



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 10, 2024

The Honorable Robin Fields Kinney  
Interim Commissioner of Education  
Kentucky Department of Education  
300 Sower Blvd, 5th Floor  
Frankfort, KY 40601

Dear Commissioner Kinney:

I am writing in response to the Kentucky Department of Education's (KDE's) request on August 15, 2023 (updated on January 31, 2024, and March 4, 2024), for a one-year 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 2022-2023 school year, KDE has concluded that it may 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 2023-2024 school year.

After reviewing KDE's waiver extension request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for SY 2023-2024, a waiver extension of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in R/LA, mathematics, and science.

As part of this waiver, KDE 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 SY 2022-2023 at least 95 percent of all students and all 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.

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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.*

- Will implement, consistent with the plan submitted in KDE’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 that such information does not reveal personally identifiable information about an individual student. I also encourage you to publish your State’s plan, timeline, and progress in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by KDE, I expect to continue to see positive results of this plan in SY 2023-2024 and beyond. I note that KDE has reduced the number of students assessed on an AA-AAAS over the past several years (from 2017-2018 to 2022-2023) and the number of LEAs that exceeded the 1.0 percent cap. 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](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

Adam Schott  
Principal Deputy Assistant Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Gretta Hylton, Associate Commissioner,  
Office of Special Education and Early Learning

Andy Beshear  
Governor



Jamie Link  
Secretary, Education and  
Labor Cabinet

Jason E. Glass, Ed.D.  
Commissioner of Education and Chief Learner

**KENTUCKY DEPARTMENT OF EDUCATION**  
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August 15, 2023

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Office of Elementary and Secondary Education  
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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 education 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 2022-2023 school year for all subject areas.

Pursuant to 34 CFR §200.6(c)(4), the Kentucky Department of Education (KDE) hereby requests for the Secretary of the USED to approve the extension of its waiver for all subject areas for the 2023-2024 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.

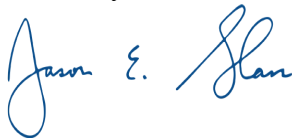
The KDE's application to extend its waiver provides evidence showing:

- 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 2023-2024 school year.
- Kentucky has achieved substantial progress toward each component of the prior year's plan and timeline by including:
  - a) 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));
  - b) 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
  - c) 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](mailto:carol.morrison@education.ky.gov) (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,



Jason E. Glass, Ed.D.

Commissioner of Education and Chief Learner

**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. 15, 2023**

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 1 (34 C.F.R §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. 13, 2023.

**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 Wednesday, Aug. 2 through Wednesday, Aug. 9, 2023. The press release was posted on KDE's website, shared on listservs used by local education agencies (LEAs) and disseminated via email to other stakeholders including the state parent advisory group.

During the public comment period, the KDE received 2 written comments. Evidence related to the public comment period is included 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 statewide student information system (KSIS), known as Infinite Campus (IC), for the 2022-2023 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 eligibility data<sup>1</sup> with the number and percentage of Kentucky students eligible to participate in statewide assessments, including participation in AA-AAAS.

The eligibility data revealed at least 1.0% of Kentucky students were eligible to participate in each of the subject areas included in the AA-AAAS in the 2022-2023 school year. Therefore, based on these preliminary data, Kentucky anticipates exceeding the 1.0% threshold outlined in the ESSA for the 2023-2024 school year.

The final assessment data will be publicly available on the [Open House](#) website and the [Kentucky School Report Card](#) in November 2023. 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 2022-2023 school year by subject area.

Kentucky’s state assessment window for the AA-AAAS is scheduled to begin Nov. 13, 2023. 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 2022-2023 school year before the deadline for submission of the waiver request. When the final assessment data is available in November 2023, the KDE will review and submit the final data in an addendum. Final data will be submitted to USED no later than Nov. 30, 2023.

**Table One: 2022-2023 school year AA-AAAS Eligible Students**

<b>SUBJECT</b>	<b>ELIGIBLE TO PARTICIPATE IN AA-AAAS</b>	<b>ELIGIBLE TO PARTICIPATE IN STATEWIDE ASSESSMENT</b>	<b>PERCENT ELIGIBLE TO PARTICIPATE IN AA-AAAS</b>
Reading (elementary/middle/high)	3,711	339,675	1.09%
Math (elementary/middle/high)	3,711	339,675	1.09%
Science (elementary/middle)	1,603	143,394	1.12%

### **Evidence of Progress**

The KDE will analyze various sources to measure progress made towards the previously approved 1.0% waiver from USED once final data is obtained in November 2023.

Table Two will demonstrate the overall rates of assessment participation for the 2022-2023 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.

<sup>1</sup> Eligibility data for school year 2022-2023 is the raw number of students eligible to participate in state assessments provided by the statewide information system. The eligibility data does not include state required review and validation at state, LEA and school level that will impact final data for public reporting.

**Table Two: Overall Rates of Assessment Participation for 2022-2023**

<b>Group</b>	<b>All Students Grades 3-8 and High School R/LA</b>	<b>Students with Disabilities Grades 3-8 and High School R/LA</b>
Students Assessed		
Students Enrolled		
Assessment Participation Rate		
<b>Group</b>	<b>All Students Grades 3-8 and High School Math</b>	<b>Students with Disabilities Grades 3-8 and High School Math</b>
Students Assessed		
Students Enrolled		
Assessment Participation Rate		
<b>Group</b>	<b>All Students Grades 3-8 and High School Science</b>	<b>Students with Disabilities Grades 3-8 and High School Science</b>
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: Alternate Assessment Participation Rates by Subgroup for 2022-2023**

<b>Group</b>	<b>Total Number in Grades 3-8 and HS</b>	<b>Number Taking AA-AAAS in Grades 3-8 and HS</b>	<b>Percent Taking AA-AAAS in Grades 3-8 and HS</b>
<b>R/LA</b>			
All Students			
Hispanic			
American Indian/Alaskan Native			
Asian			

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



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
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 assessment year will be updated in Table 4 in the addendum.

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

School Year	R/LA	Mathematics	Science
2023-2024 (estimate)	1.09%	1.09%	1.12%
2022-2023	1.11%	1.11%	1.13%
2021-2022	1.12%	1.12%	1.14%
2020-2021	1.10%	1.10%	1.10%
2019-2020 <sup>2</sup>	N/A	N/A	N/A

*(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 2022-2023. Please note, the KDE applied for a waiver of statewide assessment, accountability and reporting requirements in the Elementary and

<sup>2</sup> Data unavailable due to waiver of statewide assessment, accountability and reporting requirements in the Elementary and Secondary Education Act (ESEA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19).

Secondary Education Act (ESEA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19). The waiver was approved on March 27, 2020.

Table Five will demonstrate the percentage of students who participated in the AA-AAAS, including students with disabilities, during the 2022-2023 school year. Table Five will be analyzed after the final participation data is calculated in November 2023. This section will be updated at that time.

***Table Five: 2022-2023 School Year Overall Statewide, Assessed by Subject***

<b>Subject</b>	<b>Enrolled</b>	<b>Assessed</b>	<b>Percent Tested</b>
Reading/Language Arts - All Students Total Grades 3 - 8 and High School (HS)			
Reading/Language Arts -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) 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 using AA-AAAS did the following:*

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

With final assessment data for the 2022-2023 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.

When KDE has final participation data for the 2022-2023 school year, the KDE will contact all LEAs who exceeded 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 team(s) 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 based on an individualized basis 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](#).

### **Evidence of Progress**

The KDE required LEAs who had more than 1.0% of students eligible to participate in the 2021-2022 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.

Kentucky's Special Education Regional Technical Assistance Centers (SERTACs) received justification responses that assisted SERTACs in determining needed training and support. The regional special low incidence staff created self-paced trainings to assist district IEP teams in understanding the decision-making process for AA-AAAS.

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 Admissions and Release Committee (ARC) members including special education teachers, ARC chairpersons and DoSEs.

- [Module 1: The KY 1% Alternate Assessment Waiver 3<sup>rd</sup> – 12<sup>th</sup> Grade](#)
- [Module 2: Completing the Participation Guidelines for 3<sup>rd</sup> – 12<sup>th</sup> Grade](#)

- [Module 3: Preparing for ARC- Participation Guidelines for 3<sup>rd</sup> – 12<sup>th</sup> Grade](#)
- [Module 4: Learner Characteristic Inventory LD](#)
- [Module 5: Using Data Sources to Understand and Describe Alternate Assessment Population](#)
- [Module 6: Annual Review Guidance for Alternate Assessment \(Completed Annually\)](#)

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.*

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. Based on the review, LEAs and SERTACs are provided with statewide and LEA level data based on a rate comparison calculation to ensure LEAs can address any disproportionality. The rate comparison calculation identifies when the data for any group is disproportionate to others not in the measured group.

Kentucky uses a risk ratio calculation. A risk ratio is the comparison of two different risks: The risk for a specific student group to participate in 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  $4/2000=.002=.2\%$
- 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 (threshold of 2.0 or greater)
  - As stated in the National Center on 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 principals 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 on 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 the 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 SERTAC with the development of the CAP. These activities may include but are not limited to the following:
  - Assist 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 disproportionality issues identified.

### **Evidence of Progress**

The KDE will examine statewide and LEA final data by subgroup and subject area for the 2022-2023 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 3](#) when the final data is calculated in November 2023.

### **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*

Attachment 10 includes the 2023-2024 school year proposed timeline for the KDE 1.0% waiver activities.

During the 2022-2023 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 significant cognitive disabilities.

The [2020-2021 Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science](#) outlined plans to create parent resources, including parent training modules, an informational brochure for parents and a revision of the “Parent Guide: Kentucky Alternate Assessment”. In the 2022-2023 school year, the “Parent Guide: Kentucky Alternate Assessment” was revised to include updated language. It was published and made available to the public on the KDE’s website in July 2023. In addition, the KDE began developing recorded parent modules to assist parents in understanding the AA-AAAS. Those modules are currently in the editing phase and will be made available to the public on the KDE website during the 2023-2024 school year.

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 SERTACs to develop trainings and guidance to support LEAs.

### **Evidence of Progress**

The KDE worked with NCEO 1% CoP to support the KDE’s ongoing work around students with significant cognitive disabilities during the 2022-2023 school year. For example, the KDE participated at the NCEO 1.0% CoP webinar meetings 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.

The SERTACs used 2021-2022 assessment year Justification Form responses to assist LEAs in identifying specific areas of training or coaching needed. During the 2022-2023 school year, SERTACs provided ongoing training virtually and in-person for LEA staff which included:

- understanding and completing the [Kentucky Alternate Assessment Participation; Guidelines Documentation Form](#);

- [Kentucky Academic Standards](#) for students participating in the AA-AAAS;
- monthly collaborative meetings;
- coaching sessions; and
- due process file reviews.

The additional parent resources were revised and the “Parent Guide: Kentucky Alternate Assessment” was published on the KDE website in July 2023. The parent modules will be available during the 2023-2024 school year. The KDE will reevaluate the state and LEA needs and adapt materials and modules to address any unmet needs.

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 for misidentification and documentation errors. Once this is complete, the KDE and the LEA develop a plan to train and implement the guidelines more efficiently. During the 2023-2024 school year, the KDE will provide increased 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 trainings offered can be located on the SERTACs collaborative alternate assessment webpage. More information on the KDE trainings and guidance available to support districts 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 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 trainings annually from a KDE approved trainer, such as UK's HDI. LEA administrators and KDE 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 2022-2023 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 trainings and support. In addition, the Justification Requirement Form is 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 its 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 2021-2022 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 disproportionality of racial or ethnic groups participating in the AA-AAAS during the 2021-2022 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 requested each LEA identified to provide a sample of due process records from the statewide 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 three 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%

### **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"> <li>• <a href="#">KDE Assessment Calendar</a></li> <li>• ATTACHMENT 1: KDE's news release of the public notice and comment period</li> <li>• ATTACHMENT 2: Public notice of waiver request posted for public comment</li> <li>• Public comments received by the KDE               <ul style="list-style-type: none"> <li>○ ATTACHMENT 3a: Comment 1</li> <li>○ ATTACHMENT 3b: Comment 2</li> </ul> </li> <li>• ATTACHMENT 4: KDE's response to the public comment (Statement of Consideration)</li> </ul>

#### **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 2022-2023 school year for all ESSA-required subgroups.</p>	<ul style="list-style-type: none"> <li>• <a href="#">KDE Assessment Calendar</a></li> <li>• <a href="#">Table One: School year 2022-2023 AA-AAAS eligible students</a></li> <li>• <a href="#">Table Two: Overall Rates of Assessment Participation for 2022-2023</a> When the final assessment data are available in October 2023, the KDE will review and submit the final data in a second addendum. Table Two will be updated at that time.</li> <li>• <a href="#">Table Three: Alternate Assessment Participation Rates by Subgroup for 2022-2023</a> When the final assessment data are available in October 2023, the KDE will review and submit the final data in a second addendum. Table Three will be updated at that time.</li> <li>• <a href="#">Table Four: AA-AAAS Rates by Subject, by Year</a></li> </ul>

**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 2021-2022 school year.</p>	<ul style="list-style-type: none"> <li>• <a href="#">Table Five: 2022-2023 School Year Overall Statewide, Assessed by Subject</a> When the final assessment data are available in October 2023, the KDE will review and submit the final data in a second addendum. Table Five will be updated at that time.</li> <li>• <a href="#">KDE School Report Card 2022-2023 School Year – Assessment and Performance Data</a> (available November 2023)</li> </ul>

**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"> <li>• ATTACHMENT 5: Assurances Email sent to LEAs</li> <li>• ATTACHMENT 6: Written Assurances Form</li> <li>• ATTACHMENT 7: Justification Requirement Form</li> <li>• ATTACHMENT 8: Universal training module outline – A series of six universal training modules are required for all IEP team members and are located on the <a href="#">UK HDI Learning Management System (LMS)</a>. The purposes of these training modules were to implement the requirements set forth in the ESSA and to support LEAs in the implementation of the <a href="#">Kentucky Alternate Assessment</a></li> <li>• <a href="#">Participation Guidelines Documentation form</a></li> </ul>

**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</p>	<ul style="list-style-type: none"> <li>• <a href="#">Table Three: Alternate Assessment Participation Rates by Subgroup for 2022-2023</a> When the final assessment data are available in November 2023, the KDE will review and submit the final data in second addendum. Table Three will be updated at that time.</li> </ul>

State Response	Supporting Evidence
<p>participation in the AA-AAAS.</p>	<ul style="list-style-type: none"> <li>• <a href="#">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</a></li> <li>• See <a href="#">Requirement Four (B)</a> and <a href="#">(C)</a> in Waiver request for documentation of state monitoring based on disproportionality rate comparison.</li> </ul>

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

State Response	Supporting Evidence
<p>Kentucky provided a plan and timeline for improving its alternative assessment guidelines. This plan will be updated once final participation data is calculated and analyzed.</p>	<ul style="list-style-type: none"> <li>• ATTACHMENT 9: 2022-2023 Waiver Timeline- updated with completion dates</li> <li>• ATTACHMENT 10: 2023-2024 Waiver Initiatives Timeline Draft</li> <li>• <a href="#">Parent Guide: Kentucky Alternate Assessment</a></li> <li>• Parent Modules- in editing phase</li> </ul>

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

State Response	Supporting Evidence
<p>Kentucky provided a plan and timeline for additional steps it is has taken to support and provide appropriate oversight of Kentucky LEAs expected to assess more than 1.0% on the AA-AAAS.</p>	<ul style="list-style-type: none"> <li>• <a href="#">Requirement Three</a> and <a href="#">Requirement Four</a> of the Kentucky 1.0% Waiver to be submitted by August 15, 2023 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</li> <li>• See Examples of Evidence in <a href="#">Requirement Four (A) –34 CFR §200.6(c)(4)(iv)(A)</a> above</li> <li>• ATTACHMENT 9: 2022-2023 Waiver Timeline- updated with completion dates</li> </ul>

**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</p>	<ul style="list-style-type: none"> <li>• See Examples of Evidence in <a href="#">Requirement Three (B) –34 CFR §200.6(c)(4)(iii)(B)</a> above</li> <li>• <a href="#">Requirement Four (C)</a> of the Kentucky 1% Waiver submitted by Aug. 15, 2023, includes an outline of the steps the State took to address any disproportionality in the percentage of students taking the AA-AAAS</li> </ul>

State Response	Supporting Evidence
final participation data is calculated and analyzed.	<ul style="list-style-type: none"> <li>• <a href="#">Table Three: Alternate Assessment Participation Rates by Subgroup for 2022-2023</a> When the final assessment data are available in November 2023, the KDE will review and submit the final data in a second addendum. Table Three will be updated at that time.</li> <li>• <a href="#">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</a></li> </ul>

## 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
The State showed that it met each of the four requirements for waiver approval.	<ul style="list-style-type: none"> <li>• Kentucky’s state assessment window for the AA-AAAS is scheduled to begin Nov. 13, 2023. Due to the requirement that states submit a waiver at least 90 days prior to the assessment window, the data was unavailable for the 2022-2023 school year assessment before the deadline for submission of the waiver request. When the final assessment data are available in November 2023, the KDE will review and submit the final data in an addendum.</li> </ul>

*Requirement Five – [34 CFR §200.6\(c\)\(4\)\(v\)](#):*

State Response	Supporting Evidence
The State will show that it made progress toward its prior year’s plan and timeline.	Evidence to support this requirement includes: <ul style="list-style-type: none"> <li>• ATTACHMENT 9: 2022-2023 Waiver Timeline-updated with completion dates</li> <li>• <a href="#">Table Three</a></li> <li>• <a href="#">Table Four</a></li> <li>• <a href="#">Table Six</a></li> <li>• <a href="#">Participation Guidelines for the Kentucky Alternate Assessment Record Review</a></li> </ul>

Andy Beshear  
Governor



Jamie Link  
Secretary, Education and  
Labor Cabinet

Robin Fields Kinney  
Interim Commissioner of Education

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January 31, 2024

Mr. Patrick Rooney  
Director, School Support and Accountability Programs  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Mr. Curtis J. Kinnard, Ed.D.  
U.S Department of Education  
Office of Special Education Programs  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Mr. Rooney and Dr. Kinnard:

Pursuant to [34 CFR §200.6 \(c\)\(4\)](#), the Kentucky Department of Education (KDE) submitted the Kentucky Request to Extend the 1.0% Alternate Assessment Participation Waiver to the United States Department of Education (USED) on August 15, 2023. In the submission, the KDE requested approval to extend its 1.0% Alternate Assessment Participation Waiver for the areas of reading, math and science for the 2023-2024 school year.

Due to the requirement that states submit a waiver extension request at least 90 days prior to the start of the testing window for the alternate assessment aligned with alternate academic achievement standards (AA-AAAS), there was insufficient time to calculate final participation data and disproportionality data from the 2022-2023 school year assessment before the deadline for submission. The request to extend its waiver included preliminary data from Kentucky's statewide assessment for the 2022-2023 school year. The final assessment data is now publicly available on the [Open House website](#) and on the [Kentucky School Report Card](#).

As anticipated, the final assessment data indicates participation in the subject areas of reading, math and science have exceeded, for the 2022-2023 school year, the 1.0% threshold outlined in the Every Student Succeeds Act (ESSA). This addendum provides final AA-AAAS participation and disproportionality data for the 2022-2023 school year.

**Table 1: Overall Assessment Participation for SY 2022-2023**

Table One shows that Kentucky assessed above 95% of its students enrolled in the 2022-2023 school year including students with disabilities as required by [34 CFR § 200.6\(c\)\(4\)\(ii\)\(B\)](#). Kentucky increased the overall assessment participation rate for all students and increased the percentage of students with disabilities who were assessed for the 2022-2023 school year.

<b>Group</b>	<b>All Students Grades 3-8 and High School R/LA</b>	<b>Students with Disabilities Grades 3-8 and High School R/LA</b>
Students Assessed	332,390	49,871
Students Enrolled	334,873	50,331
Assessment Participation Rate	99.26%	99.09%
<b>Group</b>	<b>All Students Grades 3-8 and High School Math</b>	<b>Students with Disabilities Grades 3-8 and High School Math</b>
Students Assessed	334,918	49,853
Students Enrolled	337,453	50,345
Assessment Participation Rate	99.25%	99.02%
<b>Group</b>	<b>All Students Grades 3-8 and High School Science</b>	<b>Students with Disabilities Grades 3-8 and High School Science</b>
Students Assessed	140,342	19,459
Students Enrolled	141,873	19,754
Assessment Participation Rate	98.92%	98.51%

**Table 2: Alternate Assessment Participation Rates by Subgroup for SY 2022-2023**

Table Two shows the AA-AAAS participation data for individual subgroups assessed in the 2022-2023 school year as required by [34 CFR §200.6\(c\)\(4\)\(ii\)\(A\)](#). The KDE reviewed data from the 2022-2023 school year with a focus on disproportionality. Kentucky’s percentage of students assessed with the AA-AAAS for reading and math slightly increased while the percentage of students assessed with the AA-AAAS for science remained the same. However, there were specific subgroups in which the state made progress. The table below highlights specific subgroups in which Kentucky made progress in reducing the percentage of students taking the AA-AAAS.



<b>Group</b>	<b>Total Number in Grades 3-8 and HS</b>	<b>Number Taking AA-AAAS in Grades 3-8 and HS</b>	<b>Percent Taking AA-AAAS in Grades 3-8 and HS</b>
<b>R/LA</b>			
All Students	334,873	3,895	1.16%
Hispanic	32,853	582	1.77%
American Indian/Alaskan Native	537	10	1.86%
Asian	7,096	128	1.80%
Black	42,277	948	2.24%
Hawaiian/Pacific Islander	651	-	-
White	281,892	5,736	2.03%
Two or More Races	19,898	380	1.91%
Male	172,864	2,588	1.50%
Female	162,009	1,307	0.81%
English Learner	18,828	231	1.23%
Economically Disadvantaged	203,139	3,098	1.53%
<b>Mathematics</b>			
All Students	337,453	3,895	1.15%
Hispanic	34,642	588	1.70%
American Indian/Alaskan Native	539	10	1.86%
Asian	7,350	130	1.77%
Black	4,2623	948	2.22%
Hawaiian/Pacific Islander	664	-	-
White	282,077	5,730	2.03%
Two or More Races	19,903	378	1.90%
Male	174,183	2,587	1.49%
Female	163,270	1,308	0.80%
English Learner	21,419	236	1.10%

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
Economically Disadvantaged	204,840	3,100	1.51%
<b>Science</b>			
All Students	141,873	1,619	1.14%
Hispanic	12,675	118	0.93%
American Indian/Alaskan Native	188	-	-
Asian	3,009	26	0.86%
Black	15,167	209	1.38%
Hawaiian/Pacific Islander	243	-	-
White	103,691	1,187	1.14%
Two or More Races	6,900	73	1.06%
Male	73,166	1,082	1.48%
Female	68,696	537	0.78%
English Learner	8,373	87	1.04%
Economically Disadvantaged	83,395	1,270	1.52%

**Table 3: Alternate Assessment Participation Rates by Subject, by Year**

Table Three demonstrates the AA-AAAS participation rates by subject for the last five years. The data for the 2023-2024 school year is an estimate based on Kentucky’s statewide student information system.

School Year	R/LA	Math	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 (estimate)	1.17	1.17	1.23

The KDE has satisfied all requirements and included documentation outlined in [34 CFR §200.6\(c\)\(4\)\(a\) through \(iv\)](#) in the waiver request submitted on August 15, 2023. The KDE has

provided final assessment participation and disproportionality data for the 2022-2023 school year, as indicated in the original waiver request.

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

Sincerely,



Robin Fields Kinney  
Interim Commissioner of Education