UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 7, 2023

The Honorable David Roach
Superintendent
West Virginia Department of Education
1900 Kanawha Boulevard East
Charleston, WV 25305-0330

Dear Superintendent Roach:

I am writing in response to the West Virginia Department of Education's (WVDE's) request on December 13, 2022 (with additional information provided on January 27 and 30, 2023) for a one-year extension of the State's 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). WVDE requested this waiver because, based on State data for the 2021-2022 school year, WVDE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2022-2023 school year.

After reviewing WVDE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA a one-year extension (for school year 2022-2023) of the State's waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of the total number of students in the State who are assessed in R/LA, mathematics, and science using an AA-AAAS.

As part of this waiver granted in R/LA, mathematics, and science, WVDE assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implement regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Had assessed in 2021-2022 at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR § 200.6(d) – excluding (d)(6) – and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

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

As a reminder, 34 CFR § 200.6(c)(3)(iv) requires a State to make publicly available the information submitted by an LEA justifying the need to assess more than 1.0 percent of its students on the AA-AAAS, provided such information does not reveal personally identifiable information about a student. I also encourage you to make available your State's plan, timeline, and progress to date in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by WVDE, I expect to continue to see positive results of this plan in the 2022-2023 school year and beyond. I note that the rate of AA-AAAS participation in the 2021-2022 school year was lower in R/LA, mathematics, and science than the rate in the 2018-2019 school year. I want to thank you for your continued efforts in achieving such progress. Future requests for a waiver extension will continue to expect both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS in all tested subjects.

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

Sincerely,

James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Mimi Browning, Coordinator of Special Education Programs, WVDE

1900 Kanawha Boulevard, East, Building 6 • Charleston, WV 25305
wvde.us

December 9, 2022

Office of Special Education Programs
Office of Special Education Rehabilitative Services
United States Department of Education
400 Maryland Ave., SW
Washington, DC 20202

To Whom it May Concern:

The West Virginia Department of Education (WVDE) wishes to request an extension of the current waiver of the 1.0 percent cap on participation in the alternate assessment for SY2022-23, in accordance with 34 C.F.R.200.6(c)(4), from the Secretary of the United States Department of Education (USDOE). The WVDE anticipates exceeding the 1.0 percent cap in English/Language Arts (ELA), mathematics, and science based on the SY2021-22 assessment data results.

The attached waiver extension request provides assessment trend data for participation in the West Virginia Alternate Summative Assessment (WVASA) as well as disproportionality of subgroups. To support the appropriate assessment placement of students with the most significant cognitive disabilities, the WVDE has revised processes and training plans to assist Local Educational Agencies regarding compliance with state guidelines and practices for appropriate placement.

Thank you in advance for your consideration of the waiver extension as we continue to see a general downward trend in alternate assessment participation rates for each subject area assessed. West Virginia is committed to providing ongoing technical assistance and support to LEAs and strives for continuous improvement toward the 1.0% target.

Sincerely,

David L. Roach
State Superintendent of Schools

Attachment

West Virginia

1.0 Percent State-Level Cap

Waiver Extension Request

The West Virginia Department of Education (WVDE) wishes to request an extension from the Secretary for the United States Department of Education (USDOE) to the current waiver of the 1.0 percent cap on participation in the alternate assessment for SY2022-23 in accordance with 34 C.F.R.200.6(c)(4).

Pursuant to 34 C.F.R.200.6(c)(2):

> *For each subject in which assessments are administered, the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards may not exceed 1.0 percent of the total number of students in the state who are assessed in that subject.*

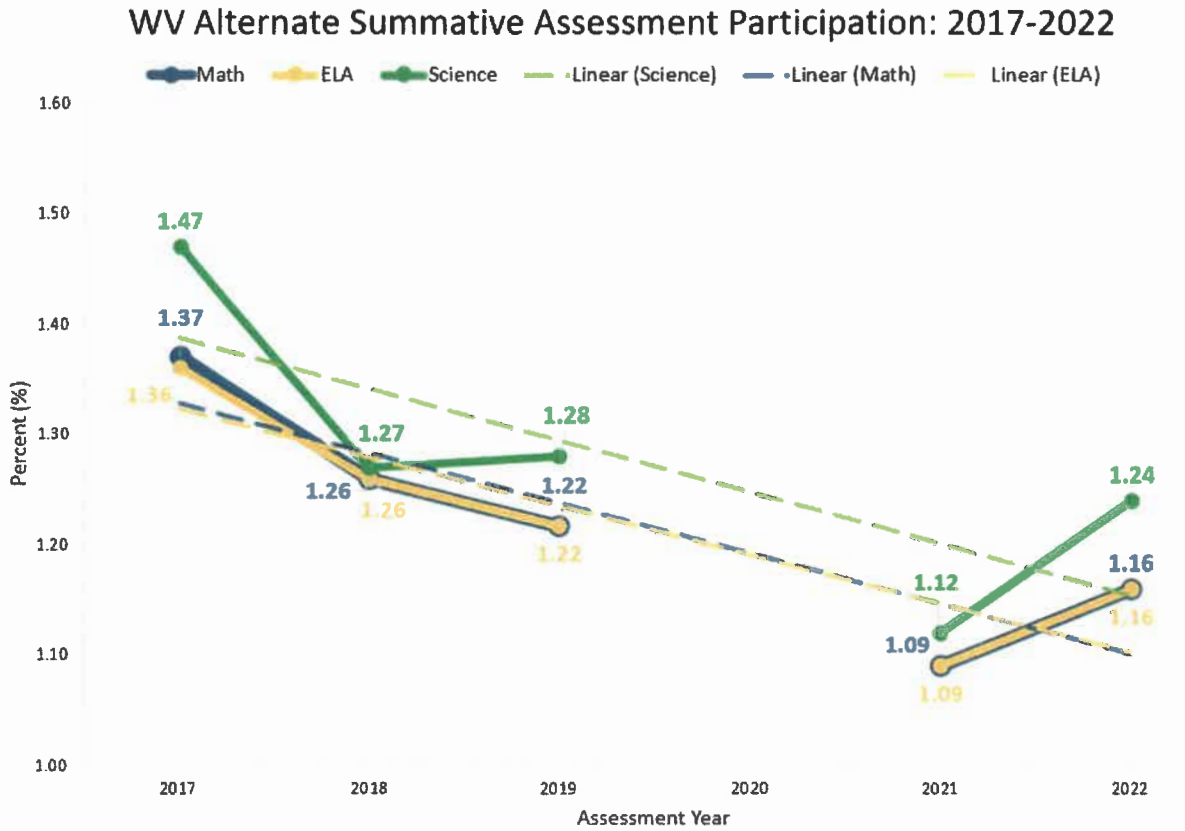
The WVDE anticipates exceeding the 1.0 percent cap in one or more subject areas based on the SY2021-22 assessment data concerning the percentage of students taking the West Virginia Alternate Summative Assessment (WVASA), West Virginia's alternate assessment based on alternate academic achievement standards. Figure 1 on the following page illustrates a general downward trend of WVASA participation rates in each subject area, as per IEP team determinations for WVASA participation, for SY2016-17 through SY2018-19. Due to school closures related to the COVID-19 pandemic, West Virginia did not administer statewide assessments in SY2019-20.

In anticipation of SY2020-21, the WVDE collaborated with the West Virginia Department of Health and Human Resources to develop and disseminate school re-entry guidelines consistent with Centers for Disease Control and Prevention recommendations. Because of recurring individual and group quarantines, hybrid learning schedules, classroom and school closures due to COVID-19 outbreaks, and an increase in students participating in virtual or homeschool learning options, overall assessment participation rates were depressed. The WVDE received a waiver of the 95% participation rate from the USDOE for SY2020-21.

SY2021-22 saw a closer approximation to normalcy as COVID-19 restrictions were eased, students who had been enrolled in virtual or homeschool were beginning to return to the classroom, and attendance and engagement saw relative improvement. As a result, statewide assessment participation, including WVASA participation, increased.

Despite the slight uptick in WVASA participation rates in SY2021-22, the WVDE would like to emphasize that the most recent WVASA participation rates are lower than the SY2018-2019 rates in all content areas, suggesting a continued decrease in participation rates compared to pre-COVID-19 baseline data (i.e., SY2016-17 through SY2018-19).

Figure 1. WVASA Participation: 2017-2022 (All Subjects)



Notes: WV Alternate Summative Assessment given to grades 3-8 and 11 for math and ELA; science content area given to grades 5, 8 & 11; data include all 57 school districts; no assessment in 2020. Data sources: WVEIS assessment report card file for each school year.

West Virginia has addressed the following waiver and waiver extension requirements:

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

West Virginia's testing window for SY2022-23 is April 3, 2023 through May 26, 2023; therefore, the waiver request must be submitted to the USDOE prior to January 3, 2023.

(ii) Provide State-level data, from the current or previous school year, to show –
(A) The number and percentage of students in each subgroup of students defined in section 1111(c)(2)(A), (B), and(D) of the Act who took the alternate assessment aligned with alternate academic achievement standards, and

Table 1 on the following page displays the participation rates by subject area for the WVASA administered during SY2021-22. Accordingly, the WVDE anticipates exceeding the 1.0 percent state-level cap as set forth in the Every Student Succeeds Act (ESSA) for SY2022-23.

Table 1. WVASA 2022 Participation by Content Area

Content Area	Number (#) Participating in Statewide Assessment	Number (#) Participating in Alternate Assessment	Percent (%) Participating in Alternate Assessment
Math Grades 3-8, and 11	123,545	1,436	1.16
ELA Grades 3-8, and 11	123,557	1,438	1.16
Science Grades 5, 8, and 11	52,071	645	1.24

Data Source: WVEIS RPTCRD22
Note: WVASA = West Virginia Alternate Summative Assessment

Itemization of the numbers and percentages of students assessed on the WVASA by subgroup and content area is provided in Tables 6 through 11 of Appendix A. Subgroups include gender, socioeconomic status, English learner status, race/ethnicity, and primary exceptionality.

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

West Virginia met the federal participation requirements for SY2021-22 for all students assessed. Table 2 shows the SY2020-21 and SY2021-22 participation rates for students with disabilities as well as the progress in participation rates for each content area from year to year. West Virginia state participation rates are publicly available at zoomwv.k12.wv.us. To view participation rates, users navigate to the website and select the "State Assessment Results" icon, then select the "State Assessment Subgroups" option. Data must also be filtered by "Population Group," then choose "Status" to see results.

Table 2. Difference in Statewide Assessment Participation Rates for "Students with Disabilities" Subgroup from SY2020-21 to SY2021-22

Content Area	SY2020-21	SY2021-22	Difference
Mathematics	89.18%	96.32%	+7.14%
ELA	89.15%	96.29%	+7.14%
Science	85.42%	94.16%	+8.74%

Data Source: zoomwv.k12.wv.us

West Virginia mandates federal participation requirements for assessment be followed. All students enrolled in public K-12 schools are to be assessed with the West Virginia General Summative Assessment (WVGSA) with or without accommodations, or with the West Virginia Alternate Summative Assessment (WVASA). The only exception to participation for any student is a medical or extraordinary circumstances non-participation waiver.

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

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

West Virginia revised the previous system for obtaining LEA justifications for exceeding 1.0 percent of students assessed on the WVASA to maintain ongoing annual data and to ease the burden on LEAs. Per the above referenced guidance, the WVDE requires documentation to be provided by the LEA if they anticipate assessing more than 1.0 percent of students on the alternate assessment in any subject area.

- The WVDE provided each LEA with a snapshot of SY2021-22 assessment data participation rates to assist with making an informed estimation of participation rates for the upcoming assessment in SY2022-23.
- A survey, ***LEA Justification Form: Waiver 2022-2023***, was provided to each LEA via email to obtain verification of LEA anticipation of assessing more than 1.0 percent of students on the WVASA in each content area.
    - If an LEA anticipates assessing *fewer* than 1.0 percent of students on the WVASA, the LEA completes items 1-3 of the survey and submits to the WVDE.
        - Items 1-3 ask for the name of the LEA, the contact name for the LEA, and whether the LEA anticipates assessing more than 1.0 percent of students using the WVASA.
    - If an LEA anticipates assessing *more* than 1.0 percent of students on the WVASA, the survey prompts the LEA to provide information as to how State guidelines for participation in the alternate assessment are being followed and how disproportionality is being addressed, if relevant.
    - WVDE is provided verification of LEA anticipation of assessing above 1.0 percent of students taking the WVASA in any or all content areas upon the LEA's submission of the survey.

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

If an LEA is projected to exceed the 1.0 percent cap for participation in the alternate assessment, the above referenced justification survey branches to the topic of disproportionality of subgroups.

The LEA is required to provide evidence for addressing disproportionality in any subgroups taking the alternate assessment.

LEA justifications will be made publicly available upon request. Requests for LEA justifications should be made to *Mimi Browning, WVDE Office of Special Education* mcbrowning@k12.wv.us .

(iv) Include a plan and timeline by which –

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

The WVDE created a "1% Team" to oversee the work of ensuring only students with the most significant cognitive disabilities who meet the WVASA participation criteria are participating in the WVASA. The team decided revisions to the waiver extension plan from SY2021-2022 would be beneficial to assist LEAs with appropriate placement decisions for state assessments.

Revisions to the previous plan included the following:

- The team evaluated the State's current definition of a student with the most significant cognitive disabilities as stated in WVBE Policy 2419: *Regulations for the Education of Students with Exceptionalities*. The team determined the current definition continues to be appropriate. This decision was supported by the lack of proposed changes to the definition through the public comment period for WVBE Policy 2419's draft revisions, and the lack of proposed changes to the definition during related public hearings that occurred in May 2022.
- The 1% Team evaluated the WV Rubric for the Eligibility of Students Considered for the Alternate Assessment. The decision was made to revise the format to align with the layout of the State's other special education eligibility team reports. The ***Eligibility Determination Checklist for Participation in the Alternate Summative Assessment (WVASA)*** is the revised eligibility determination tool.
- The ***West Virginia Alternate Summative Assessment (WVASA) Eligibility: Guidance for IEP Teams*** document was developed as a companion guide to the new checklist. This comprehensive document provides an overview of the federal requirements related to alternate assessment participation, general information about significant cognitive disability, further information about each criterion on the eligibility checklist, recommended potential sources of evidence that can be used to support each criterion, and other information relevant to WVASA eligibility (e.g., psychoeducational and speech-language evaluation, English Learners with Significant Cognitive Disabilities, FAQ).
- The ***West Virginia Guidelines for Participation in State Assessments*** document was reviewed and revised to add the new eligibility checklist.
- The ***Alternate Diploma: Tip Sheet for School Personnel*** document was created to clarify and assist school personnel with various aspects of the alternate diploma. The tip sheet was created based on recurring questions received by the Office of Special Education.

- The ***West Virginia Alternate Summative Assessment: An Informational Guide for Parents/Guardians*** document was reviewed and approved as a support document for parents, to assist with better understanding the WVASA.
- ***Understanding Alternate Diplomas: What Teachers, Parents, and Students Need to Know*** is an updated version of the WVDE's previous alternate diploma tri-fold brochure. This updated document integrates previous information for stakeholders relevant to the decision to assess a student based on the alternate standards.

All listed documents are publicly available on the WVDE website.

(B) The State will take additional steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and implement the guidelines established by the State under paragraph (d) of this section so that all students are appropriately assessed; and

2022-2023 WVDE Plan for Training, Support, and Monitoring

Training:

The "Train the Trainer" model is being used to assist LEAs with sustaining internal processes.

LEAs were given the directive to establish Special Education Teams to attend the WVDE trainings on the newly revised forms, guidance documents, and other related information. The following team members were suggested to attend:

1. Special Education Director
2. Lead School Psychologist, or LEA equivalent
3. Lead Special Education Specialist (Diagnostician, Evaluator, or LEA equivalent)
4. Lead Speech-Language Pathologist, or LEA equivalent
5. Any other attendee as appropriate for the LEA (optional)

Trainings are being provided virtually to each region for a total of eight trainings.

WVDE coordinators are training the Special Education Teams for each LEA on the ***Eligibility Determination Checklist for Participation in the Alternate Summative Assessment (WVASA)*** and the companion document, ***West Virginia Alternate Summative Assessment (WVASA) Eligibility: Guidance for IEP Teams.*** The WVDE is also reviewing the State's definition of students with the most significant cognitive disabilities in these trainings.

All LEAs are scheduled to be trained by WVDE from October 2022 through November 2022 on the new participation checklist and guidance document. Although the trainings are intended to be for specific regions, WVDE has provided flexibility by allowing LEAs to attend a different session if unable to attend during their designated training session. A **WVASA Eligibility Checklist and Guidance Training Evaluation Form** is sent by email to participants to gather feedback regarding their perceptions of the training and its effectiveness. These data are used to improve subsequent trainings. LEAs are required to begin full implementation of the updated materials and phase out the use of the previous eligibility rubric by the end of January 2023.

The ***West Virginia Alternate Summative Assessment: An Informational Guide for Parents/Guardians*** and the ***Understanding Alternate Diplomas: What Teachers, Parents, and Students Need to Know*** documents are both presented in the above referenced regional trainings. The ***Alternate Diploma: Tip Sheet for School Personnel*** has been presented throughout the state both virtually and in-person to school personnel including principals and counselors. This resource is presented regularly to Special Education directors during monthly meetings as updated.

Initial trainings on new and updated WVDE resources are scheduled to be completed by the end of January 2023. To assist LEAs with internal sustainability, webinar trainings for the new and updated WVDE resources are scheduled to be uploaded to the WVDE website in SY2023-24.

Support:

Community of Practice (CoP)

- The WVDE has established a monthly community of practice entitled "Cap Chat." This virtual support meeting is for all LEAs with participation rates in the alternate assessment above 1.0 percent. This platform is for guidance, discussion, and collaboration to support the needs of LEAs.

WVASA Learner Characteristics Tool

- This tool was created to assist Special Education Directors in further understanding the characteristics of students being assessed on the alternate assessment in their LEA. This spreadsheet utilizes data entered into the alternate assessment database by special educators, and provides information based on local, district, and state data. WVDE coordinators work individually with LEAs to review these data upon request.

Special Education Directors Calls

- These calls provide a monthly opportunity for all LEAs to come together to discuss issues, including the 1.0 percent cap of students taking the alternate assessment.

WVDE Coordinator Support

- Each region in West Virginia is assigned two WVDE Special Education Coordinators. Coordinators provide support on a monthly or quarterly basis according to LEA need and serve as a point of contact.

Monitoring:

Upon completion of training on new and revised documents and information from the WVDE, LEAs are required to submit Dissemination Guides documenting their plan for initial and ongoing training of updated materials. This includes support for staff to ensure the use of the Eligibility Checklist and Guidance document with fidelity.

Beginning SY2023-24:

- LEAs will internally track the number of students who will be assessed on the alternate standards for the upcoming year. Districts will review this information at monthly support meetings to ensure data is reliable.
- If an LEA indicates on their justification documentation that they do not anticipate assessing over 1.0 percent of students on the alternate assessment, yet they assessed over 1.0 percent the previous year, the LEA will need to fully complete the justification and provide evidence sufficient to support the proposed decrease of students assessed on the alternate assessment.

(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided.

The methodology used to establish disproportionality is a risk ratio which was calculated for each subgroup and compared to the relative risk associated with all other assessed students. Any risk ratio above 1.0 indicates disproportionality – the higher the risk ratio, the greater the degree of disproportionality. The WVDE implements similar analyses when determining disproportionate representations for Indicators 9 and 10 in its State Performance Plan/Annual Performance Report as well as for identifying significant disproportionality for mandating implementation of Comprehensive Coordinated Early Intervening Services (CCEIS).

A risk ratio analysis identified disproportionality in eight (8) subgroups (see Table 3).

Table 3. Disproportionality by Sub-groups of Students Participating in the WVASA 2022

Sub-group	**Math** (Grades 3-8, & 11)	**ELA** (Grades 3-8, & 11)	**Science** (Grades 5, 8, & 11)
White	**1.16**	**1.16**	**1.24**
Black/African American	**1.46**	**1.46**	**1.53**
Hispanic or Latino	0.98	0.98	**1.17**
Asian	1.00	1.00	0.27
American Indian/Alaskan Native	**3.00**	**3.00**	**2.44**
Native Hawaiian/Pacific Islander	**1.82**	**1.82**	0.00
Multiple Races	**1.06**	**1.06**	**1.16**
Low SES	**1.59**	**1.59**	**1.73**
English Learner (EL)	**1.05**	**1.05**	**1.05**
Male	**1.50**	**1.50**	**1.57**
Female	0.81	0.81	0.89

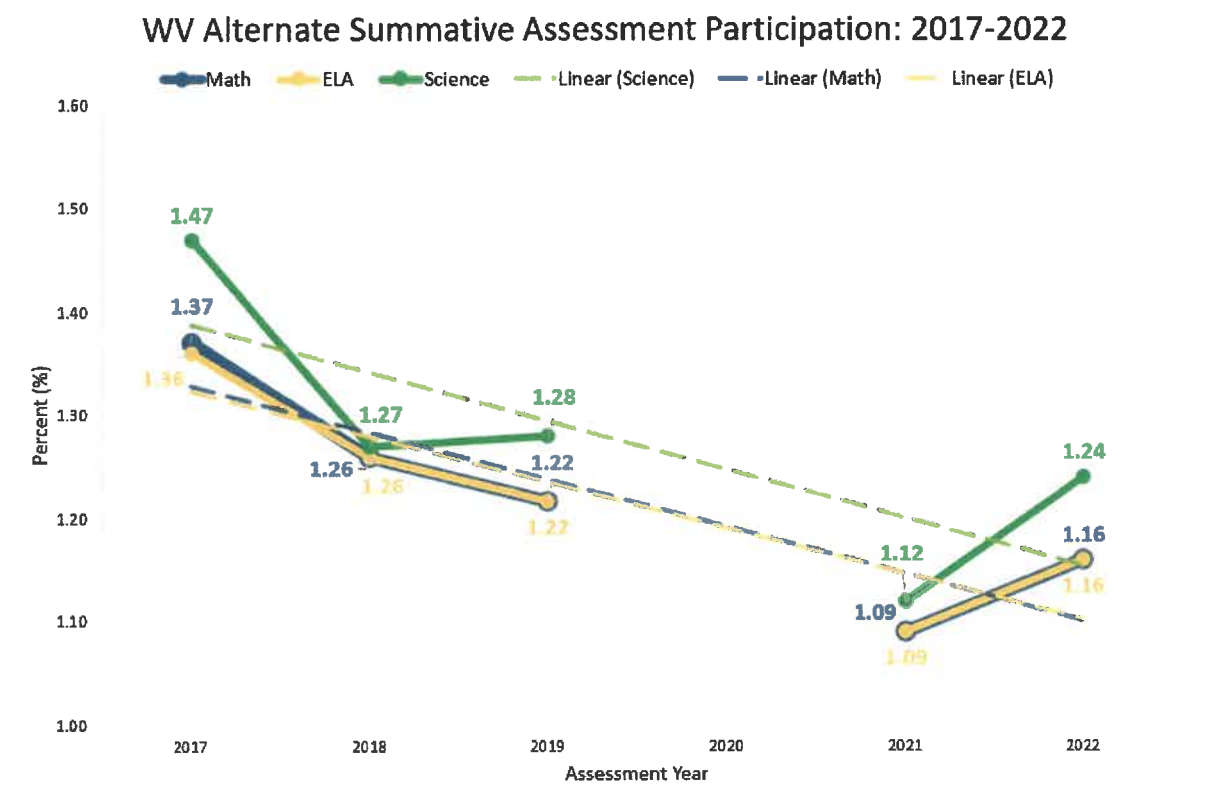
Note: WVASA = West Virginia Alternate Summative Assessment

The WVDE will continue to address disproportionality by identifying subgroup overrepresentation in the alternate assessment through risk ratio calculations. The WVDE will provide technical assistance by training LEAs on appropriate placement using the ***Eligibility Determination Checklist for Participation in the West Virginia Alternate Summative Assessment (WVASA)*** and the ***West Virginia Alternate Summative Assessment (WVASA) Eligibility: Guidance for IEP Teams.*** In addition, LEAs are now required to affirm in writing that participation in the alternate assessment is due to the presence of a significant cognitive disability and is not based on other factors that could potentially contribute to disproportionality (e.g., socioeconomic status, English learner status, cultural differences).

The West Virginia 1.0 percent State Level Cap Waiver Extension Request was posted to the WVDE's website in a manner in which the State customarily provides similar notice and opportunity to comment to the public. The State received no comments on this waiver.

Appendix A

Figure 1. WVASA Participation: 2017-2022 (All Subjects)



Notes: WV Alternate Summative Assessment given to grades 3-8 and 11 for math and ELA; science content area given to grades 5, 8 & 11; data include all 57 school districts; no assessment in 2020. Data sources: WVEIS assessment report card file for each school year.

Table 1. WVASA 2022 Participation by Content Area

Content Area	Number (#) Participating in Statewide Assessment	Number (#) Participating in Alternate Assessment	Percent (%) Participating in Alternate Assessment
Math Grades 3-8, and 11	123,545	1,436	1.16
ELA Grades 3-8, and 11	123,557	1,438	1.16
Science Grades 5, 8, and 11	52,071	645	1.24
Data Source: WVEIS RPTCRD22			

Note: WVASA = West Virginia Alternate Summative Assessment

Table 2. Difference in Statewide Assessment Participation Rates for "Students with Disabilities" Subgroup from SY2020-21 to SY 2021-22

Content Area	SY2020-21	SY2021-22	Difference
Mathematics	89.18%	96.32%	+7.14%
ELA	89.15%	96.29%	+7.14%
Science	85.42%	94.16%	+8.74%

Data Source: zoomwv.k12.wv.us

Table 3. Disproportionality by Sub-groups of Students Participating in the WVASA 2022

Sub-group	Math (Grades 3-8, & 11)	ELA (Grades 3-8, & 11)	Science (Grades 5, 8, & 11)
White	**1.16**	**1.16**	**1.24**
Black/African American	**1.46**	**1.46**	**1.53**
Hispanic or Latino	0.98	0.98	**1.17**
Asian	1.00	1.00	0.27
American Indian/Alaskan Native	**3.00**	**3.00**	**2.44**
Native Hawaiian/Pacific Islander	**1.82**	**1.82**	0.00
Multiple Races	**1.06**	**1.06**	**1.16**
Low SES	**1.59**	**1.59**	**1.73**
English Learner (EL)	**1.05**	**1.05**	**1.05**
Male	**1.50**	**1.50**	**1.57**
Female	0.81	0.81	0.89

Note: WVASA = West Virginia Alternate Summative Assessment

Table 4. WVASA 2022 Participation Percent (%) by Content Area

Math	ELA	Science
1.16	1.16	1.24

Note: WVASA = West Virginia Alternate Summative Assessment

Table 5. WVASA Participation Percent (%) by Year and Content Area

Year	Math (%)	ELA (%)	Science (%)
2017	1.37	1.36	1.47
2018	1.26	1.26	1.27
2019	1.22	1.22	1.28
2020	-	-	-
2021	1.09	1.09	1.12
2022	1.16	1.16	1.24

Note: WVASA = West Virginia Alternate Summative Assessment

Table 6. WVASA 2022 Participation Count (#) and Percent (%) by Grade and Content Area

Grade	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
3	190	1.08	191	1.08	-	-
4	172	0.99	172	0.99	-	-
5	210	1.18	210	1.18	204	1.15
6	196	1.10	197	1.10	-	-
7	222	1.20	222	1.20	-	-
8	237	1.26	237	1.26	232	1.23
11	209	1.35	209	1.35	209	1.35
Total	**1,436**	**1.16**	**1,438**	**1.16**	**645**	**1.24**

Note: WVASA = West Virginia Alternate Summative Assessment

Table 7. WVASA 2022 Participation Count (#) and Percent (%) by Gender and Content Area

Gender	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
Female	487	0.81	488	0.81	224	0.89
Male	949	1.50	950	1.50	421	1.57
Total	**1,436**	**1.16**	**1,438**	**1.16**	**645**	**1.24**

Note: WVASA = West Virginia Alternate Summative Assessment

Table 8. WVASA 2022 Participation Count (#) and Percent (%) by Socioeconomic Status (SES) and Content Area

SES	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
Low SES	1,018	1.59	1,019	1.59	439	1.73
Total	**1,436**	**1.16**	**1,438**	**1.16**	**645**	**1.24**

Note: WVASA = West Virginia Alternate Summative Assessment

Table 9. WVASA 2022 Participation Count (#) and Percent (%) by English Learner (EL) Status and Content Area

Status	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
EL	≤10	1.05	≤10	1.05	≤10	1.05
Total	**1,436**	**1.16**	**1,438**	**1.16**	**645**	**1.24**

Note: WVASA = West Virginia Alternate Summative Assessment

Table 10. WVASA 2022 Participation Count (#) and Percent (%) by Race/Ethnicity and Content Area

Race/Ethnicity	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
Asian	≤10	1.00	≤10	1.00	≤10	0.27
Black/African American	72	1.46	72	1.46	31	1.53
Hispanic or Latino	27	0.98	27	0.98	14	1.17
American Indian/Alaskan Native	≤10	3.00	≤10	3.00	≤10	2.44
Multiple Races	54	1.06	54	1.06	23	1.16
Native Hawaiian/Pacific Islander	≤10	1.82	≤10	1.82	0	0.00
White	1,271	1.16	1,273	1.16	575	1.24
Total	**1,436**	**1.16**	**1,438**	**1.16**	**645**	**1.24**

Note: WVASA = West Virginia Alternate Summative Assessment

Table 11. WVASA 2022 Participation Count (#) and Percent (%) by Primary Exceptionality and Content Area

Primary Exceptionality	Math (#)	Math (%)	ELA (#)	ELA (%)	Science (#)	Science (%)
AU – Autism	416	26.50	416	26.50	168	27.36
BD – Emotional/Behavioral Disorder	≤10	0.22	≤10	0.22	≤10	0.48
CD – Speech Language	0	0.00	0	0.00	0	0.00
DB – Deafblind	≤10	25.00	≤10	25.00	≤10	16.67
DF – Deafness	≤10	9.68	≤10	9.68	≤10	13.33
HI – Hearing Impairment	0	0.00	0	0.00	0	0.00
LD – Specific Learning Disability	0	0.00	0	0.00	0	0.00
MM – Intellectual Disability (Mild)	244	8.06	244	8.07	123	10.43
MD – Intellectual Disability (Mod)	552	84.66	553	84.82	256	87.67
MS – Intellectual Disability (Sev)	78	98.73	78	98.73	41	100.00
OH – Other Health Impairment	111	2.38	112	2.40	41	2.11
PH – Orthopedic Impairment	≤10	7.41	≤10	7.41	≤10	8.33
TB – Traumatic Brain Injury	≤10	22.50	≤10	22.50	≤10	25.00
VI – Blindness/Low Vision	18	12.16	18	12.16	≤10	12.73

Note: WVASA = West Virginia Alternate Summative Assessment

Table 12. Change in WVASA Participation Numbers Required to Reach 1.0% Participation in the WVASA for 2022

Content Area	Current Participation Percent (%)	Current Participation Number (#)	Participation Number Needed to Reach 1.0%	Change in Participation Number (+/-) to Reach 1.0%
Math	1.16	1,436	1,235	-201
ELA	1.16	1,438	1,235	-203
Science	1.24	645	521	-124

Note: WVASA = West Virginia Alternate Summative Assessment; Participation numbers needed to reach 1.0% are rounded to nearest whole number.

Peasley, Donald

From: Mimi Browning <mcbrowning@k12.wv.us>
Sent: Friday, January 27, 2023 4:38 PM
To: OESE.ESEA.Assessment
Subject: Re: West Virginia 1.0 Percent Cap Waiver Extension 2022

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Dr. Peasley,

Dr. Traci Tuttle, Part B Data Manager for the WVDE has confirmed that these data from the most recent EdFacts Assessment data submission, which you provided this morning are accurate. Thank you for your consideration of this as you evaluate West Virginia's waiver request for the 1.0 percent cap.

Mimi Browning
Coordinator, Special Education
WVDE Office of Federal Programs
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From: OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Sent: Friday, January 27, 2023 12:32 PM
To: Mimi Browning <mcbrowning@k12.wv.us>; Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Cc: David Roach <david.l.roach@k12.wv.us>; Michele Blatt <mlblatt@k12.wv.us>; Melanie Purkey <mpurkey@k12.wv.us>; Vaughn Rhudy <vrhudy@k12.wv.us>; Sheila Paitsel <sgpaitsel@k12.wv.us>
Subject: RE: West Virginia 1.0 Percent Cap Waiver Extension 2022

Thank you for getting back so quickly. I need a confirmation of my question from this morning however…

Can you please verify the numbers below, if these are accurate, we will consider these in evaluating the State's waiver request for the 1.0 percent cap. This is an important distinction, in the case of the request for the waiver in science.

YEAR	STATE	ACADEMIC_SUBJECT_DESC	GRADE_LEVEL_DESC	CATEGORY_DESC	TESTED	ENROLLED	PA
2021-2022	WEST VIRGINIA	Reading/Language Arts	All	Children with one or more disabilities (IDEA)	24139	24207	0.9
2021-2022	WEST VIRGINIA	Mathematics	All	Children with one or more disabilities (IDEA)	24143	24207	0.9
2021-2022	WEST VIRGINIA	Science	All	Children with one or more disabilities (IDEA)	9416	9476	0.9

From: Mimi Browning <mcbrowning@k12.wv.us>
Sent: Friday, January 27, 2023 10:06 AM
To: Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Cc: David Roach <david.l.roach@k12.wv.us>; Michele Blatt <mlblatt@k12.wv.us>; Melanie Purkey <mpurkey@k12.wv.us>; Vaughn Rhudy <vrhudy@k12.wv.us>; Sheila Paitsel <sgpaitsel@k12.wv.us>
Subject: Re: West Virginia 1.0 Percent Cap Waiver Extension 2022

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Dr. Peasley,

The data we used for drafting the waiver were pulled from ZoomWV, our state's comprehensive data dashboard available for public access. When we brought up the issue you mentioned in your email to our Part B Data Manager, she explained data on ZoomWV are displayed consistent with our *state* accountability standards, while the data from EDFacts are correct for total reporting.

What you have pulled is correct for federal accountability. We will make this change to our waiver data reviews in the future should we need to file another waiver. We will also seek to correct or modify how the data are displayed on ZoomWV so that the specific accountability standards by which the data are reported are more clear.

Thank you.

Mimi Browning
Coordinator, Special Education

WVDE Office of Federal Programs

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From: Peasley, Donald <Donald.Peasley@ed.gov>
Sent: Friday, January 27, 2023 7:34 AM
To: Mimi Browning <mcbrowning@k12.wv.us>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Cc: David Roach <david.l.roach@k12.wv.us>; Michele Blatt <mlblatt@k12.wv.us>; Melanie Purkey <mpurkey@k12.wv.us>; Vaughn Rhudy <vrhudy@k12.wv.us>; Sheila Paitsel <sgpaitsel@k12.wv.us>
Subject: RE: West Virginia 1.0 Percent Cap Waiver Extension 2022

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Good morning.
We've begun our review of WV's 1.0 percent waiver request.

There is one item I consider to be missing, and another I'd like to get verified.

First, there is no data (numbers, %) presented for WV for the assessment participation rate for all students. There is a statement that says the 95% criteria was met, but we generally require States to provide us numbers and percents.
To simplify this request, I was able to access WV's 1st submission for the EDFacts system from December 2022 for the 2021-2022 School Year. Our record's show the WV reported the following for all tested grades:

YEAR	STATE	ACADEMIC_SUBJECT_DESC	GRADE_LEVEL_ABBR	CATEGORY_DESC	TESTED	ENROLLED	PA
2021-2022	WEST VIRGINIA	Reading/Language Arts	All	All Students	123830	124017	0.
2021-2022	WEST VIRGINIA	Mathematics	All	All Students	123816	124017	0.
2021-2022	WEST VIRGINIA	Science	All	All Students	52250	52430	0.

Your team does not need to provide me this data, I can include these with the request, if you can verify the numbers. If these numbers are not accurate, then please update them. This is not a critical issue, since it appears the 95% criteria was easily met for all students.

Please see the EDFacts record for participation of all students with disabilities, however. These numbers (the percentages) differ from what was provided in the waiver request. This becomes critical for the eligibility of this request, because the data below indicates that WV met the 95% criteria for a waiver in science, but the 94% presented in the waiver request does not. Can you please verify the numbers below, or update them as appropriate? We will hold off completing our review until we hear back from you. Thank you.

YEAR	STATE	ACADEMIC_SUBJECT_DESC	GRADE_LEVEL_DESC	CATEGORY_DESC	TESTED	ENROLLED	PA
2021-2022	WEST VIRGINIA	Reading/Language Arts	All	Children with one or more disabilities (IDEA)	24139	24207	0.9
2021-2022	WEST VIRGINIA	Mathematics	All	Children with one or more disabilities (IDEA)	24143	24207	0.9
2021-2022	WEST VIRGINIA	Science	All	Children with one or more disabilities (IDEA)	9416	9476	0.9

Don
Donald Peasley, Ph.D.
Assessment Team Lead, School Support and Accountability (SSA)
Office of Elementary and Secondary Education (OESE)
US Department of Education
Donald.peasley@ed.gov Ph. 202 453 7982
Email the OESE Assessment team at ESEA.Assessment@ed.gov
See ED Standards and Assessments Information at https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/standards-and-assessments/

From: Mimi Browning <mcbrowning@k12.wv.us>
Sent: Tuesday, December 13, 2022 10:37 AM
To: OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Cc: David Roach <david.l.roach@k12.wv.us>; Michele Blatt <mlblatt@k12.wv.us>; Melanie Purkey <mpurkey@k12.wv.us>; Vaughn Rhudy <vrhudy@k12.wv.us>; Sheila Paitsel <sgpaitsel@k12.wv.us>
Subject: West Virginia 1.0 Percent Cap Waiver Extension 2022

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SENT ON BEHALF OF

SHEILA PAITSEL
DIRECTOR, SPECIAL EDUCATION
OFFICE OF FEDERAL PROGRAMS AND SUPPORT

Attached is the West Virginia 1.0 Percent Cap Waiver Extension submission from the West Virginia Department of Education. Thank you in advance for your review and consideration of the waiver extension.

Mimi Browning
Coordinator, Special Education
WVDE Office of Federal Programs

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