



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 5, 2023

The Honorable Tony Sanders
Superintendent of Education
Illinois State Board of Education
100 North First Street
Springfield, IL 62777-0001

Dear Superintendent Sanders:

I am writing in response to the Illinois Board of Education's (ISBE's) revised request on May 16, 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 total number of students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). ISBE requested this waiver because, based on State data for the 2021-2022 school year, ISBE concluded that needed to assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA) and mathematics in the 2022-2023 school year. ISBE first requested this waiver on December 1, 2022. On March 17, 2023, I declined to approve ISBE'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). ISBE revised its request pursuant to ESEA section 8401(b)(4)(B)(ii).

To support its request, ISBE shared that it the number of its local educational agencies that are assessing more than one percent of students on the AA-AAAS has decreased. The State also provided data that due to changes in enrollment, the percentage of its students who are students with disabilities has increased. While I appreciate the additional information ISBE provided, the revised request does not demonstrate that ISBE has met the statutory and regulatory requirements for a waiver. ISBE has not demonstrated progress in reducing the percentage of students taking the AA-AAAS in R/LA and mathematics. In fact, the percentage of students taking the AA-AAAS in both R/LA and mathematics increased between 2018-2019 and 2021-2022. As a result, I am declining to exercise my authority under section 8401(b) of the ESEA to approve ISBE's revised waiver request for the 2022-2023 school year for a one-year waiver of section 1111(b)(2)(D)(i)(I) of the ESEA.

Pursuant to section 8401(b)(4)(B)(iii) of the ESEA, ISBE may request a hearing before me to present argument and any testimony in support of its waiver request. If ISBE requests a hearing, it may submit written argument; present oral testimony from one or more witnesses in Washington, D.C., via teleconference; or both. By statute, we must conduct this hearing within

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

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

30 days after the date of ISBE’s revised waiver request—*i.e.*, by June 15, 2023. Therefore, please let me know by June 7, 2023, whether you intend to present oral testimony. ISBE may also submit a written argument to me by June 15, 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.

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: Amy Deegan, Principal Consultant Low Incidence: DHH/DB/VI
Barbara A. Moore, Director, Special Education Services Department



Illinois State Board of Education

Dr. Tony Sanders, State Superintendent of Education
Dr. Steven Isoye, Chair of the Board

555 W. Monroe Street, Suite 900 • Chicago, IL 60661 • isbe.net

May 16, 2023

VIA EMAIL

James F. Lane, Ed.D.
Senior Adviser, Office of the Secretary
Office of Elementary and Secondary Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Dr. Lane:

Thank you for your response to the request made on December 1, 2022, by the Illinois State Board of Education (ISBE) 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. ISBE makes this request annually. ISBE considered Illinois state data for school year 2021-22 and concluded that it would assess more than 1% of students based on Alternate Assessments-Alternate Academic Achievement Standards (AA-AAAS) in reading/language arts (R/LA) and mathematics in SY 2022-23. Upon the review by your department, ISBE's waiver request was denied. The denial letter cited ISBE for not demonstrating progress in reducing the percentage of students taking the Dynamic Learning Maps- Alternate Assessment (DLM-AA) in R/LA and mathematics between the 2018-19 and 2021-22 school years. ISBE would like to appeal this decision and present additional information to support a reversal in the decision.

The following was shared in the denial letter to ISBE:

If the data reported by ISBE are incorrect and the State can demonstrate progress in reducing the percentage of students taking the AA-AAAS between the 2018-2019 and 2021-2022 school years, ISBE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii). The revised waiver request must address how the State met the requirements in 34 CFR § 200.6(c)(4), including demonstrating substantial progress towards achieving each component of the prior year's plan and timeline and reducing the percentage of students taking the AA-AAAS.

ISBE, which used preliminary data to formulate its initial submission in December 2022, indicated that 420 districts were above the 1% threshold. The data-- from EdFacts -- that serves as a basis for this appeal shows the number of districts above the 1% threshold has decreased 7.62% to 388.

Table 1 provides the aggregate percentage of students completing the DLM-AA during the 2021-22 school year.

Table 1: Aggregate DLM-AA Participation

School Year	Percentage of Students completing the DLM-AA
2018-19	1.11%
2021-22	.98%

As a means to contextualize this data, population and enrollment trends have impacted individual school districts, and thus the state’s ability to maintain participation of students in alternate assessments below the 1% threshold. Illinois has 852 public school districts; 294 of these have an enrollment of 599 students or less. A total of 115 of the 388 districts that exceed the 1% threshold fall below an enrollment of 599 students. Shifts in enrollment or level of student needs involving one or two students in these small schools can impact a district’s overall percentage of students taking the alternate assessment.

Table 2 provides Illinois cohort enrollment data from 2018-22. This table shows a decrease in total student enrollment of 115,194 students in Illinois between the 2018-19 and 2021-22 school years. This table illustrates that total school enrollment decreased by 27,501 students (1.4%) in Illinois between the 2018-19 and 2019-20 school years; the enrollment dropped by 68,633 (3.6%) between the 2019-20 and 2020-21 school years.

Table 2: Elementary and Secondary School Enrollment in Illinois by School Year, 2018-21

School Year	Elementary Enrollment	Secondary Enrollment	Total Enrollment	Difference SY to SY (Decrease)
2018 - 2019	1,372,787	611,732	1,984,519	--
2019 - 2020	1,349,530	607,488	1,957,018	27,501 (1.4%)
2020 - 2021	1,284,177	604,208	1,888,385	68,633 (3.6%)
2021 - 2022	1,267,521	601,804	1,869,325	19,060 (1.0%)

Source: Illinois School Report Card

Table 3 illustrates that the percentage of students with Individualized Education Programs (IEPs) enrolled in Illinois schools remained relatively stable from the 2018-19 through the 2020-22 school years. There is a small increase in the percentage of students with IEPs -- from 15% in 2020-21 to 17% in 2021-22 -- but this small increase can be accounted for by the pandemic and the residual effects it had on students as they returned to school. More importantly, even with the small increase in the number of children with IEPs, the percentage of students completing the DLM-AA decreased between 2018-19 and 2021-22 from 1.11% to .98%. This is evidence that the supports and resources (e.g., a robust monitoring system as well as the availability for districts to receive technical assistance, when needed) ISBE provides to the field are, in fact, helping districts to appropriately identify students who should complete the DLM-AA.

Table 3: Comparison of Total Student Enrollment and Total Students with Disabilities Receiving Special Education Services Ages 3-21

School Year	(A) Total Enrollment – All Students	(B) Total Enrollment - Students with IEPs	(A – B) Difference	% Students with IEPs/Total Enrollment
2018-19	1,984,519	308,247	1,676,272	16%
2019-20	1,957,018	289,751	1,667,267	15%
2020-21	1,888,385	281,241	1,607,144	15%
2021-22	1,869,325	307,555	1,561,770	17%

Source: Illinois School Report Card

Based on the information provided in this letter, the Illinois State Board of Education respectfully requests your reconsideration of our status as per your letter dated March 17, 2023.

Sincerely,



Dr. Tony Sanders
State Superintendent of Education