



KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092

July 19, 2017

MEDIA CONTACT: Rebecca Blessing

Office: (502) 564-2000, ext. 4604 | **Cell:** (502) 330-5063 | **E-mail:** rebecca.blessing@education.ky.gov

INPUT SOUGHT ON PROPOSED WAIVER TO LAW THAT LIMITS ALTERNATE ASSESSMENTS

(FRANKFORT, Ky.) – The Kentucky Department of Education is seeking public comment on its request for a waiver on the number of students who can be tested using an alternate assessment on annual statewide Kentucky Performance Rating for Educational Progress (K-PREP) tests.

The limit set by federal regulation states there shall be no more than 1 percent of the total number of students participating in a statewide assessment such as K-PREP, who are taking the alternate assessment assessed in each subject area tested. The most recent data on the percentage of students taking Kentucky's alternate assessments in all subject areas stands just over 1 percent.

Kentucky requires all students enrolled in a public K-12 learning institution be assessed either with accommodations, without accommodations or with an alternate assessment. The only exception to participation is for a student who receives a medical or extraordinary circumstances non-participation waiver. Kentucky follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95 percent participation.

According to 34 C.F.R. §200.6(c)(4), "If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under [§ 200.2\(a\)\(1\)](#) in any school year, the State may request that the Secretary [of Education] waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year."

The KDE plans to submit the waiver request to the U.S. Department of Education in the areas of reading, writing, mathematics, science and social studies.

The waiver request states that KDE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities.

The department will monitor alternate assessment data quarterly and request justification from districts that exceed the one percent cap. The KDE will address any disproportionality in the percentage of students taking the alternate assessment.

The proposed waiver is available on the Kentucky Department of Education [website](#).

(more)

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Page 2 – Alternative Assessment Waiver

Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments will be accepted through, August 2, 2017.

Send written comments on the proposed waiver to: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601. Mr. Brown may be reached by telephone at 502-564-4474, by fax at 502-564-9321 or through email at kevin.brown@education.ky.gov.

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KENTUCKY DEPARTMENT OF EDUCATION
PUBLIC NOTICE AND COMMENT PERIOD
WAIVER REQUEST PURSUANT TO 34 C.F.R. §200.6(c)(4)
JULY 19, 2017

Pursuant to 34 C.F.R. §200.6(c)(4), the Kentucky Department of Education (“KDE”) will seek a waiver for the 2017-2018 school year from the Secretary for the United States Department of Education. The regulation in question, found at 34 C.F.R. 200.6(c)(2), requires State Education Agencies such as the KDE to limit the total number of students assessed in a subject area using an alternate assessment. The limit on the percentage of students assessed by the alternate assessment is set by the federal regulation, stating there shall be no more than one (1) percent of the total number of students taking the alternate assessment assessed in each subject area.

Specifically, 34 C.F.R. 200.6(c)(2) provides:

For each subject for which assessments are administered under § 200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

NOTICE OF PUBLIC COMMENT PERIOD: Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments shall be accepted through August 2, 2017.

You may send written comments on the proposed waiver to: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601. Mr. Brown may be reached by telephone at 502-564-4474, by fax at 502-564-9321 or through email at kevin.brown@education.ky.gov.

The requirements for a State Education Agency to seek a waiver are set forth at 34 C.F.R. §200.6(c)(4) and reproduced below. The KDE is requesting a waiver in response to the requirements set forth at 34 C.F.R. §200.6(c)(4) because its most recent data on the percentage of students taking Kentucky’s alternate assessments in all subject areas stands at 1.1%. The waiver requirements are in **bold** lettering below.

If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under § 200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—
(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;

The KDE will submit a waiver request to the U.S. Department of Education 90 days prior to the start of Kentucky’s first testing window for its alternate assessment. The subject areas are

Reading, Writing, Mathematics, Science and Social Studies. The start date for each subject will be November 6, 2017.

(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

The KDE will gather district and school data on the current and previous years' participation rates in each subject of the alternate assessment. It is important for KDE to identify whether students taking Kentucky's alternate assessment are students clustered in "subgroups," such as category of disability under the Individuals with Disabilities Education Act (IDEA); racial/ethnic groups; gender; English Learners; or eligible for free or reduced price school meals. These data will help the KDE understand whether there are:

- Districts or schools in which the numbers of students participating in alternate assessments are higher than expected;
- Certain grades in which participation in the alternate assessment is higher than expected; and
- Potential disproportionality in specific subgroups and grade levels of students taking alternate assessments.

The KDE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities. Use of the *Learner Characteristics Inventory* will be used to collect information about students participating in the alternate assessment. The KDE expects the *Learner Characteristics Inventory* will be valuable in exploring the characteristics of students participating in certain districts and schools.

Districts or schools with unusual patterns or higher rates than other districts or schools may require additional investigation to determine if there are unique reasons for higher percentages of students participating in the alternate assessment. The KDE will share the data collected with districts. This will allow districts to compare the percentage of their students participating in the alternate assessment with students in other districts in the state participating in the same assessment. After sharing the data, the KDE will provide training to the districts that exceed the one percent cap set forth at 34 C.F.R. §200.6(c)(2).

(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);

Kentucky requires all students enrolled in public K-12 schools be assessed with accommodations, without accommodations or with an alternate assessment. The only exception to participation for *any* student is for students who receive a medical or extraordinary circumstances non-participation waiver. Kentucky follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95% participation.

(iii) Include assurances from the State that it has verified 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

The KDE formed an advisory group of stakeholders to examine the state definition of “students with the most significant cognitive disabilities” who qualify for alternate assessments. The focus of the definition is on factors related to cognitive functioning and adaptive behavior. The advisory group will recommend revisions to the KDE’s Alternate Assessment Participation Guidelines used to determine if a student meets the standard to participate in the alternate assessment. The advisory group met on July 7, 2017 and will meet again on August 1, 2017.

The KDE will monitor alternate assessment data quarterly and request justification from districts which exceed the one percent cap. The KDE will provide professional learning opportunities for IEP team members and other educators, particularly on the nature of the alternate assessment and the students who are eligible to participate under the revised Participation Guidelines.

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

The KDE will address any disproportionality in the percentage of students taking the alternate assessment by undertaking the following activities. The KDE will:

- monitor alternate assessment data on a quarterly basis
- require justification from districts that exceed the one percent cap
- provide training to districts on Participation Guidelines for student alternate assessments
- gather district and school data on current and previous years’ alternate assessment participation rates in each subject area tested
- analyze the data by subgroup, such as race/ethnicity, gender, English learner and students eligible for free or reduced price school meals, to determine whether disproportionality exists for students participating in the alternate assessment
- address disproportionality with districts and schools through training on the Participation Guidelines

(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, revising 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;

As noted in (iii) above, the KDE convened an advisory group of stakeholders to examine the state definition of “students with the most significant cognitive disabilities” who participate in alternate assessments. The focus of the definition is on factors related to cognitive functioning and adaptive behavior. The advisory group will recommend revisions to the KDE’s Participation

Guidelines used to determine if a student meets the standard to participate in the alternate assessment. The advisory group met on July 7, 2017 and will meet again on August 1, 2017.

The KDE will monitor alternate assessment data quarterly and request justification from districts which exceed the one percent cap. The KDE will provide professional learning opportunities for IEP team members and other educators, particularly on the nature of the alternate assessment and the students who are eligible to participate under the revised Alternate Assessment Participation Guidelines.

(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

The KDE will provide professional learning opportunities for IEP team members and other educators. The training will be on the purpose of the alternate assessment and the characteristics of students who are eligible to participate in the alternate assessment, based on the revised Alternate Assessment Participation Guidelines.

All educators, including those who are not members of IEP teams, must have a solid understanding of how to make appropriate instruction and assessment decisions for all students, including students who may be candidates to participate in alternate assessment. The KDE will provide training on the accessibility features and accommodations available for the general assessment, as those features and accommodations enable most students with disabilities to meaningfully participate in the general assessment.

Training will include:

- Using the Participation Guidelines to make assessment participation decisions;
- Selecting, implementing and evaluating accessibility features and accommodations for instruction and assessments;
- Differentiating instruction and providing better access to academic content;
- Having high expectations for all students regardless of the category of their disability; and
- Understanding implications of student participation in the alternate assessment as it applies to the type of diploma the student earns, as well as the student's postsecondary and career pathway.

The KDE will make informational resources available to parents of students with disabilities so parents can contribute in the IEP decision making process regarding the assessment in which their child participates. Parent informational resources will include:

- Explanation of the Alternate Assessment Participation Guidelines;
- Requirements of the alternate assessment; and
- Accommodations that enable students to participate in the general assessment.

The KDE will monitor data quarterly and request justification from districts that exceed the one percent cap.

(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 in accordance with paragraph (c)(4)(ii)(A) of this section;

The KDE will gather district and school data on current and previous years' alternate assessment participation rates in each subject area and will analyze the data by subgroup to determine whether disproportionality exists for students participating in the alternate assessment.

In the event the data reveal any disproportionality in the percentage of students taking the alternate assessment, the KDE will address the issue as follows:

- The KDE will provide training on Participation Guidelines to districts and schools with disproportionality.
- In districts whose data indicate disproportionality in the percentage of students taking the alternate assessment, the KDE will randomly monitor districts with the highest rates of disproportionality. The KDE will achieve this by reviewing individual student folders of students in the affected subgroup, to determine whether decisions to place students in the alternate assessment were made according to law.

In the event the decision to place the student on the alternate assessment was not made pursuant to the applicable regulations and the Participation Guidelines, the KDE will direct the district to reconsider the student's eligibility for the alternate assessment.

Attachment 3 Commissioner's Monday Message

From: [Pruitt, Stephen - Commissioner, KY Dept. of Education](#)
To: [All State Supt](#)
Subject: Commissioner's Monday Message on Tuesday, July 25, 2017
Date: Tuesday, July 25, 2017 11:55:22 AM
Attachments: [KASAB - Assessments Revision-Writing Team Member 2017.doc](#)
[KDE FY2016 Uniform Guidance Desk Review Findings Memo.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.png](#)
[image008.png](#)

Importance: High

Those receiving this at KSB and KSD, please make sure all employees receive it. Also, ATC principals are asked to forward it to their staff members.

COMMISSIONER'S MONDAY MESSAGE ON TUESDAY

– Tuesday, July 25, 2017

*from Stephen L. Pruitt
Commissioner of Education*

Items from KDE

NOTE: We have grouped the KDE items into the following categories found below: Time Sensitive Items and Commissioner's Corner. At the end of the document, you will find Items from Outside KDE.

Time Sensitive Items

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❖ Public Comment Sought on Alternate Assessment Waiver

The Kentucky Department of Education is seeking public comment on its request for a waiver on the number of students who can be tested using an alternate assessment on annual statewide Kentucky Performance Rating for Educational Progress (K-PREP) tests.

The limit set by federal regulation states there shall be no more than 1 percent of the total number of students who are taking the alternate assessment assessed in each subject area tested. The most recent data on the percentage of students taking Kentucky's alternate assessments in all subject areas stands just over 1 percent.

You may read a copy of the [proposed waiver online](#).

Send written comments on the proposed waiver to:

Kevin C. Brown
Associate Commissioner and General Counsel
Kentucky Department of Education
300 Sower Boulevard, Fifth Floor, Sower Building
Frankfort, KY 40601

Mr. Brown may be reached by telephone at 502-564-4474, by fax at 502-564-9321 or through email at kevin.brown@education.ky.gov.

Written comments will be accepted through, **August 2, 2017**.

❖ Seeking High School Teachers of Biology to Apply to Develop EOC Field Tests

Development of new End-of-Course Assessments for Biology (to be field tested in the spring of 2018) is beginning in August 2017. The Kentucky Department of Education is seeking biology teachers to apply to work on the development of new assessments that align to the Kentucky Academic Standards for Science. Criteria have been established to guide the selection of applicants (**see attached**). Applicants **MUST** be available on the following dates:

Thursday, August 24 – Saturday, August 26, 2017 – Frankfort, KY

Selected team members will receive a stipend of \$250.00 for Saturday, August 26, plus travel expenses. Substitute teacher expenses for August 24 and 25 will be reimbursed to the teacher's school district. Potential applicants are asked to verify the willingness of their school or district to release them for these two days prior to applying.

The [application is available online](#).

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Applications will be accepted through **Monday, July 31, 2017**. Selected team members will be notified on or before **August 4, 2017**

Feel free to contact sean.elkins@education.ky.gov with any questions.

❖ ***Memo Sent to District Auditors Concerning Results of FY 2015-2016 Audit Review***

The Kentucky Department of Education (KDE) engaged the Auditor of Public Accounts (APA) to review the school districts' FY 2016 audit reports for technical compliance and adherence to reporting standards. The results from its review can be found in the *Independent Accountant's Report on Applying Agreed-Upon Procedures to the Kentucky Department of Education, Uniform Guidance Desk Reviews for the Fiscal Year Ending June 30, 2016 Audit Reports* located on APA's web site at http://apps.auditor.ky.gov/Public/Audit_Reports/Archive/2016kdedeskreviewsaup.pdf.

Districts' auditors were sent the **attached** memorandum notifying them of the availability of the results. Auditors are required to correct any FY 2015-2016 audit report classified as **technically deficient** and submit the entire revised audit report to KDE as noted in the memorandum.

Also, auditors should review the results and correct the findings in the FY 2016-2017 audit reports they are currently performing. KDE encourages each district to review and discuss the report with its auditor so that findings are not repeated in the current fiscal year audit report.

During KDE's initial review of the FY 2017 audit report, KDE reserves the right to require the auditor to submit a corrected audit report if the auditor fails to correct prior fiscal year desk review findings, regardless of the FY 2016 finding classification. Both auditor and district should be aware of uncorrected repeat findings by the firm, which may result in the district's future audit contract not being approved and executed by the State Committee for School District Audits.

If you have questions, please contact Gail Cox at Gail.cox@education.ky.gov or via phone at 502.564.3846, ext. 4462, or Jackie Chism at Jackie.chism@education.ky.gov or via phone 502.564.3846, ext. 4445.

Commissioner's Corner

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❖ ***What's New in Kentucky Teacher***

[Kentucky Teacher](#), KDE's award-winning online publication, is filled with features and news about what is happening in Kentucky's classrooms. The website also shares what other teachers in the Commonwealth are thinking about through many guest columns and is home to subject-area newsletters, which are updated monthly.

Kentucky Teacher is the place to go to stay abreast of what's happening in Kentucky's public schools.

Here's a look at what's new:

Features

[Getting a glimpse](#) of what poverty feels like.

News

Input sought on proposed waiver to law that limits [alternate assessments](#).

Mathematics

Professional [learning conferences](#) for mathematics.

[Explore virtual](#) professional learning opportunities.

Bulletin Board

[KAEE annual conference](#) coming to Gilbertsville.

KDE seeking [biology teachers'](#) input on end-of-course assessments.

Educators invited to apply for [CTEPS collaborative](#) program.

[Owensboro teacher](#) honored by Kentucky Association of Conservation Districts.

We also want to hear from you, so send your comments, feedback or story suggestions to kentuckyteacher@education.ky.gov or post your comments online.

Kentucky Teacher is produced by KDE's Division of Communications.

Items from Outside KDE

NOTE: Inclusion of the items from outside KDE, found below, does not indicate endorsement by the Kentucky Department of Education (KDE).

❖ *Buster Bynum Scholarship Winner*

Rylen Smith, a 2017 graduate of Taylor County High School was selected as Kentucky's recipient of the Buster Bynum Scholarship from the Southeastern States Pupil Transportation Conference. The Buster Bynum scholarship is a \$2,500 one-time award to a graduating senior who has a parent employed in pupil transportation. The

Buster Bynum Scholarship is awarded to a public high school graduate with at least a 3.0 (B) scholastic average and will be attending a postsecondary institution in the fall after graduation.

Rylen Smith is the daughter of Barry Smith of Campbellsville, Kentucky. Barry Smith is employed as a bus driver by the Taylor County Board of Education. Rylen will be attending Samford University in Birmingham, Alabama.

❖ *KASC Conference*

The Kentucky Association of School Councils (KASC) annual conference brings together teachers, parents, and school administrators from across the state to focus on what's working in Kentucky schools. The 2017 conference will take place **Sept. 26-27** at the Galt House in Louisville.

KASC conference features include:

- High-Achieving Schools Sharing Strategies that Work
- Shifting the Science Focus
- Most Recent Information for Assessment and Accountability from the Kentucky Department of Education (KDE)
- Successful Schools Sharing How to Close Achievement Gaps
- Growth Mindset

Commissioner of Education Stephen Pruitt will be addressing the Wednesday morning General Session.

Pre-conference sessions featuring a Systemic Approach to Closing the Gap, Targeting the Disability Achievement Gap, and Effective Feedback to Improve Learning will be held on Monday September 25.

Visit www.kasc.net for more information and to register.

❖ ***Free Middle School Mathematics Professional Learning Opportunities***

The Kentucky Center for Mathematics (KCM) is proud to partner with the Kentucky Department of Education to offer middle school educators impactful professional learning experiences (PLEs) in 2017-18.

Foundations for Middle Grades 6 and 7

For 6th and 7th grade teachers, the KCM, with grant funding from KDE, plans to provide a free, six-day PLE. This year-long experience allows middle school educators to gain a greater understanding of how 6th and 7th grade students learn mathematics, evidence-based intervention strategies for use with students who are struggling, and resources and professional knowledge for identifying and analyzing student misconceptions. Mathematical content will focus on the following domains of 6th and 7th grades: Ratios and Proportional Relationships, the Number System, and Expressions and Equations.

Jefferson County *-This PLE has reached maximum capacity!*

Sept. 28-29; Nov. 14- 15; Jan. 30-31 – 8:30 a.m.-3:30 p.m. (ET)

[Click here to be placed on the waiting list.](#)

Fayette County

Sept. 25-26; Nov. 20-21; Feb. 12-13 – 8:30 a.m.-3:30 p.m. (ET)

[Click to register.](#)

Registration closes on **Aug. 21.**

Explorations in Grade 6 – Geometry

For 6th grade teachers, the KCM, with grant funding from KDE, plans to provide a free one-day PLE with a focus on geometry.

Jefferson County

March 16 – 8:30 a.m.-3:30 p.m.(ET)

[Click to register.](#)

Registration closes on **Feb. 12.**

Fayette County

March 14 – 8:30 a.m.-3:30 p.m. (ET)

[Click here to register.](#)

Registration closes on **Feb. 12.**

Explorations in Grades 6 and 7 – Integers

For 6th and 7th grade teachers, the KCM, with grant funding from KDE, plans to provide a free, one-day PLE with a focus on integer and integer operations.

Jefferson County

Nov. 8 – 8:30 a.m.-3:30 p.m.(ET)

[Click to register.](#)

Registration closes on **Oct. 2.**

Fayette County

Nov. 6 – 8:30 a.m.-3:30 p.m.(ET)

[Click to register.](#)

Registration closes on **Oct. 2.**

Explorations in Grade 8 – Algebra

For 8th grade teachers, the KCM, with grant funding from KDE, plans to provide a free one-day PLE with a focus on algebra and graphing.

Jefferson County

Oct. 25 – 8:30 a.m.-3:30 p.m(ET)

[Click to register.](#)

Registration closes on **Sept. 18.**

Fayette County

Oct. 23 – 8:30 a.m.-3:30 p.m.
(ET)

[Click to register.](#)

Registration closes on **Sept. 18.**

Explorations in Mathematical Lessons for Algebra I

This unique professional learning experience allows participants to collaboratively plan Algebra I lessons. Then, a master teacher will teach the lessons in a real classroom as participants observe. After each lesson, the group will discuss observations of the lessons with a heavy emphasis on student impact. Additionally, participants will deeply explore the mathematics and pedagogical strategies that are addressed during the lessons.

Central KY (*exact location to be announced*)

Jan. 25-26 – 8:30 a.m.-3:30 p.m. (ET)

[Click to register.](#)

Registration closes on **Dec. 11.**

Explorations in Mathematical Lessons for Middle School

This unique professional learning experience allows participants to collaboratively plan middle school mathematics lessons. Then, a master teacher will teach the lessons in a real classroom as participants observe. After each lesson, the group will discuss observations of the lessons with a heavy emphasis on student impact. Additionally, participants will deeply explore the mathematics and pedagogical strategies that are addressed during the lessons.

Central KY (*exact location to be announced*)

Sept. 28-29; Oct. 26-27 – 8:30 a.m.-3:30 p.m. (ET)

[Click to register.](#)

Registration closes on **Aug. 21.**

❖ *Still Time to Register for the 2017 Rural Education Conference*

There is still time to register for the National Forum to Advance Rural Education October 12-14 in Columbus, OH. The theme is “Growing Success.”

Come and learn, network, and collaborate on the topics at the forefront of rural education. Hear from leaders and practitioners as they share powerful examples of rural investment, innovation, and practice that positively impact teaching, student

learning, and community collaboration.

It will be a dynamic experience that you won't want to miss!

Check out the 2017 keynote and presenter line-up by **downloading the registration brochure**. Or **sign up at the registration link** today.

If you have questions on any of the items included in this edition of the Commissioner's Monday Message, please contact me using the information below.

Stephen L. Pruitt

Commissioner of Education
Commonwealth of Kentucky

Kentucky Department of Education

300 Sower Blvd.

Frankfort, KY 40601

Phone: (502) 564-3141, ext. 4806 | Fax: (502) 564-5680

stephen.pruitt@education.ky.gov

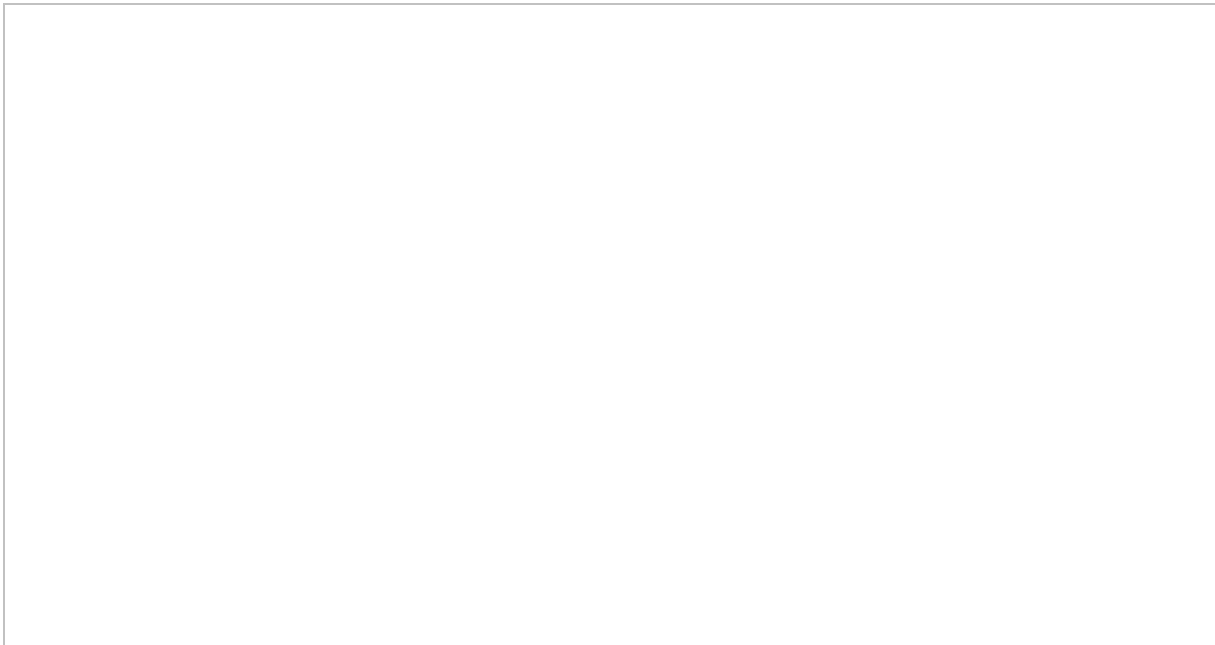
From: [Hylton, Gretta - Director, Division of Learning Services](#)
To: [Allen, Casey - Superintendent](#); [Armstrong, Mike](#); [Beard, Ryan](#); [Bentley, Debra Katie](#); [Cooper, Justin T.](#); [Dowd, Anita \(KCDHH\)](#); [Folker, Amy \(PPC\)](#); [Goff, Paula \(CHFS PH\)](#); [Goley, Barry](#); [Harbin, Tyson - Division of Consolidated Plans and Audits](#); [Hutchison, Leisa Smith](#); [Jensen, Elisabeth](#); [Margaret E. Bausch \(meb@uky.edu\)](#); [McCallon, Randy](#); [Nicholson, Vickie](#); [Nolan, Ronnie](#); [Pohlgeers, Connie](#); [Reilly, Victoria J \(OVR-CG\)](#); [Risden-Smith, Jackie](#); [Seider, Debbie - Division of Technical Schools and Federal Programs](#); [Tucker, Jennifer K.](#); [Marysigns4you@aol.com](#); [Natalie Malone](#); [Lovell, Brian](#); [Stella Beard](#)
Cc: [Blessing, Rebecca - Director, Division of Communications](#); [McCowan, Joseph - Division of Learning Services](#); [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 8:33:25 PM
Attachments: [R 17-092 Alternative Assess. Waiver Request.pdf](#)
[image002.jpg](#)
[image003.jpg](#)

Good evening,

Below please find information on the Kentucky Department of Education's proposed waiver request regarding Alternate Assessments. Please note that the deadline for submitting comments is August 2.

Thank you for your interest and support of public education in Kentucky.

Gretta



From: Blessing, Rebecca - Director, Division of Communications
Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,



MEDIA CONTACT: Rebecca Blessing
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From: [Hylton, Gretta - Director, Division of Learning Services](#)
To: [Griffiths, Jill E](#); jacqueline.kearns@uky.edu; [Harold Kleinert](#); [Mullins, Jeanna](#); ["mike.abell@uky.edu"](mailto:mike.abell@uky.edu); t.scott@louisville.edu
Cc: [Blessing, Rebecca - Director, Division of Communications](#); [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 8:58:54 PM
Attachments: [R 17-092 Alternative Assess. Waiver Request.pdf](#)
[image003.jpg](#)
[image004.jpg](#)

Good evening,

Below please find information on the Kentucky Department of Education's proposed waiver request regarding Alternate Assessments. Please note that the deadline for submitting comments is August 2. Please share as appropriate.

Thank you for your interest and support of public education in Kentucky.

From: Blessing, Rebecca - Director, Division of Communications
Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,

MEDIA CONTACT: Rebecca Blessing

Office: (502) 564-2000, ext. 4604 | **Cell:** (502) 330-5063 | **E-mail:**
rebecca.blessing@education.ky.gov

INPUT SOUGHT ON PROPOSED WAIVER TO LAW THAT LIMITS ALTERNATE

ASSESSMENTS

(FRANKFORT, Ky.) – The Kentucky Department of Education is seeking public comment on its request for a waiver on the number of students who can be tested using an alternate assessment on annual statewide Kentucky Performance Rating for Educational Progress (K-PREP) tests.

The limit set by federal regulation states there shall be no more than 1 percent of the total number of students participating in a statewide assessment such as K-PREP, who are taking the alternate assessment assessed in each subject area tested. The most recent data on the percentage of students taking Kentucky's alternate assessments in all subject areas stands just over 1 percent.

Kentucky requires all students enrolled in a public K-12 learning institution be assessed either with accommodations, without accommodations or with an alternate assessment. The only exception to participation is for a student who receives a medical or extraordinary circumstances non-participation waiver. Kentucky follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95 percent participation.

According to 34 C.F.R. §200.6(c)(4), "If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under [§ 200.2\(a\)\(1\)](#) in any school year, the State may request that the Secretary [of Education] waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year."

The KDE plans to submit the waiver request to the U.S. Department of Education in the areas of reading, writing, mathematics, science and social studies.

The waiver request states that KDE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities.

The department will monitor alternate assessment data quarterly and request justification from districts that exceed the one percent cap. The KDE will address any disproportionality in the percentage of students taking the alternate assessment.

The proposed waiver is available on the Kentucky Department of Education [website](#).

Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments will be accepted through, August 2, 2017.

Send written comments on the proposed waiver to: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601. Mr. Brown may be reached by telephone at 502-564-4474, by fax at 502-564-9321 or through email at kevin.brown@education.ky.gov.

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Attachment 3 (3) KDE News Release 17-092

From: [Hylton, Gretta - Director, Division of Learning Services](#)
To: stephanie.little@keduc.org; [Ginter, Marti](#); [Wilder, Eddy](#); [Reynolds, Melissa -SESC Coop](#); [Grable, Patty - WKEC](#); [Christel Bogar](#); [Kim Weber, Regional Director of Special Education](#); [Davis, Kelly - \(GRREC-New\)](#); [Payne, Mildred E Blessing, Rebecca - Director, Division of Communications](#); [Hylton, Gretta - Director, Division of Learning Services](#)
Cc:
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 8:49:44 PM
Attachments: [R 17-092 Alternative Assess. Waiver Request.pdf](#)
[image002.jpg](#)
[image003.jpg](#)

Good evening,

Below please find information on the Kentucky Department of Education's proposed waiver request regarding Alternate Assessments. Please note that the deadline for submitting comments is August 2. Please share as appropriate.

Thank you for your interest and support of public education in Kentucky.

Gretta

From: Blessing, Rebecca - Director, Division of Communications
Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,

MEDIA CONTACT: Rebecca Blessing



Office: (502) 564-2000, ext. 4604 | Cell: (502) 330-5063 | E-mail: rebecca.blessing@education.ky.gov

INPUT SOUGHT ON PROPOSED WAIVER TO LAW THAT LIMITS ALTERNATE ASSESSMENTS

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From: [Directors of Special Education in Ky Schools](#) on behalf of [Hylton, Gretta - Director, Division of Learning Services](#)
To: KYDOSE@LSV.UKY.EDU
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 8:29:52 PM
Attachments: [image001.jpg](#)
[image004.jpg](#)
[R 17-092 Alternative Assess. Waiver Request.pdf](#)
Importance: High

Good evening,

Please see below and attached for important information. Share as appropriate.

Gretta

From: Blessing, Rebecca - Director, Division of Communications
Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,

MEDIA CONTACT: Rebecca Blessing

Office: (502) 564-2000, ext. 4604 | **Cell:** (502) 330-5063 | **E-mail:**
rebecca.blessing@education.ky.gov

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Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments will be accepted through, August 2, 2017.

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###

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From: [Hylton, Gretta - Director, Division of Learning Services](#)
To: [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: Special Alternate Assessment E-Mail for July 20, 2017
Date: Saturday, August 5, 2017 3:22:17 PM
Attachments: [image002.png](#)
[image003.png](#)
[image006.png](#)

----- Original message -----

From: "O'Hair, Kevin - Division of Assessment Support"
Date: 07/20/2017 8:41 AM (GMT-06:00)
To: KDE Alternate Assessment Teachers
Subject: Special Alternate Assessment E-Mail for July 20, 2017

Special Alternate Assessment E-Mail

July 20, 2017

The following news release regarding the proposed waiver to the limit of students participating in the Kentucky Alternate Assessment was released yesterday. The Office of Assessment and Accountability (OAA) encourages providing comments as well as sharing this message with educators in your district to provide input. Below please find information on the Kentucky Department of Education's proposed waiver request regarding Alternate Assessments. Please note that the deadline for submitting comments is **August 2**.

Thank you for your interest and support of public education in Kentucky.

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Kevin O'Hair
Program Consultant II
Division of Assessment Support
Office of Assessment and Accountability

Kentucky Department of Education
300 Sower Blvd.,
Frankfort, KY 40601
(502) 564-4394
Fax: (502) 564-3249
Kevin.ohair@education.ky.gov

This email may contain confidential data or information and is intended solely for the use of the individual or entity to whom it is addressed. If you are not the named addressee you should not disseminate, distribute, or copy this e-mail, and you are requested to notify the sender immediately.

From: [Directors of Special Education in Ky Schools](#) on behalf of [Hylton, Gretta - Director, Division of Learning Services](#)
To: KYDOSE@LSV.UKY.EDU
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 8:29:52 PM
Attachments: [image001.jpg](#)
[image004.jpg](#)
[R 17-092 Alternative Assess. Waiver Request.pdf](#)
Importance: High

Good evening,

Please see below and attached for important information. Share as appropriate.

Gretta

From: Blessing, Rebecca - Director, Division of Communications
Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,

MEDIA CONTACT: Rebecca Blessing
Office: (502) 564-2000, ext. 4604 | **Cell:** (502) 330-5063 | **E-mail:**
rebecca.blessing@education.ky.gov

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###

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Attachment 3 (5) KDE News Release 17-092

From: [Hylton, Gretta - Director, Division of Learning Services](#)
To: susan.burgan@uky.edu
Cc: [Blessing, Rebecca - Director, Division of Communications](#); [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc
Date: Wednesday, July 19, 2017 9:07:06 PM
Attachments: [R 17-092 Alternative Assess. Waiver Request.pdf](#)
[image003.jpg](#)
[image004.jpg](#)
[image006.jpg](#)

Susan,

Please important information below (and attached) to share with parents.

Thanks,
Gretta

From: Hylton, Gretta - Director, Division of Learning Services
Sent: Wednesday, July 19, 2017 8:59 PM
To: Griffiths, Jill E <jill.griffiths@uky.edu>; jacqueline.kearns@uky.edu; Harold Kleinert <hklein@uky.edu>; Mullins, Jeanna <jmullin@uky.edu>; 'mike.abell@uky.edu' <mike.abell@uky.edu>; t.scott@louisville.edu
Cc: Blessing, Rebecca - Director, Division of Communications <rebecca.blessing@education.ky.gov>; Hylton, Gretta - Director, Division of Learning Services <gretta.hylton@education.ky.gov>
Subject: FW: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

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Sent: Wednesday, July 19, 2017 5:50 PM
Subject: KDE News Release 17-092 Alternative Assess. Waiver Request.doc

KENTUCKY DEPARTMENT OF EDUCATION

NEWS RELEASE

No. 17-092
2017

July 19,

MEDIA CONTACT: Rebecca Blessing
Office: (502) 564-2000, ext. 4604 | **Cell:** (502) 330-5063 | **E-mail:**
rebecca.blessing@education.ky.gov

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###

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Protecting and Promoting the Rights of Kentuckians with Disabilities

5 Mill Creek Park
Frankfort, Kentucky 40601

Telephone: (502) 564-2967
Toll Free: (800) 372-2988

Fax: 502-695-6764
www.kypa.net

August 2, 2017

VIA EMAIL AND U.S. FIRST CLASS MAIL

Kevin C. Brown
Associate Commissioner and General Counsel
Kentucky Department of Education
300 Sower Blvd. – 5th Floor
Frankfort, Kentucky 40601

RE: ALTERNATE ASSESSMENT WIAVER REQUEST

Dear Associate Commissioner Brown:

Kentucky Protection & Advocacy (P&A) has comments on the Kentucky Department of Education's (KDE) Alternate Assessment Waiver Request. P&A applauds KDE's focus on review and analysis of assessment data to understand the underlying causes of the identification of students for alternate assessment in excess of the 1% cap and any disproportionality at both the school and district level. P&A has three concerns regarding the proposed waiver: the need for additional parent training; the lack of practices directed at moving students off the alternate assessment; and the public disclosure of participation and disproportionality data.

First, P&A applauds KDE's inclusion of parents in efforts to reduce inappropriate participation in the alternate assessment. The Individuals with Disabilities Education Act (IDEA) recognizes parents as equal members of the Admission and Release Committee (ARC) and mandates parents' meaningful participation in their child's Individual Education Plan (IEP). The informational resources KDE commits to making available to parents is not sufficient to promote meaningful parent participation in assessment discussions. Parents, like all educators, must have a solid understanding of appropriate instruction and assessment decisions to evaluate the needs of and educational possibilities for their child.

P&A suggests KDE open or make available to parents all educator trainings identified in the waiver application, including trainings related to implementing and evaluating accessibility features and accommodations; differentiating instruction and access to academic conduct; and having high expectations for all students with disabilities. P&A also suggests KDE open or make available to parents those educator trainings on the implications of student participation in the alternate assessment as it applies to the type

P&A is a federally mandated program that receives funding from the U.S. Department of Health and Human Services, the US.

of diploma the student earns and the student's postsecondary and career pathways. We consistently meet parents who are unaware of the dismal employment outlook and limited postsecondary options for students who do not earn a General Education Diploma or traditional diploma. Opening educator trainings to parents would increase parent knowledge; in turn, this increased understanding supports IDEA's parent participation mandate and provide an additional oversight mechanism.

Second, P&A encourages KDE to adopt standards to identify and address deficits that prevent students with disabilities from participating in the standardized assessment. KDE requires schools to annually review a student's status on the alternate assessment; the presumption is a student can move off of the alternate assessment. P&A routinely requests schools identify barriers/deficits that prevent a student from taking the standardized assessment and include interventions and strategies in the IEP to address those barriers/deficits. Students are unlikely to spontaneously acquire the needed skills, but IEPs rarely identify and address the deficit. This strategy, in turn, could reduce the number of students with disabilities participating in the alternate assessment.

Finally, P&A notes KDE does not provide a reporting mechanism for data regarding alternate assessment participation rates or disproportionality. P&A understands the Family Educational Records Privacy Act (FERPA) presents a barrier to the full reporting of assessment participation rates and disproportionality. School and district level information on the use of alternate assessment and disproportionality, however, should be public information. P&A encourages KDE to post alternate assessment and disproportionality data to the fullest extent allowed through the KDE School Report Card and/or Accountability Dashboard.

We appreciate the opportunity to comment on the proposed waiver. Please provide a copy of the Statement of Consideration if one is issued.

Sincerely,



Lucy M. Heskins
Staff Attorney Supervisor, Child/Youth Team

Attachment 4 Turner, A. msg

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Sharp, Tania - Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#)
Cc: [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: Fw: proposed Alternate Assessment Waiver
Date: Friday, July 28, 2017 10:32:22 PM

From: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services
Sent: Friday, July 28, 2017 4:09:37 PM
To: Drury, Tina - Office of Legal, Legislative and Communication Services
Subject: FW: proposed Alternate Assessment Waiver

From: Turner, Amy
Sent: Friday, July 28, 2017 3:09 PM
To: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services <kevin.brown@education.ky.gov>
Subject: proposed Alternate Assessment Waiver

Mr. Brown,

Thank you for the opportunity to express support for the proposed waiver regarding the 1% cap on alternate assessments. If we truly strive to meet the individual needs of all learners, it is difficult to provide an individualized education plan with 1% caps in place. Many times students who should have been placed on alternate assessment have been unfairly burdened with a test that was not appropriate to their needs. High expectations for all students is important, but we have to be authentic about those expectations. For instance, I would not expect that my 6 year old child should do all that my 11 year old child can do, but I can still have clear expectations that are appropriate for her. While meeting the 1% cap is very reasonable most years, there have been instances where the population of students in the school needed to exceed this percentage. It is a year to year issue and prevents educators from making the best decision for the students in our care. If we truly want to meet individual needs, educators need the flexibility to meet those needs without the burden of an arbitrary cap. If an explanation for exceeding the 1% is needed, I would fully support providing it. Thank you for the opportunity to express my concerns on this issue.

Sincerely,
Amy Turner

Attachment 4 Alternate Assessment.msg

From: [Triplett, Melanie--Erlanger](#)
To: [Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services](#)
Subject: Alternate Assessment
Date: Thursday, July 20, 2017 9:53:31 AM

Mr. Brown, I received an email from Kevin O'Hair regarding the waiver for the number of students participating in Alternate Assessment in Kentucky. I am a special education instructional coach for the Erlanger Elsmere School District. In our district we give deep consideration when deciding to place a student on the Alternate Assessment program. We do not take this avenue as an "easy way out" for struggling students, we strictly follow the state guidelines in placement. I have heard this is true in our surrounding other school districts as well. With that said, we are seeing increasing numbers of students enrolling that have significant needs. I would hate to see placement of students into the Alternate Assessment program become limited if the waiver is not obtained. I encourage you to see the federal waiver for student enrollment into the Alternate Assessment program. Melanie Triplett

Attachment 4 Alternate Public Comment

From: [Newton, Nicholas](#)
To: [Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services](#)
Subject: Alternate public comment
Date: Thursday, July 20, 2017 9:50:00 AM
Attachments: [Alt Assessment Waiver 7.19.17.pdf](#)
[ATT00001.txt](#)

I completely support the states waiver request. I work near Fort Knox and we get a large number of military kids. The military designates Fort Knox as one of the few bases to send soldiers of children with moderate to severe disabilities, so we have a higher rate of students compared to other states.

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Sharp, Tania - Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#)
Cc: [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: ESSA Waiver
Date: Wednesday, August 2, 2017 8:46:22 AM

From: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services
Sent: Tuesday, August 01, 2017 6:11 PM
To: Drury, Tina - Office of Legal, Legislative and Communication Services <tina.drury@education.ky.gov>
Subject: Fwd: ESSA Waiver

Sent from my iPhone

Begin forwarded message:

From: <ashley@meierbarlow.com>
Date: August 1, 2017 at 4:16:39 PM EDT
To: <kevin.brown@education.ky.gov>, <wil.schroder@lrc.ky.gov>
Subject: ESSA Waiver

Dear Mr. Brown,

I am writing relative to Kentucky's application for a waiver request that Kentucky is seeking under the ESSA. The waiver would allow Kentucky to test more than 1% of its students using alternate assessment.

I am an attorney in Fort Thomas, Kentucky, and I am the mother of Jack Barlow, a 7-year-old first-grader that has Down syndrome. My law practice is a general practice, and I do a fair amount of special education work. I am the incoming Board president of the Down Syndrome Association of Greater Cincinnati and the Co-Chair of the National Down Syndrome Society's Task Force on Inclusive Education. I am also a COPAA advocate and a DS-Ambassador.

I oppose the waiver for many reasons, which are best explained by the following quote from a COPAA document:

- **ESSA requires** that states through districts provide the **appropriate accommodations** to children with disabilities, including interoperability with assistive technology^[v]
- **ESSA requires states (not districts) to cap** the use of alternate assessments by subject at 1% of all students^[vi]

- **ESSA requires that parents whose child is recommended for the alternate assessment be clearly informed:**
 - o that their child’s academic achievement will be measured based on such alternate standards; and
 - o how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma.[\[vii\]](#)
- **ESSA clarifies that the state *may not preclude* a student taking an alternate assessment from attempting to complete the requirements of a regular high school diploma**[\[viii\]](#)

Assessment%20one%20pager%20final.docxData and real-world experience show, the decision to place a student in the alternate assessment can take them off track for a regular diploma as early as elementary school

For the reasons set forth in the quote hereinabove and to promote the inclusion of people with disabilities in all facets of life, I ask that the Commonwealth of Kentucky please reconsider its request for this waiver.

Should you have any questions or comments, please do not hesitate to call me.

Sincerely yours,
Ashley

ASHLEY MEIER BARLOW
Meier & Barlow Law Firm
2221 Memorial Parkway
Fort Thomas, Kentucky 41075
O: 859.781.5777
F: 859.781.0575

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Sharp, Tania - Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#)
Cc: [Hylton, Gretta - Director, Division of Learning Services](#)
Subject: FW: comments on waiver for alt assess
Date: Wednesday, July 26, 2017 1:01:03 PM

From: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services
Sent: Wednesday, July 26, 2017 12:23 PM
To: Drury, Tina - Office of Legal, Legislative and Communication Services
<tina.drury@education.ky.gov>
Subject: Fwd: comments on waiver for alt assess

Sent from my iPad

Begin forwarded message:

From: "Hellmann, Laura - Special Ed. Dir.--Erlanger"
<laura.hellmann@erlanger.kyschools.us>
Date: July 26, 2017 at 12:12:41 PM EDT
To: "Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services" <kevin.brown@education.ky.gov>
Subject: comments on waiver for alt assess

Hi Kevin,

My name is Laura Hellmann and I am the Director of Special Education in Erlanger-Elsmere Schools. In regard to the call for comments regarding putting limits on alternate assessment numbers I have some comments below that may or may not be of help...

Laura

- We work very hard to be very cautious when placing a student in this category. While following the guidelines we work to look at every student individually, we work to triangulate the data and not just base all decisions on one number or evaluation etc... The team approach has helped over the years, getting input from the teachers, parents, psychologist, related service personnel, etc... The process is multi-factored, not simple and it is not an easy decision at times. We take it very seriously.

- I know in our district, and through conversations at the Co-op with other regional directors, most everyone has noticed an increase in general regarding how many more SEVERELY disabled students we are getting. The serious results of their conditions are not something we can usually control (more pre-mature infants now living that did not in the past, physical and mental conditions resulting from the rise of drug addition and maybe other causes that we are not aware of....) Also, these things may be more prevalent in certain types of areas such as urban vs rural??? I don't know but just a thought and if this is true, then an overall percentage of 1% may not be the best limit???
- As we have worked hard as a district and community at large to find children very early, even before preschool ages, that need resources and supports our numbers in preschool have increased but so have the severity of the disabilities that many of our very young students come to us with. Again, these are just some observations and thoughts I wanted to share that may be of help....

Thanks for asking for input,

Laura

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Patton, Shauna](#)
Cc: [Hylton, Gretta - Director, Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#); [Sharp, Tania - Division of Learning Services](#)
Subject: FW: Alternate Assessment Waiver
Date: Tuesday, July 25, 2017 12:38:03 PM
Importance: High

Thank you for your comments.

From: Patton, Shauna
Sent: Monday, July 24, 2017 8:37 AM
To: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services <kevin.brown@education.ky.gov>
Subject: Alternate Assessment Waiver
Importance: High

Mr. Brown,

As District Assessment Coordinator of the Johnson County School System, I am sending this email asking that the waiver for 1% Alternate Assessment be accepted. It seems that there is an increasing population of special needs students in our area. I feel this is due to medical advances as well as poverty and drug abuse. I think it is very unfair to punish a district for appropriately identifying students to help get every support available. We have lost proficient scores due to the fact that we had more than 1% of our students identified as Alternate Assessment students. The fact is, they were indeed AA students and in need of much assistance. We never falsely identify these students. These students have so many special needs due to their disabilities and are in FMD units throughout our district.

I think we will continue to see this number rise, unfortunately.

Thank you,

Shauna Patton
Johnson County Schools

Attachment 4 Patton

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Patton, Shauna](#)
Cc: [Hylton, Gretta - Director, Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#); [Sharp, Tania - Division of Learning Services](#)
Subject: FW: Alternate Assessment Waiver
Date: Tuesday, July 25, 2017 12:38:03 PM
Importance: High

Thank you for your comments.

From: Patton, Shauna
Sent: Monday, July 24, 2017 8:37 AM
To: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services <kevin.brown@education.ky.gov>
Subject: Alternate Assessment Waiver
Importance: High

Mr. Brown,

As District Assessment Coordinator of the Johnson County School System, I am sending this email asking that the waiver for 1% Alternate Assessment be accepted. It seems that there is an increasing population of special needs students in our area. I feel this is due to medical advances as well as poverty and drug abuse. I think it is very unfair to punish a district for appropriately identifying students to help get every support available. We have lost proficient scores due to the fact that we had more than 1% of our students identified as Alternate Assessment students. The fact is, they were indeed AA students and in need of much assistance. We never falsely identify these students. These students have so many special needs due to their disabilities and are in FMD units throughout our district.

I think we will continue to see this number rise, unfortunately.

Thank you,

Shauna Patton
Johnson County Schools

Attachment 4 Rice

From: [Newton, Nicholas](#)
To: [Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services](#)
Subject: Alternate public comment
Date: Thursday, July 20, 2017 9:50:00 AM
Attachments: [Alt Assessment Waiver 7.19.17.pdf](#)
[ATT00001.txt](#)

I completely support the states waiver request. I work near Fort Knox and we get a large number of military kids. The military designates Fort Knox as one of the few bases to send soldiers of children with moderate to severe disabilities, so we have a higher rate of students compared to other states.

Attachment 4 Allen, C. msg

From: [Drury, Tina - Office of Legal, Legislative and Communication Services](#)
To: [Hylton, Gretta - Director, Division of Learning Services](#); [Sharp, Tania - Division of Learning Services](#); [Mays, Debbie - Division of Learning Services](#)
Subject: FW: Alternative Assessment Waiver
Date: Tuesday, July 25, 2017 12:39:29 PM
Attachments: [image001.jpg](#)

From: Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services

Sent: Tuesday, July 25, 2017 11:35 AM

To: Drury, Tina - Office of Legal, Legislative and Communication Services
<tina.drury@education.ky.gov>

Subject: Fwd: Alternative Assessment Waiver

Sent from my iPhone

Begin forwarded message:

From: "Allen, Casey - Superintendent" <casey.allen@ballard.kyschools.us>
Date: July 25, 2017 at 10:48:15 AM EDT
To: "Brown, Kevin - Associate Commissioner, Office of Legal, Legislative and Communication Services" <kevin.brown@education.ky.gov>
Subject: Alternative Assessment Waiver

Good morning, Kevin. I hope that email input is accepted on this topic...

I'm both a superintendent of a Kentucky school district and a parent of a child with multiple disabilities who is on alternate assessment. Prior to July I also served as a parent on the State Advisory Panel for Exceptional Children. The topic of the 1% federal limit on alternatively assessed students is one that hits very close to home for me. I think there are two reasons that this topic elicits such a quick response, but perhaps only one of those reasons is valid for the waiver.

First, and perhaps more to the point, is the fact that nature does not put a 1% limit on the number of children with disabilities born each year. I suspect that my district, Ballard County, is very close to that 1% threshold. However, I know that there is at least one grade level in our district, my daughter's, where the 1% is far exceeded. I couldn't tell you why there are 5 students in a class of 96 that profound cognitive disabilities; I just know that my daughter is one of them. Setting an arbitrary limit on the number of students who can be considered Alternate Assessment is neither good for the child or for the school, and it disregards the fact that these occurrences are out of the control of all parties.

My second point is more of an emotional plea, and because of that may be less effective. As a parent of a child with disabilities, putting my child on the Alternate Assessment track was a very emotional, painful experience. As parent, I ranked the emotional effect of that experience second only to handing my daughter to a heart surgeon who I knew was going to stop her heart and repair her heart valve. It is no parent's desire to come to the realization that your child does not and will not be normal; it's upsetting (to say the least) to know that your child may never function outside of your own home. The message that is sent to parents with the 1% limit is that not only is their child inadequate, but that the government doesn't want to hear or care about each child and their individual needs.

That's probably enough input, but I could say much more about it. If you would like to hear any more from me all you have to do is ask.

Thanks

Casey Allen

Superintendent

Ballard County Schools

(270) 665-8400 office

(270) 665-9844 fax

From: [O'Hair, Kevin - Division of Assessment Support](#)
To: [Sharp, Tania - Division of Learning Services](#)
Subject: FW: Special Alternate Assessment E-Mail for July 20, 2017
Date: Monday, July 24, 2017 8:46:40 AM
Attachments: [image002.png](#)
[image001.png](#)
[image004.png](#)
[image005.png](#)

See comment from Catherine Riley below.

Kevin O'Hair
Program Consultant II
Division of Assessment Support
Office of Assessment and Accountability

Kentucky Department of Education
300 Sower Blvd.,
Frankfort, KY 40601
(502) 564-4394
Fax: (502) 564-3249
Kevin.ohair@education.ky.gov

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From: Riley, Catherine
Sent: Thursday, July 20, 2017 12:56 PM
To: O'Hair, Kevin - Division of Assessment Support <kevin.ohair@education.ky.gov>
Subject: RE: Special Alternate Assessment E-Mail for July 20, 2017

I think this is a great idea!
Carhy Riley
FMD teacher
Morehead, Kym

Sent from Samsung Mobile.

----- Original message -----
From: "O'Hair, Kevin - Division of Assessment Support"
Date: 07/20/2017 8:41 AM (GMT-06:00)
To: KDE Alternate Assessment Teachers
Subject: Special Alternate Assessment E-Mail for July 20, 2017

Special Alternate Assessment E-Mail

July 20, 2017

The following news release regarding the proposed waiver to the limit of students participating in the Kentucky Alternate Assessment was released yesterday. The Office of Assessment and Accountability (OAA) encourages providing comments as well as sharing this message with educators in your district to provide input. Below please find information on the Kentucky Department of Education's proposed waiver request regarding Alternate Assessments. Please note that the deadline for submitting comments is **August 2**.

Thank you for your interest and support of public education in Kentucky.

INPUT SOUGHT ON PROPOSED WAIVER TO LAW THAT LIMITS ALTERNATE ASSESSMENTS

(FRANKFORT, Ky.) – The Kentucky Department of Education is seeking public comment on its request for a waiver on the number of students who can be tested using an alternate assessment on annual statewide Kentucky Performance Rating for Educational Progress (K-PREP) tests.

The limit set by federal regulation states there shall be no more than 1 percent of the total number of students participating in a statewide assessment such as K-PREP, who are taking the alternate assessment assessed in each subject area tested. The most recent data on the percentage of students taking Kentucky's alternate assessments in all subject areas stands just over 1 percent.

Kentucky requires all students enrolled in a public K-12 learning institution be assessed either with accommodations, without accommodations or with an alternate assessment. The only exception to participation is for a student who receives a medical or extraordinary circumstances non-participation waiver. Kentucky follows the federal participation requirement and, to date, has met or exceeded the federal guidelines set at 95 percent participation.

According to 34 C.F.R. §200.6(c)(4), "If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under [§ 200.2\(a\)\(1\)](#) in any school year, the State may request that the Secretary [of Education] waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year."

The KDE plans to submit the waiver request to the U.S. Department of Education in the areas of reading, writing, mathematics, science and social studies.

The waiver request states that KDE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities.

The department will monitor alternate assessment data quarterly and request justification from districts that exceed the one percent cap. The KDE will address any disproportionality in the percentage of students taking the alternate assessment.

The proposed waiver is available on the Kentucky Department of Education [website](#).

Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments will be accepted through, August 2, 2017.

Send written comments on the proposed waiver to: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601. Mr. Brown may be reached by telephone at 502-564-4474, by fax at 502-564-9321 or through email at kevin.brown@education.ky.gov.

Kevin O'Hair
Program Consultant II
Division of Assessment Support
Office of Assessment and Accountability

Kentucky Department of Education
300 Sower Blvd.,
Frankfort, KY 40601
(502) 564-4394
Fax: (502) 564-3249
Kevin.ohair@education.ky.gov

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RESPONSE TO PUBLIC COMMENTS
RELATING TO WAIVER REQUEST PURSUANT TO 34 C.F.R. §200.6(c)(4)
Education and Workforce Development Cabinet
Kentucky Department of Education

- I. Pursuant to 34 C.F.R. §200.6(c)(4), the Kentucky Department of Education (“KDE”) will seek a waiver for the 2017-2018 school year from the Secretary for the United States Department of Education. The regulation in question, found at 34 C.F.R. 200.6(c)(2), requires State Education Agencies such as the KDE to limit the total number of students assessed in a subject area using an alternate assessment. The limit on the percentage of students assessed by the alternate assessment is set by the federal regulation, stating there shall be no more than one (1) percent of the total number of students taking the alternate assessment assessed in each subject area.

Written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4) were received during the public comment period scheduled for July 19, 2017 through August 2, 2017.

- II. The following individuals submitted written comments:

<u>Name and Title</u>	<u>Agency/ Organization/ Entity/ Other</u>
Casey Allen, Parent and Superintendent	Ballard County Board of Education
Kathy Bieger, Director of Special Education	Carroll County Board of Education
Melanie Triplett, Special Education Instructional Coach	Erlanger Elsmere School District
Nicholas Newton, Exceptional Child Instructor	Hardin County School District
Catherine Riley, Exceptional Child Instructor	Rowan County School District
Shauna Patton, District Assessment Coordinator	Johnson County Board of Education
Stephanie L. Rice, Director of Special Education	Johnson County Board of Education
Laura Hellmann, Director of Special Education	Erlanger Elsmere School District
Amy Turner, Director of Special Education	Union County School District
Ashley Meier Barlow, Parent and Attorney	Meier & Barlow Law Firm; Incoming board president of the Down Syndrome Association for Greater Cincinnati; Co-Chair of the National Down Syndrome Society’s Task Force Association on Inclusive Education
Lucy Heskins, Attorney	Kentucky Protection & Advocacy
<u>KDE’s Alternate Advisory Group:</u>	
Harold Kleinert, Director Emeritus	Human Development Institute, UK
Jacqueline Kearns, Project Director	Human Development Institute, UK

Sherida Gentry, Low Incidence Consultant

Western Kentucky Educational Cooperative

Mandy Carter, Low Incidence Consultant

Kentucky Development Educational Corporation

Barry Goley, Director of Special Education

Logan County School District

Jill Griffiths, SPDG-CCR Project Director

Human Development Institute, UK

Summary of Comments and Responses:

- (1) **Subject Matter:** Support for the waiver request
Comment: A local superintendent, parent of a child with multiple disabilities, and former member of the State Advisory Panel for Exceptional Children expressed support for the waiver by arguing that nature does not put a 1% cap on the number of children with disabilities born each year. The commenter stated that setting an arbitrary limit on the number of students who can participate in the Alternate Assessment is neither good for the child nor for the school, and it disregards the fact that these occurrences are out of the control of all parties. The commenter made a plea to consider the emotional impact on parents. He stated that the message being sent to parents with the 1% cap is that not only is their child inadequate, but that the government doesn't want to hear or care about each child and their individual needs. (Casey Allen, Ballard County Public Schools)
Response: The agency appreciates the sincere comment from the parent's perspective and acknowledges the emotional impact on families. The agency also understands that there is not a natural cap on the number of children born with significant cognitive disabilities each year. No amendments were made in response to this comment.

- (2) **Subject Matter:** Support for waiver request
Comment: A special education instructional coach for a local education agency supports the agency's waiver. The commenter stated the local district is experiencing an increase in numbers of students who have significant needs. She expressed concerns that access could be limited for those students who need to participate in the Alternate Assessment if the waiver is not obtained. (Melanie Triplett, Erlanger Elsmere School District)
Response: The agency recognizes there may be legitimate reasons for a district to have more than 1% of its student body participating in Alternate Assessment and plans to conduct investigations to determine specific reasons when districts have an unusual pattern or higher percentages of students participating in the Alternate Assessment. The agency will review district justifications and determine any next steps necessary. No amendments were made in response to this comment.

- (3) **Subject Matter:** Support for waiver request
Comment: A local exceptional child instructor supports the waiver request and explained the U.S. Military designates Fort Knox as one of the few bases to send soldiers with children that have moderate to severe disabilities, which contributes to the district having a higher percentage of students participating in the alternate assessment compared to other districts. (Nicholas Newton, Hardin County School District)

Response: The agency appreciates the commenter sharing the specific situation within this district. Upon information provided to KDE, the U.S. Army encourages and assists soldiers with children with moderate to severe disabilities to locate to either Ft. Knox, KY or Ft. Campbell, KY. The military bases at Ft. Knox and Ft. Campbell are encouraged by the U.S. Army over other military bases in the southeast region (Kentucky, Georgia, Alabama, North Carolina and South Carolina) because both Ft. Knox and Ft. Campbell have the most extensive school systems located on the military base. Therefore, Kentucky's population of students with moderate to severe disabilities is increased in the school districts in and around Ft. Knox and Ft. Campbell, further justifying the need for a waiver pursuant to 34 C.F.R. §200.6(c)(4). The agency will consider exceptional circumstances such as these when conducting investigations as to why certain districts have a higher percentage of students participating in Alternate Assessment. No amendments were made in response to this comment.

- (4) Subject Matter: Support for waiver request
Comment: A teacher of students with moderate to severe disabilities supports the waiver. (Catherine Riley, Rowan County Public Schools)
Response: No amendments were made in response to this comment.
- (5) Subject Matter: Support for the waiver request
Comment: A local district assessment coordinator supports the waiver request. The commenter stated that there is an increasing population of students with special needs in the district due to medical advances, poverty and drug abuse. The commenter felt it would be unfair to punish a district for appropriately identifying students who need help in getting every support available to them. (Shauna Patton, Johnson County School District)
Response: The 1% cap of students participating in the Alternate Assessment applies to the state as a whole and is not a requirement of individual school districts. The agency recognizes there may be legitimate reasons for a district to have more than 1% of its student body participating in Alternate Assessment and plans to conduct investigations to determine specific reasons when districts have a higher percentage of students participating in the Alternate Assessment. No amendments were made in response to this comment.
- (6) Subject Matter: Support for the waiver request
Comment: A director of special education shared that the local district is experiencing an increased number of students meeting the eligibility criteria of having a severe cognitive deficit and believes this is directly related to the drug issues and level of poverty in the area. (Stephanie Rice, Johnson County Public Schools)
Response: The 1% cap of students participating in the Alternate Assessment applies to the state as a whole and is not a requirement of individual school districts. The agency recognizes there may be legitimate reasons for a district to have more than 1% of its student body participating in Alternate Assessment and plans to conduct investigations to determine specific reasons when districts have a higher percentages of students

participating in the Alternate Assessment. No amendments were made in response to this comment.

- (7) Subject Matter: Support for waiver request
Comment: A local director of special education supports the agency's waiver request by stating that each student's Admissions and Release Committee (ARC) carefully reviews the individual needs of each child. (Kathy Bieger, Carroll County Public Schools)
Response: No amendments were made in response to this comment.
- (8) Subject Matter: Support for the waiver
Comment: A local director of special education stated the school district follows the guidelines, looks at every student individually, gathers input from other ARC members and triangulates data when placing a student on the alternate assessment. The commenter stated that the district and other regional directors have observed a general increase in severely disabled student enrollments. The district believes this is due to an increased pre-mature birth rate, physical and mental conditions resulting from the rise of drug addiction, and urban versus rural areas. The commenter states an overall percentage of 1% may not be the best limit. (Laura Hellmann, Erlanger Elsmere School District)
Response: The 1% cap of students participating in the Alternate Assessment applies to the state as a whole and is not a requirement of individual school districts. The agency recognizes there may be legitimate reasons for a district to have more than 1% of its student body participating in Alternate Assessment and plans to conduct investigations to determine specific reasons when districts have a higher percentage of students participating in the Alternate Assessment. No amendments were made in response to this comment.
- (9) Subject Matter: Support for the waiver request
Comment: A local director of special education shared that it is difficult to provide an individualized education program (IEP) which meets the individual needs of all learners with a 1% cap in place. The commenter stated students who should be placed on alternate assessment are unfairly burdened with a test that is not appropriate for their individual needs. The commenter stated there are instances where the population of students participating in the alternate assessment should exceed 1% because the student population fluctuates from year to year and the cap prevents educators from making the best decision for each student. The commenter stated educators should be given the flexibility to meet individual student needs without the burden of an arbitrary cap. (Amy Turner, Union County Public Schools)
Response: The agency understands the population of the student body may fluctuate from year to year. No amendments were made in response to this comment.
- (10) Subject Matter: Opposition to the waiver request
Comment: A parent of a son with Downs Syndrome who is also an attorney, incoming board president of the Down Syndrome Association of Greater Cincinnati, co-chair of the National Down Syndrome Society's Task Force on Inclusive Education, advocate for the

Council of Parent Attorneys and Advocates (COPPA), and a DS-Ambassador expressed opposition to Kentucky’s waiver request. The commenter quoted the “Quick Facts on Assessment and Students with Disabilities” provided by the Council of Parent Attorneys and Advocates (COPPA). The commenter stated that ESSA requires states to provide appropriate accommodations to students with disabilities, enforces a cap of 1% at the state (not district) level, and requires parents to be clearly informed of how their child’s academic achievement will be measured and how participation in alternate assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma. The Commenter stated ESSA clarifies the state may not preclude a student taking an alternate assessment from attempting to complete the requirements of a regular high school diploma. For the reasons shared, the commenter opposed the request for the waiver. (Ashley Meier Barlow, Down Syndrome Association of Greater Cincinnati and National Down Syndrome Society’s Task Force on Inclusive Education) Response: The agency appreciates the sincere comments and advocacy for students with disabilities and is aware of the requirements of ESSA as applied to the assessment of students with disabilities. In its waiver request, the agency commits to providing appropriate training, coaching and technical assistance to local education agencies to assist with appropriate identification, eligibility determinations and accommodations for students with disabilities. The agency will assist local education agencies in collecting data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students who are participating have significant cognitive disabilities. The *Learner Characteristics Inventory* will be used to collect information about students participating in the alternate assessment and the agency will review unusual patterns of high rates of participation. A continuous improvement cycle will be implemented which includes ongoing training and support, monitoring and review of data. No amendments were made in response to this comment.

(11) Subject Matter: Proposed changes to the Waiver Request

Comment: The Alternate Assessment and Diploma Advisory Group requested the following language changes to the waiver request:

- Sections (iii)(A) and (iv)(A) amended to “The advisory group met on July 7, 2017 and August 1, 2017 and will meet again on August 14, 2017 and August 24, 2017 to continue the group’s work.”
- Section (ii)(A) amended to “The Local Education Agency will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities.” (Advisory Group, Kentucky Department of Education)

Response: The agency agrees with the suggested amendments to sections (A)(iii) to update the dates of advisory group meetings. The agency also agrees that collection of student-level data must be collected and analyzed at the local education agency. The agency will incorporate this feedback in its waiver request to the United States Department of Education.

(12) Subject Matter: Proposed changes to the Waiver Request

Comment: An attorney for Kentucky Protection & Advocacy applauded the agency's efforts as stated in the waiver request, but presented three recommendations for change. First, the commenter recommended additional training and resources for parents regarding alternate assessment. Specifically, the commenter suggested making alternate assessment informational resources for educators available to parents. Next, the commenter recommended standards to identify and address deficits preventing students from participating in the standard assessment with the ultimate goal of moving students off the alternate assessment. Finally, the commenter recommended alternate assessment participation and disproportionality data be publicly reported using the school and district report card. (Lucy Heskins, Kentucky Protection and Advocacy)

Response: The agency appreciates the recommendations provided by the commenter. The agency will make alternate assessment information resources available to both parents and educators. The agency will explore the possibility of creating an informational video for parents which will be shared on the agency website. The agency agrees with the recommendation for a process to identify and address deficits preventing students from participating in the standard assessment with the ultimate goal of moving students off the alternate assessment. The agency will work with the Alternate Assessment and Diploma Advisory Group to develop such a process. The agency agrees that public reporting of alternate assessment participation and disproportionality data is ideal. Although the agency cannot specifically commit to such data being reported in school and district report cards at this time, the agency will develop a process for public reporting of this data. The agency will incorporate this feedback in its waiver request to the United States Department of Education.

Summary of Action Taken By the Kentucky Department of Education

The Kentucky Department of Education received and responded to a total of 12 public comments: 11 comments from the public and one verbal comment from its Alternate Assessment and Diploma Advisory Group regarding proposed amendments to the one percent cap waiver request. As indicated above, the agency will incorporate feedback it received in its waiver request to the United States Department of Education.

Attachement 6 1.0 CAP on Participation in the Alternate Assessment

From: [Mays, Debbie - Division of Learning Services](#)
Subject: 1.0 CAP on participation in the alternate assessment
Date: Friday, August 4, 2017 12:09:13 PM
Attachments: [image003.jpg](#)

Dear Superintendents and Directors of Special Education:

As you may have seen in the KDE News Release dated July 19, 2017, the KDE is seeking a waiver for the 2017-2018 school year from the Secretary for the United States Department of Education from the requirements set forth at 34 C.F.R. 200.6 (c)(2) limiting the total number of students in the state participating in the alternate assessment. As part of that waiver, the state is required to:

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

According to our data, your district has been identified as assessing more than 1.0 percent of assessed students using an alternate assessment aligned with alternate academic achievement standards during the 2015-16 school year.

To assist KDE with the waiver request, please reply to this email with written assurance that each Admissions and Release Committee (ARC) in your district is following the Alternate Assessment Participation Guidelines when making assessment participation decisions.

As we continue moving forward with implementation of the Every Student Succeeds Act (ESSA) as it applies to students with disabilities, the KDE will continue working closely with the special education division of your regional cooperative, local districts, and other partners to ensure the full understanding and implementation of the following requirements:

- using the Participation Guidelines to make assessment participation decisions
- selecting, implementing, and evaluating accessibility features and accommodations available for the instruction and assessments
- differentiating instruction and providing better access to academic content
- having high expectations for all students regardless of the category of their disability,
- implications of student participation in the alternate assessment as it applies to the type of diploma the student earns, as well as the student's postsecondary and career pathway
- process to address any disproportionality in the percentage of students in any subgroup participating in the alternate assessment
- process for the district to provide justification to the state for exceeding the 1.0 percent cap

If you have any questions about this process, please contact me at (502) 564-4970 ext. 4144 or at debbie.mays@education.ky.gov.

Thank you,

<p align="center">Kentucky Alternate Assessment Participation Guidelines Documentation Form</p> <p align="center"><i>** For further clarification of terms used in this worksheet, please refer to the companion document</i></p> <p align="center"><i>**All answers to Participation Criterion Must be answered Yes in order to be eligible to participate in the alternate assessment.</i></p>		
Participation Criterion #1:	Response (Answer to Criterion):	Sources of Evidence and Justification
<p>1. Has the student been determined to be a student with a disability eligible to receive special education services under the Individuals with Disabilities Education Act (IDEA)?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>2. Is a current Individualized Education Program (IEP) in place or being developed for the student?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p><input type="checkbox"/> NO. Stop here. The student must meet Special Education Determination for Eligibility criteria in one or more disability categories defined in ECEA Rules. The student is not eligible to participate in the alternate assessment.</p> <p><input type="checkbox"/> YES. If the student meets the Special Education Determination for Eligibility criteria in one or more disability categories, continue to Criterion #2</p>	<p><input type="checkbox"/> Individualized Education Program Date:</p> <p><input type="checkbox"/> Eligibility Determination Form Date:</p> <p><input type="checkbox"/> Evaluation Date:</p> <p><input type="checkbox"/> Other:</p>
Participation Criterion #2:	Response (Answer to Criterion):	Sources of Evidence and Justification
<p>1. The student's demonstrated cognitive functioning and adaptive behavior in the home, school and community environments are significantly below age expectations, even with program modifications, adaptations, and accommodations.</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>2. ARC reviewed current and longitudinal data across settings (age appropriate home, school, and community environments) in all academic areas AND adaptive behavior(s), to inform the ARC decision.</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p><input type="checkbox"/> NO. Stop Here. The student does not have a significant cognitive disability. The student is not eligible to participate in the alternate assessment. Reference the Guidance Document.</p> <p><input type="checkbox"/> YES. Continue to criterion #3.</p>	<p><input type="checkbox"/> Individualized Education Program Date:</p> <p><input type="checkbox"/> Integrated Report Date:</p> <p><input type="checkbox"/> Progress Monitoring Data (describe):</p> <p><input type="checkbox"/> Teacher Observations:</p> <p><input type="checkbox"/> Evaluation Data:</p> <p><input type="checkbox"/> Previous IEP:</p> <p><input type="checkbox"/> Other:</p> <p><input type="checkbox"/> Supporting Comments (required):</p>
Participation Criterion #3:	Response (Answer to Criterion):	Sources of Evidence and Justification
<p>1. The ARC's decision for the student to participate in the Kentucky Alternate Assessment is not primarily the result of:</p> <p>excessive or extended absences</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p><input type="checkbox"/> NO. Stop Here. Any criterion that is checked No means that the student is not eligible to participate in the Kentucky Alternate assessment.</p> <p><input type="checkbox"/> YES. All necessary exclusions were considered. Continue to Criterion #4</p>	<p><input type="checkbox"/> Supporting Comments (optional):</p>

<p>disability related to visual or auditory disabilities, emotional-behavioral disabilities, specific learning disabilities, speech and language impairment</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>native language, social, cultural, and economic differences,</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>those identified as English Language Learners (ELL)</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>pre-determined poor performance on the grade-level assessment</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>the student displays disruptive behaviors or experiences emotional duress during testing</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>administrator decision</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>educational environment or instructional setting</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>		
Participation Criterion #4:	Response (Answer to Criterion):	Sources of Evidence and Justification
<p>1. Does the student require extensive individualized direct instruction across multiple settings, utilizing intensive accommodations, modifications and assistive technology to access and make progress in the Kentucky Academic Standards and to maintain and generalize learning</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p><input type="checkbox"/> NO. Stop Here. The IEP team determines that the student does not require direct instruction across multiple settings and/or accommodations, modifications, and supports that exceed what is allowed on the general assessments for students as described in the "Inclusion Document" and set forth in 703 KAR 5:070. The student is not eligible to participate in the alternate assessment.</p> <p><input type="checkbox"/> YES. The student requires extensive direct individualized instruction in multiple settings and substantial supports to achieve</p>	

	measurable gains in the grade and age appropriate curriculum that do exceed what is allowed on the general assessments for students as described in the "Inclusion Document" and set forth in 703 KAR 5:070, continue to Criterion #5	
Participation Criterion #5:	Response (Answer to Criterion):	
<p>1. The student meets the participation guidelines for Kentucky's Alternate Assessment as a student with a significant cognitive disability and will receive instruction based upon alternate academic achievement standards and participate in alternate assessment as indicated above. All data sources referenced can be verified with supporting documentation.</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>	<p><input type="checkbox"/> NO. Stop Here. The student is not eligible to participate in the Kentucky Alternate Assessment.</p> <p><input type="checkbox"/> YES. (add in statement about all criterion checked yes) Continue to Criterion #6</p>	<p><input type="checkbox"/> Supporting Comments (required):</p>

DRAFT

Kentucky Department of Education's definition of a student with the most significant cognitive disabilities:

As outlined in the Kentucky *Alternate Assessment Participation Guidelines* students with the most significant cognitive disabilities are identified as:

- Having one or more of the existing categories of disabilities under the Individuals with Disabilities Education Act (IDEA) (e.g., intellectual disabilities, autism, traumatic brain injury, multiple disabilities);
- Students with cognitive and adaptive behavior functioning that may prevent them from attaining grade level achievement standards, even with program modifications, adaptations, and accommodations;
- Requiring extensive individualized instruction across multiple settings to access and make progress in the Kentucky Academic Standards, and to acquire, maintain, generalize and demonstrate learning; and
- Students whose ARC decision is based on current and longitudinal data across settings (age appropriate home, school, and community environments) in all academic areas AND adaptive behavior(s).

A student defined as a student with a significant cognitive disability is not primarily the result of:

- Excessive or extended absences;
- Disability related to visual or auditory disabilities, emotional-behavioral disabilities, specific learning disabilities, speech and language impairment;
- Native language, social, cultural, and economic differences;
- Identified as English Language Learners (ELL);
- Pre-determined poor performance on the grade-level assessment;
- Displayed disruptive behaviors or experiences emotional duress during testing;
- Administrative decisions; and
- Educational environment or instructional setting.



**Future of Alternative Diploma Advisory Group
KDE Conference Room 516
300 Sower Boulevard
Frankfort, KY
July 7, 2017
8:00 a.m. – 4:00 p.m. ET**

AGENDA

- I. Quick welcome and introductions
Jeanna Mullins
University of Kentucky
- II. Overview of meeting outcomes and agenda:
 - a. Current Criteria for Kentucky and other states Participation Guidelines
 - b. Definition of a student with the most significant cognitive disability
 - c. Federal monitoring requirements and process:
 - i. How will the monitoring document look – Participation Guidelines
 - ii. How will we monitor it – Annual data received through the 1% cap
- III. Setting national and state context for the work: Why are we here? A breakdown of ESSA and Senate Bill 1 changes
Yayo Radder
Kentucky Department of Education
- IV. Individual reflections and large group discussion:
 - a. Development of criteria for the participation guidelines
 - i. Review and edit each specific criteria, response, and the sources of evidence/justification
- V. Large group discussion: Definition of a student with the most significant cognitive disability based on drafted criteria for participation guidelines
- VI. Federal monitoring requirements and process:
 - a. How will the monitoring document look – Participation Guidelines
 - b. How will we monitor it – Annual data received through the 1% cap
- VII. Review next topics for meeting:
 - a. Review Course of Study leading to Alternative High School Diploma
 - b. Grading (transcripts) and/or Meaning of Course Completion for the Course of Study to Alternate High School Diploma.
 - c. Credits for Courses
- VIII. Adjournment

Mission Statement:

The Kentucky Department of Education's mission is to prepare all Kentucky students for next-generation learning, work and citizenship by engaging schools, districts, families and communities through excellent leadership, service and support.



**Future of Alternative Diploma Advisory Group
KDE Conference Room 516
300 Sower Boulevard
Frankfort, KY
August 1, 2017
9:00 a.m. – 3:30 p.m. ET**

AGENDA

I. Welcome and introductions

Jeanna Mullins
University of Kentucky

II. Overview of meeting outcomes and agenda: Review facilitator, Kentucky Department of Education and member roles, and Participation rules

- a. Vision for waiver process- actual waiver with comments
- b. Learning Characteristics Inventory- Jacqueline Kearns
- c. Will the alternate diploma end FAPE discussion
- d. Alternate High School Diploma
- e. Review of Course of Study Leading to Alternative High School Diploma
- f. Credits for Courses

Jeanna Mullins

III. Review and edit Participation Guidelines Draft from previous meeting

Tania Sharp
Kentucky Department of Education

IV. Individual reflections and large group discussion:

- a. Vision for waiver process-actual waiver with comments
- b. Learning Characteristics Inventory Jacqueline Kearns
- c. Alternate Diploma & FAPE discussion
- d. Alternate High School Diploma
- e. Review of Course of Study Leading to the Alternative High School Diploma
- f. Credits for Courses

V. Next Meeting Date August 14, 2017

VI. Adjournment

Mission Statement:

The Kentucky Department of Education's mission is to prepare all Kentucky students for next-generation learning, work and citizenship by engaging schools, districts, families and communities through excellent leadership, service and support.

Participation of Kentucky Students in Statewide Assessment

		Participation in Statewide Assessment by Sub-Group															
Content Area	Grade Span	Tested Students (General)	Tested Students (Alternate)	Students with Disabilities	White	African American	Hispanic	Asian	American Indian or Alaska Native	Pacific Islander	Two or More Races	Free/ Reduced Lunch	English Learner	Migrant	Homeless	Male	Female
Reading	Elementary	153,822	1,689	21,747	118,887	15,693	10,214	2,523	184	175	6,124	98,279	5,409	531	6,018	78,852	74,957
	Middle	149,159	1,812	17,455	118,092	15,700	8,191	2,436	183	125	4,413	90,078	2,723	392	4,927	76,581	72,566
Mathematics	Elementary	153,822	1,689	21,747	118,887	15,693	10,214	2,523	184	175	6,124	98,279	5,409	531	6,018	78,852	74,957
	Middle	149,159	1,812	17,455	118,092	15,700	8,191	2,436	183	125	4,413	90,078	2,723	392	4,927	76,581	72,566
Writing	Elementary	50,036	541	6,648	39,100	5,088	3,069	839	60	52	1,820	31,268	1,131	156	1,845	25,616	24,419
	Middle	99,271	1,217	11,536	78,669	10,391	5,426	1,604	122	83	2,961	59,899	1,824	267	3,321	51,005	48,257
	High	96,145	1,097	9,188	77,715	10,340	4,217	1,455	121	72	2,212	52,270	1,433	157	2,381	49,206	46,930
Language Mechanics	Elementary	51,185	606	7,230	39,568	5,160	3,458	863	62	56	2,013	32,688	1,685	176	2,015	26,396	24,785
	Middle	49,908	568	6,132	39,540	5,046	2,776	875	61	49	1,554	30,462	883	151	1,748	25,528	24,377
	High	46,419	577	4,287	37,882	4,835	1,928	669	46	34	1,023	24,516	583	69	1,074	23,676	22,741
Social Studies	Elementary	50,036	541	6,648	39,100	5,088	3,069	839	60	52	1,820	31,268	1,131	156	1,845	25,616	24,419
	Middle	49,363	649	5,404	39,129	5,345	2,650	729	61	34	1,407	29,437	941	116	1,573	25,477	23,880
English II	High	50,172	665	5,041	40,452	5,286	2,301	805	76	37	1,201	27,884	829	88	1,294	25,628	24,533
Algebra II	High	46,610	577	3,719	38,164	4,681	1,888	745	57	38	1,033	24,338	533	72	1,124	23,470	23,137
US History	High	46,613	537	3,987	38,216	4,696	1,937	657	58	33	1,012	24,529	592	75	1,156	23,736	22,874

Participation of Kentucky Students in Statewide Assessment

				Participation in Alternate Assessment Against Alternate Standards by Sub-Group												
Content Area	Grade Span	Tested Students (General)	Tested Students (Alternate)	White	African American	Hispanic	Asian	American Indian or Alaska Native	Pacific Islander	Two or More Races	Free/ Reduced Lunch	English Learner	Migrant	Homeless	Male	Female
Reading	Elementary	153,822	1,689	1,316	193	88	25	2	2	62	1,395	77	2	86	1,115	573
	Middle	149,159	1,812	1,469	200	77	20	2	1	45	1,438	59	5	73	1,213	601
Mathematics	Elementary	153,822	1,689	1,316	193	88	25	2	2	62	1,395	77	2	86	1,115	573
	Middle	149,159	1,812	1,469	200	77	20	2	1	45	1,438	59	5	73	1,213	601
Writing	Elementary	50,036	541	426	63	24	7	0	0	22	457	28	0	27	360	182
	Middle	99,271	1,217	985	135	51	15	2	0	31	964	40	2	53	800	419
	High	96,145	1,097	904	142	30	9	0	0	14	797	16	0	32	706	393
Language Mechanics	Elementary	51,185	606	471	72	30	11	1	2	18	498	30	1	27	390	215
	Middle	49,908	568	463	62	24	12	0	0	10	457	18	1	26	377	194
	High	46,419	577	476	72	15	6	0	0	8	431	12	0	22	378	199
Social Studies	Elementary	50,036	541	426	63	24	7	0	0	22	457	28	0	27	360	182
	Middle	49,363	649	522	73	27	3	2	0	21	507	22	1	27	423	225
English II	High	50,172	665	541	78	24	7	0	0	18	513	16	0	31	430	238
Algebra II	High	46,610	577	476	72	15	6	0	0	8	431	12	0	22	378	199
US History	High	46,613	537	453	57	15	3			9	364	4	1	22	349	188

**Disproportionality of Students Participating in
Alternate Assessment against Alternate Academic Standards (AA-AAAS)
By Subgroup and Content Area**

Sub-Group Disproportionality	Reading (Elem/Middle)	Math (Elem/Middle)	Writing (Elem/Middle/High)	Language Mech (Elem/Middle/High)	Social Studies (Elem/Middle)	English II (High)	Algebra II (High)	US History (High)
White Students Participating in Alternate Assessment	1.08	1.08	1.10	1.08	1.06	1.05	1.04	1.18
African American Students Participating in Alternate Assessment	1.09	1.09	1.15	1.17	1.10	1.13	1.28	1.06
Hispanic Students Participating in Alternate Assessment	0.76	0.76	0.70	0.70	0.73	0.78	0.63	0.66
Asian Students Participating in Alternate Assessment	0.78	0.78	0.68	1.02	0.53	0.65	0.65	0.36
American Indian/Alaskan Native Students Participating in Alternate Assessment	0.94	0.94	0.57	0.50	1.38	0.00	0.00	0.00
Pacific Islander Students Participating in Alternate Assessment	0.87	0.87	0.00	1.21	0.00	0.00	0.00	0.00
Students of Two or More Races Participating in Alternate Assessment	0.87	0.87	0.82	0.65	1.12	1.13	0.62	0.01
Free or Reduced Eligible Students Participating in Alternate Assessment	2.58	2.58	2.48	2.59	2.72	2.70	2.70	1.89
English Language Learners Students Participating in Alternate Assessment	1.47	1.47	1.67	1.63	2.06	1.47	1.84	0.58
Migrant Students Participating in Alternate Assessment	0.66	0.66	0.30	0.42	0.31	0.00	0.00	1.16
Homeless Students Participating in Alternate Assessment	1.27	1.27	1.29	1.32	1.33	1.85	1.60	1.68
Male Students Participating in Alternate Assessment	1.88	1.88	1.79	1.80	1.82	1.75	1.87	1.79
Female Students Participating in Alternate Assessment	0.53	0.53	0.56	0.56	0.55	0.58	0.53	0.56

Disproportionality is Represented by a Risk Ratio

Comparing the Participation of Students in a Subgroup to the Participation of All Other Students

Based on 2015-16 Assessment Data