



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 28, 2023

The Honorable Richard Woods  
Superintendent  
Georgia Department of Education  
205 Jesse Hall, Jr. Drive, SE  
Atlanta, GA 30334

Dear Superintendent Woods:

I am writing in response to the Georgia Department of Education's (GaDOE) revised request on April 21, 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 the students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). GaDOE requested this waiver because, based on State data for the 2021-2022 school year, GaDOE has concluded that it will 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. GaDOE first requested this waiver on November 29, 2022. On March 13, 2023, I declined to approve GaDOE's initial request because it did not meet the statutory requirements for a waiver outlined in ESEA section 8401(b) and, for a waiver of this requirement, in 34 CFR § 200.6(c)(4). GaDOE revised its request pursuant to ESEA section 8401(b)(4)(B)(ii).

While I appreciate the additional information GaDOE provided, the revised request does not meet the statutory and regulatory requirements for a waiver. GaDOE provided detail on how existing State policy resulted in more students taking the AA-AAAS in high school in the 2021-2022 school year because some students with the most significant cognitive disabilities who should have taken the AA-AAAS in 2020-2021 did not do so and State policy requires these students to take an AA-AAAS to be eligible for a diploma. However, the State's AA-AAAS rates are essentially unchanged from the 2018-2019 school year even when accounting for this one-time increase and when accounting for the decrease in the total enrollment in Georgia schools between the two years.

As a result, I am declining to exercise my authority under section 8401(b) of the ESEA, to approve GaDOE's revised waiver request for the 2022-2023 school year for a one-year waiver of ESEA section 1111(b)(2)(D)(i)(I), so that the State may assess more than 1.0 percent of students with an AA-AAAS in reading/language arts, mathematics, and science.

Pursuant to section 8401(b)(4)(B)(iii) of the ESEA, GaDOE may request a hearing before me to present argument and any testimony in support of its waiver request. If GaDOE requests a hearing, it may submit written argument, present oral testimony from one or more witnesses in

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

Washington, D.C., via teleconference, or both. By Statute, we must conduct this hearing within 30 days after the date of your revised waiver request—*i.e.*, by May 22, 2023. Therefore, please let me know by May 15, 2023, whether you intend to present oral testimony. GaDOE may also submit a written argument to me by May 22, 2023.

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](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

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

cc: Allison Timberlake, GaDOE Deputy Superintendent for Assessment and Accountability

April 21, 2023

James F. Lane, Ed.D.  
Senior Advisor, Office of the Secretary  
Office of Elementary and Secondary Education

Dear Senior Advisor Lane:

We appreciate the Department's review of Georgia's request for a one-year extension of our state's existing 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 the students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards. In your response, you denied Georgia's request to extend this waiver, citing that Georgia has not demonstrated progress in reducing the percentage of students taking the alternate assessment in English language arts, mathematics, and science between the 2018-2019 and 2021-2022 school years.

Given the Department's interest in comparing 2019 rates to 2022 rates, we would like to provide updated data that allow for a direct, "apples-to-apples" comparison between these two years. Several of Georgia's assessment policies and practices changed between 2019 and 2022. These changes impact the comparability of the 2019 data provided in the 2019-2020 request and the 2022 data provided in the 2022-2023 request. Changes to Georgia's assessment policies include the following:

- the elimination of grade 5 social studies as a tested grade and content area;
- the elimination of four of eight End of Course (EOC) assessments for high school students (9<sup>th</sup> Grade Literature and Composition, Geometry/Analytic Geometry, Physical Science, and Economics/Business/Free Enterprise); and
- the loss of a federal waiver permitting middle school students enrolled in high school EOC courses to participate in only the EOC and not the grade-level assessment in ELA, mathematics, and science.

Additionally, the count of high school students participating in the alternate assessment in 2022 was artificially high, due to the impact of the COVID-19 pandemic. Georgia's State Board of Education (SBOE) Graduation Rule requires that students with significant cognitive disabilities participate in the alternate assessment at least once in high school to be eligible for a diploma. Because of this rule, 11<sup>th</sup> grade students who did not participate in the alternate assessment in spring 2021 as expected, due to the COVID-19 pandemic, instead participated in spring 2022 in order to meet this requirement. This resulted in an inflated number of students participating in the high school alternate assessment in spring 2022. Whereas approximately 50 12<sup>th</sup>-grade students participated in the alternate assessment in 2019, more than 400 12<sup>th</sup>-grade students participated in the alternate assessment in 2022. In short, hundreds of "extra" high



school students participated in the alternate assessment in spring 2022 because of a state policy, not because their participation was required under the ESEA.

The data below have been updated to reflect these changes in assessment policy and allow for a direct comparison between 2019 and 2022. Table 1 provides the percentage of students assessed on the alternate assessment, the Georgia Alternate Assessment (GAA) 2.0. As demonstrated, the percentage is consistent between years in mathematics and increases minimally in three content areas (English language arts, science, and social studies). We understand that social studies is not under consideration in this waiver request since it is not a required assessment under the ESEA; however, we continue to include social studies as it is part of our general and alternate assessment systems.

Table 1: Percentage of Students Assessed via the Alternate Assessment in 2019 and 2022

Content Area	2019	2022	Change
ELA	1.3	1.4	+0.1
Mathematics	1.3	1.3	0.0
Science	1.2	1.4	+0.2
Social Studies	1.4	1.5	+0.1

While these percentages do not reflect a decline as desired, we believe the cause pertains to an overall decline in student enrollment following the COVID-19 pandemic. Table 2 provides the count of students participating in the alternate assessment (GAA 2.0) and general assessment (Georgia Milestones) in 2019 and 2022. As demonstrated, there is a minimal increase in the number of students participating in the GAA 2.0 statewide (an average increase of 42 students), whereas there is a significant decrease in the number of students participating in Georgia Milestones statewide (an average decrease of 23,182 students).

Table 2: GAA 2.0 and Georgia Milestones Assessment Counts

Content Area	GAA 2.0			Georgia Milestones		
	2019	2022	Change	2019	2022	Change
ELA	12,474	12,542	68	922,547	896,520	-26,027
Mathematics	12,451	12,506	55	938,767	919,938	-18,829
Science	5,385	5,401	16	428,414	394,578	-33,836
Social Studies	3,571	3,601	30	246,488	232,451	-14,037

While Table 2 provides the change in assessment participation patterns from 2019 to 2022, Table 3 further illustrates this by providing the change in overall enrollment patterns in tested grades using the state’s March 2019 and March 2022 FTE counts, which show an overall decline in enrollment of 23,324 students.

Table 3: March FTE Enrollment Counts by Grade

Year	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 11	Total
2019	131,349	135,920	138,791	139,269	136,130	133,609	117,867	932,935
2022	125,691	127,204	129,143	130,904	136,578	139,960	120,131	909,611
Change	-5,658	-8,716	-9,648	-8,365	448	6,351	2,264	-23,324

Given Georgia's significant decline in student enrollment and participation in Georgia Milestones, we believe this heavily impacted the percentage of students participating in the GAA 2.0 in 2022. **I am requesting that the Department reconsider its denial of our request for a one-year extension of this waiver** considering the information presented here.

Georgia is committed to reviewing and updating its policies as well as providing technical assistance to districts to reduce the percentage of students participating in the GAA 2.0. The actions already taken and those currently underway are outlined in our original waiver extension request.

I look forward to hearing from you regarding this request. Should you have any questions, feel free to contact Allison Timberlake, Deputy Superintendent for Assessment and Accountability, at 470-579-6353 or [atimberlake@doe.k12.ga.us](mailto:atimberlake@doe.k12.ga.us).

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Richard Woods". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Richard Woods  
State School Superintendent