\(c\)\(4\)](#)**

Kentucky Department of Education

Office of Special Education and Early Learning (OSEEL)

I. Pursuant to [34 C.F.R. §200.6\(c\)\(4\)](#), the Kentucky Department of Education (KDE) will seek to extend a waiver for the 2024-2025 school year from the Secretary of the United States Department of Education. [34 C.F.R. 200.6\(c\)\(2\)](#), requires State Education Agencies (SEA) such as KDE to limit the total number of students assessed in a subject area using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). The limit on the percentage of students assessed using the AA-AAAS is set by federal regulation, and there shall be no more than 1.0% of the total number of students taking the alternate assessment assessed in each subject area.

Written comments on KDE’s proposed waiver pursuant to [34 C.F.R. §200.6\(c\)\(4\)](#) were received during the public comment period from July 22 through July 31, 2024.

II. The following individuals submitted written comments:

| <u>Name and Title</u> | <u>Agency/Organization/Entity</u> |
|--------------------------------------|--|
| Tara Walls, ECE Implementation Coach | Jefferson County Public Schools (JCPS) |

Summary of Comments and Responses

1. **Subject Matter:** Kentucky’s definition of “significant cognitive disability”

Comment: I wanted to write in response to feedback concerning the Ky AA-AAAS criteria. Our annual training indicates that a "significant cognitive disability" must be present. While I realize that a "cut off" score would not be appropriate and triangulation of data/committee input is required, I think giving a more concrete range of what is considered "significant" would be very helpful. After reviewing other state's procedures on AA, I noticed that some do include a score range to assist the ARC when making these decisions. (Tara Walls, JCPS)

Response: In 2017, the KDE formed an Alternate Assessment and Diploma Advisory Group (AADAG) to assist the KDE with ensuring all students are appropriately assessed. The AADAG consisted of experts in the field of low incidence disabilities from the Human Development Institute (HDI) at the University of Kentucky, consultants who specialize in low incidence disabilities from Kentucky’s Special Education Regional Technical Assistance Centers (SERTACs) and special education directors from local school districts. KDE staff

from the Office of Teaching and Learning (OTL), Division of Learning Services (DLS) and the Office of Assessment and Accountability (OAA) also participated. The AADAG, led by an outside facilitator, collaborated on Kentucky's definition of a “significant cognitive disability”. During those meetings, the AADAG reviewed other states’ definitions of “significant cognitive disability” and participation guidelines. Ultimately, the advisory group decided that a score range or “cut-off” score would not benefit Kentucky students. The KDE appreciates the comment and will continue monitoring AA-AAAS participation to determine if future changes are needed to define “significant cognitive disability”. Additionally, OSEEL, with assistance from the SERTACs, provides continuous training on AA-AAAS participation guidelines, including the Kentucky definition of a “significant cognitive disability”. If you need additional guidance with understanding and implementing participation guidelines, please contact OSEEL at 502-564-4970.

Summary of Action Taken by the Kentucky Department of Education

The KDE received and responded to one public comment regarding the proposed one percent cap waiver request. As indicated above, the agency considered the feedback and decided that no changes would be made to its waiver request to the United States Department of Education.

Appendix F: Assurances email sent to DoSEs

Good afternoon,

The Kentucky Department of Education (KDE) is seeking to extend the 1.0% Alternate Assessment aligned with Alternate Academic Achievement Standards (AA-AAAS) participation cap waiver for the 2024-2025 school year. The waiver was previously received from the Secretary for the United States Department of Education based on the requirements set forth at [34 C.F.R. 200.6 \(c\)\(2\)](#) limiting the total number of students in the state participating in the alternate assessment. The KDE anticipates that the state may exceed the 1.0% alternate assessment threshold in reading/language arts, mathematics and science for the 2024-2025 school year.

As part of the waiver, the state is required to:

“take steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0% 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.”

To assist KDE with the waiver request and ensure all districts are complying with federal and state regulations for AA-AAAS participation, all districts will be required to complete an assurance form for the 2024-2025 school year.

Please complete the [1.0% AA-AAAS Participation District Assurance Form](#) **no later than June 28, 2024**. The assurances verify Admissions and Release Committees (ARC) in your district are following the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) when making assessment participation decisions, all ARC chairpersons have completed the required AA-AAAS participation training modules, parents of students with the most significant cognitive disabilities have been informed of the implications of participation in the AA-AAAS, and your district has addressed any disproportionality in the percentage of students in any subgroup taking the AA-AAAS.

If you have any questions about this process, please contact Linda Funke at linda.funke@education.ky.gov or (502) 564-4970 Ext. 4112.

Appendix G: Written Assurance Form

As part of [34 CFR 200.6\(c\)\(4\)](#) States are required to verify that each local education agency (LEA) that anticipates assessing more than 1.0% of its students in any subject area in which assessments are administered using the alternate assessment aligned with alternate academic achievement standards (AA-AAAS);

(iii): include assurances from the state that it has verified each LEA that the state anticipates will assess more than 1.0% of its assessed students in any subject area using AA-AAAS did the following:

- (A) Each LEA follows the state's participation guidelines; and
- (B) Assurance that LEAs over 1.0% will address any disproportionality in the students taking the AA-AAAS

Name of Person Completing the Form:

District Name:

Role of the Person Completing the Form:

1. All Admissions and Release Committees (ARCs) in the district follow the state's guidelines for participation in the AA-AAAS. **(Yes/No)**
2. The district has evidence that the Director of Special Education (DoSE), all ARC chairpersons and all special education teachers who have a caseload that includes students eligible to participate in the AA-AAAS have completed the required AA-AAAS training modules provided by the KDE. **(Yes/No)**
3. All ARCs in the district inform parents of students with the most significant cognitive disabilities of the implications of participation in the AA-AAAS. **(Yes/No)**
4. The district is addressing disproportionality in the percentage of students in any subgroup participating in the AA-AAAS **(Yes/No)**

Appendix H: Justification Requirement Form

Kentucky Department of Education Exceeding 1.0% Alternate Assessment Participation 2023-2024 Justification Requirements Form

The Every Student Succeeds Act (ESSA) requires annually each district to submit a justification when it anticipates testing more than 1.0% of students using the Alternate Assessment aligned with Alternate Academic Achievement Standards (AA-AAAS). Each school year, districts that assess over 1.0% of their student population using the AA-AAAS will be required to submit a justification form. If you receive this form, your district exceeded the 1.0% threshold for the AA-AAAS for the 2022-2023 school year. Do not submit any personally identifiable information with this justification.

1. Email:
2. District Name:
3. Name of Person Completing Form:
4. Role of Person Completing Form:
5. Special Education Regional Technical Assistance Center:

6. How has the district ensured all Admissions and Release Committees (ARC) are using the participation guidelines correctly to make AA-AAAS participation decisions?
7. Do district staff have questions about specific participation criteria or areas of the AA-AAAS eligibility guidelines? (Yes/No)
8. Please specify questions the district has about specific participation criteria or areas of the AA-AAAS eligibility guidelines.
9. Do district staff need additional training? (Yes/No)
10. Please specify additional training that may be needed.
11. How does the district document that all district ARC members (ARC chairpersons, administrators, special education teachers, etc.), who are involved in making decisions regarding participation in the Alternate Kentucky Summative Assessment (AKSA), have completed the AA-AAAS participation guideline training?

For the following questions, please identify any factors justifying your district exceeding 1.0% of your student population participating in the AA-AAAS.

12. Do ARC members use the participation guidelines effectively to determine whether a student has a significant cognitive disability? (Yes/No)
13. Please explain what additional training ARC members may need to use the participation guidelines effectively. Please be specific.

14. Do ARC members in the district understand how to gather and analyze data when making the decision for determining whether a student is eligible to participate in the AA-AAAS?
15. Please explain specifically in what areas of data gathering and analysis the ARC members may need training.
16. Small district sizes may result in a greater impact on participation rates. Is your district participation rate impacted by an overall small student population size? (Example: district size is 180 students with two students with significant cognitive disabilities participating in the AA-AAAS which results in a higher than 1.0% participation rate).
17. Please indicate the total district population, total number of students who will participate in the AA-AAAS, and the percentage of students who will participate in the AA-AAAS.
18. Does the district include school, community or health programs that draw large numbers of students with the most significant cognitive disabilities? (Yes/No)
19. Please list specific schools, communities or health programs that draw large numbers of students with the most significant cognitive disabilities to your district.
20. Are there other reasons why your district has more than 1.0% of students eligible for the AA-AAAS? (Yes/No)
21. Please describe the other reasons why your district has more than 1.0% of students eligible for the AA-AAAS.
22. Has the district reviewed and analyzed data (data examples: disability category, Learner Characteristics Inventory, English Language Learner, communication status) for students eligible for the AA-AAAS? (Yes/No)
23. Please provide an analysis of the data.
24. Does the district data show disproportionality in specific groups of students taking the AA-AAAS? (Yes/No)
25. Describe how your district plans to address disproportionality in certain groups.
26. How does the district monitor eligibility for students to participate in AA-AAAS?
 - a. Review of student due process folders for all students eligible to participate in the AA-AAAS.
 - b. Director of Special Education (DoSE) meets/consults and/or participates in ARCs for all AA-AAAS participation determinations.
 - c. Monthly meetings/Professional Learning Communities (PLCs) to review student progress data
 - d. District and school-level administrators monitor AA-AAAS eligibility determinations through Infinite Campus reports.
 - e. Other (please describe below)

27. What additional training or guidance is needed for your district to improve the AA-AAAS participation decision-making process? (Example: specific guidance for parents, training on excessive modifications).

Appendix I: Universal training module outline

| | | |
|---|---|--|
| <p><u>Administrator Track</u></p> <p>Focuses on:</p> <ul style="list-style-type: none"> • How my LEA fits into the bigger picture (Modules 1 and 5) • How my LEA stays compliant with state expectations (Modules 2 and 4) | <p><u>Educator Track</u></p> <p>Focuses on:</p> <ul style="list-style-type: none"> • How what I see and collect in the classroom informs how my student participates in KY assessments (Module 3) • How what I see and collect in the classroom informs the completion of the learner characteristics inventory (LCI) (Module 4) | <p><u>Annual Review for ARC Members Module</u></p> <p>Refresher module focuses on:</p> <ul style="list-style-type: none"> • How to complete the participation guidelines • How what I see and collect in the classroom informs how my student participates in KY assessments • How what I see and collect in the classroom informs the completion of the LCI |
|---|---|--|

| | | | | |
|---|---|---|--|---|
| <p><u>Module 1</u> <u>The KY 1% Alternate Assessment waiver</u></p> <ul style="list-style-type: none"> • Change in reporting requirement • Communicating with district staff | <p><u>Module 2</u> <u>Completing the Participation Guidelines</u></p> <ul style="list-style-type: none"> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. Modification • How to use the Participation Guidelines for determination | <p><u>Module 3</u> <u>Preparing for the ARC- Participation Guidelines</u></p> <ul style="list-style-type: none"> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. modification • How to prepare to answer the Participation Guidelines four criteria | <p><u>Module 4</u> <u>Completing the Learner Characteristics Inventory</u></p> <ul style="list-style-type: none"> • Purpose and use • Guidance on answering each question | <p><u>Module 5</u> <u>Understand Your LEAs alternate assessment population in relation to the CAP</u></p> <ul style="list-style-type: none"> • Data sources that could be used • LEA comparisons • Red flags to explore |
|---|---|---|--|---|

Appendix J: 2023-2024 Alternate Assessment Participation 1.0% Waiver Work Timeline

| 2023-2024 Timeline | Anticipated Dates | Status |
|---|-------------------------------------|---------------------------------------|
| Kentucky waiver request out for public comment | August 2023 | Completed- posted Aug. 2-Aug. 9, 2023 |
| Statement of Considerations <ul style="list-style-type: none"> Respond to all public comments (ongoing during the public comment period) Revisions to waiver based on public comment | August 2023 | Completed- Aug. 15, 2023 |
| Kentucky waiver submitted to United States Department of Education (USED) Must be submitted 90 days prior to assessment | Aug. 15, 2023 | Completed- Aug. 15, 2023 |
| Beginning of Year Training for Directors of Special Education (DoSE) and/or designee | September 2023 | Completed- September 2023 |
| Post Request to Extend on the KDE website | September 2023 | Completed- Jan. 31, 2024 |
| Parent Modules revised and published on the KDE website | Fall 2023 | Completed- July 2024 |
| District Justifications due to Division of IDEA Monitoring and Results (DIMR) | January 2024 | Completed- March 2024 |
| DIMR Data Review: <ul style="list-style-type: none"> Monitoring Proposal for 2023-2024 Review disproportionality data Review of districts over 1% participation | February 2024 | Completed- March 2024 |
| Desk Reviews of AA Participation | March-April 2024 | Completed- April and May 2024 |
| Desk Review of AA Participation results and justification responses to SERTACs | May 2024 | Completed July and August 2024 |
| End of Year training for DoSEs and/or designees | May 2024 | Completed- March, April and May 2024 |
| Participation in the Alternate Assessment 1% Community of Practice (CoP) | Meets bi-weekly throughout the year | ongoing |

Appendix K: 2024-2025 Waiver Initiatives Timeline Draft

| 2024-2025 Timeline | Anticipated Dates |
|--|--|
| Kentucky waiver request out for public comment | July 2024 |
| Statement of Considerations <ul style="list-style-type: none"> • Respond to all public comments (ongoing during the public comment period) Revisions to waiver based on public comment | July 2024 |
| Kentucky waiver submitted to United States Department of Education (USED) Must be submitted 90 days prior to assessment | Aug. 14, 2024 |
| Beginning of Year Training for Directors of Special Education (DoSE) and/or designee | September 2024 |
| Work with DoSEs who requested additional training in the Justification form to develop training tailored to the LEAs specific needs | Fall 2024 |
| Post Request to Extend on the KDE website | September 2024 |
| Present at Kentucky’s Council of Exceptional Children (CEC) | November 2024 |
| District Justifications due to Division of IDEA Monitoring and Results (DIMR) | March 2025 |
| DIMR Data Review: <ul style="list-style-type: none"> • Monitoring Proposal for 2023-2024 • Review disproportionality data • Review of districts over 1% participation | March 2025 |
| Desk reviews of LEAs to monitor AA-AAAS participation | April 2025 |
| Desk Review of AA Participation results and justification responses to SERTACs | June 2025 |
| End of Year training for DoSEs and/or designees | April/May 2025 |
| Participation/Collaboration in: <ul style="list-style-type: none"> • NCEO Alternate Assessment 1% Community of Practice (CoP) • CCSSO conferences (virtual and in person) • KDE’s Alternate Kentucky Summative Assessment (AKSA) cross-office group | Ongoing throughout the 2024-2025 school year |

KDE ED*Facts* Assessment Participation Data for SY 2023-2024

Table 1: Overall Rates of Assessment Participation for 2023-24

| Group | All Students Grades 3-8 and High School R/LA | Students with Disabilities Grades 3-8 and High School R/LA |
|-------------------------------|--|--|
| Students Assessed | 333,408 | 51,158 |
| Students Enrolled | 335,467 | 51,589 |
| Assessment Participation Rate | 99.4% | 99.2% |
| Group | All Students Grades 3-8 and High School Math | Students with Disabilities Grades 3-8 and High School Math |
| Students Assessed | 333,285 | 51,115 |
| Students Enrolled | 335,422 | 51,577 |
| Assessment Participation Rate | 99.4% | 99.1% |
| Group | All Students Grades 3-8 and High School Science | Students with Disabilities Grades 3-8 and High School Science |
| Students Assessed | 141,834 | 20,193 |
| Students Enrolled | 143,262 | 20,429 |
| Assessment Participation Rate | 99.0% | 98.8% |

Table 2: Assessment Participation Rates by Subgroup for 2023-24

| Group | Total Number in Grades 3-8 & HS | Num. Taking AA-AAAS in Grades 3-8 & HS | Percent Taking AA-AAAS in Grades 3-8 & HS |
|---------------------------|--|---|--|
| R/LA | | | |
| All Students | 333,408 | 3,976 | 1.19% |
| Students w disabilities | 51,158 | 3,976 | 7.77% |
| Female | 161,467 | 1,284 | 0.80% |
| Male | 171,879 | 2,692 | 1.57% |
| Hispanic | 33,503 | 316 | 0.94% |
| American Indian | 443 | 5 | 1.13% |
| African American | 35,795 | 477 | 1.33% |
| White | 238,345 | 2,886 | 1.21% |
| Asian American | 7,184 | 72 | 1.00% |
| Hawaiian/Pacific Islander | 661 | 4 | 0.61% |
| Multiracial | 17,477 | 216 | 1.24% |
| Low-Income | 205,887 | 3,111 | 1.51% |
| English Learner | 24,393 | 256 | 1.05% |
| Homeless | 10,181 | 163 | 1.60% |
| Mathematics | | | |
| All Students | 333,285 | 3,974 | 1.19% |
| Students w disabilities | 51,115 | 3,974 | 7.77% |
| Female | 161,406 | 1,286 | 0.80% |
| Male | 171,879 | 2,688 | 1.56% |
| Hispanic | 33,512 | 319 | 0.95% |
| American Indian | 443 | 5 | 1.13% |
| African American | 35,755 | 477 | 1.33% |
| White | 238,255 | 2,881 | 1.21% |
| Asian American | 7,196 | 72 | 1.00% |
| Hawaiian/Pacific Islander | 659 | 4 | 0.61% |

| | | | |
|---------------------------|---------|-------|-------|
| Multiracial | 17,465 | 216 | 1.24% |
| Low-Income | 205,778 | 3,109 | 1.51% |
| English Learner | 24,403 | 264 | 1.08% |
| Homeless | 10,193 | 163 | 1.60% |
| Science | | | |
| All Students | 141,834 | 1,733 | 1.22% |
| Students w disabilities | 20,193 | 1,733 | 8.58% |
| Female | 69,071 | 593 | 0.86% |
| Male | 72,763 | 1,140 | 1.57% |
| Hispanic | 13,998 | 145 | 1.04% |
| American Indian | 215 | 2 | 0.93% |
| African American | 15,192 | 198 | 1.30% |
| White | 102,011 | 1,264 | 1.24% |
| Asian American | 2,995 | 36 | 1.20% |
| Hawaiian/Pacific Islander | 275 | 2 | 0.73% |
| Multiracial | 7,148 | 86 | 1.20% |
| Low-Income | 84,923 | 1,359 | 1.60% |
| English Learner | 9,726 | 102 | 1.05% |
| Homeless | 4,001 | 67 | 1.67% |

Table 3: AA-AAAS Rates by Subject, by Year

| School Year | R/LA | Mathematics | Science |
|-------------|-------|-------------|---------|
| 2017-2018* | 1.13% | 1.13% | 1.12% |
| 2018-2019* | 1.13% | 1.13% | 1.14% |
| 2020-2021* | 1.10% | 1.10% | 1.10% |
| 2021-2022* | 1.12% | 1.12% | 1.14% |
| 2022-2023* | 1.16% | 1.15% | 1.14% |
| 2023-2024 | 1.19% | 1.19% | 1.22% |

* State data submissions from prior year waiver requests.