



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 20 2019

The Honorable Wayne D. Lewis, Jr.  
Commissioner  
Kentucky Department of Education  
300 Sower Blvd., 5th Floor  
Frankfort, KY 40601

Dear Commissioner Lewis:

Thank you for your participation in the U.S. Department of Education's (the Department) assessment peer review process under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). I appreciate the efforts of the Kentucky Department of Education (KDE) to prepare for the English language proficiency (ELP) assessment peer review, which occurred in April 2019. Specifically, KDE submitted evidence regarding ACCESS and Alternate ACCESS.

The ESEA and its implementing regulations require a State to ensure that it provides an annual ELP assessment of all English learners (ELs) in grades K-12 in schools served by the State (ESEA section 1111(b)(2)(G); 34 CFR § 200.6(h)). Specifically, the ESEA requires a State to develop a uniform statewide ELP assessment to measure the ELP of all ELs in the State, including ELs with disabilities, and to provide an alternate ELP assessment (AELPA) for ELs who are students with the most significant cognitive disabilities who cannot participate in the regular ELP assessment even with accommodations (ESEA section 1111(b)(2)(G); 34 CFR § 200.6(h)(1), (5)). The ESEA and its implementing regulations require that a State's ELP assessments, including the AELPA, be aligned with the State's ELP standards, provide valid and reliable measures of the State's ELP standards, and be of adequate technical quality (ESEA section 1111(b)(2)(G); 34 CFR §§ 200.2(b)(2), (b)(4), (b)(5), 200.6(h)(2)).

External peer reviewers and Department staff carefully evaluated KDE's submission and the Department found, based on the evidence received, that this component of your assessment system met some, but not all of the statutory and regulatory requirements of the ESEA. Based on the recommendations from this peer review and our own analysis of the State's submission, I have determined the following:

- General ELP assessment (ACCESS): **Partially meets requirements of the ESEA, as amended by ESSA.**
- Alternate ELP assessment (Alternate ACCESS): **Partially meets requirements of the ESEA, as amended by ESSA.**

The assessments that partially meet requirements do not meet a number of the requirements of the statute and regulations and KDE will need to provide substantial additional information to demonstrate it meets the requirements. The Department realizes that this was the first time your State was required to provide its ELP and AELPA for peer review and recognizes that it may take some time to address all of the required items. The specific list of items required for KDE to submit is enclosed with this letter. Within 30 days, KDE must provide a plan and timeline for submitting all required documentation. Upon submission of the plan, the Department will reach out to the State educational agency (SEA) to determine a mutually agreeable schedule. Resubmission should occur once all necessary evidence is complete (rather than in multiple submissions). The Department is placing a condition on KDE's Title I, Part A grant award. To satisfy this condition, KDE must submit satisfactory evidence to address the items identified in the enclosed list. If adequate progress is not made, the Department may take additional action.

The full peer review notes from the review are enclosed. These recommendations to the Department formed the basis of our determination. Please note that the peers' recommendations may differ from the Department's feedback; we encourage you to read the full peer notes for additional suggestions and recommendations for improving your assessment system beyond what is noted in the Department's feedback. Department staff will reach out to your assessment director in the next few days to discuss the peer notes and the Department's determination and to answer any questions you have.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202  
<http://www.ed.gov/>

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

Page 2 – The Honorable Wayne D. Lewis, Jr.

Additionally, the Office of Special Education and Rehabilitative Services (OSERS) will monitor progress on matters pertaining to requirements in the Individuals with Disabilities Education Act (IDEA) related to the participation of students with disabilities in Title I assessments. In particular, OSERS will monitor progress against critical elements 1.4, 4.2, 5.1, 5.3, 5.4, 6.1 and 6.3. Insufficient progress to address such matters may lead OSERS to place a condition on KDE's fiscal year 2020 IDEA Part B grant award.

Thank you for your ongoing commitment to improving educational outcomes for all students. I look forward to our continued partnership as we move ahead with this critical work. I appreciate the work you are doing to improve your schools and provide a high-quality education for your students.

If you have any questions, please contact my staff at: [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,



Frank T. Brogan  
Assistant Secretary for  
Elementary and Secondary Education

Enclosures

cc: Jennifer Stafford, Director, Division of Assessment Support

**Critical Elements Where Additional Evidence is Needed to Meet the Requirements for Kentucky’s Use of the ACCESS and Alternate ACCESS as English Language Proficiency (ELP) Assessments**

Critical Element	Additional Evidence Needed
<b>1.2 – Coherent and Progressive ELP Standards that Correspond to the State’s Academic Content Standards</b>	For the State’s ELP standards: <ul style="list-style-type: none"> <li>• For reading/language arts, mathematics and science, evidence of alignment of its current ELP standards to the State’s academic content standards, including a plan to address findings of the previous alignment study.</li> </ul>
<b>1.3 – Required Assessments</b>	For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that the alternate ELP assessment is available in kindergarten.</li> </ul>
<b>1.4 – Policies for Including All Students in Assessments</b>	For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• See critical element 1.3.</li> </ul>
<b>2.1 – Test Design and Development</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that both assessments are aligned to the depth and breadth of the State’s ELP standards, including:               <ul style="list-style-type: none"> <li>○ Statement of the purposes and intended uses of results.</li> <li>○ Test blueprints.</li> <li>○ Processes to ensure that the ELP assessment is tailored to the knowledge and skills included in the State’s ELP standards and reflects appropriate inclusion of the range of complexity found in the standards (e.g., detail about the routing rules, detail of the item selection process for paper forms to ensure it adheres to the blueprint).</li> </ul> </li> </ul> For ACCESS: <ul style="list-style-type: none"> <li>• Evidence that the item pool and item selection procedures adequately support the multi-stage adaptive administrations.</li> <li>• Evidence that proficiency determinations are made with respect to the grade in which the student is enrolled.</li> </ul>
<b>2.2 – Item Development</b>	For ACCESS: <ul style="list-style-type: none"> <li>• Evidence of reasonable and technically sound procedures to develop and select items (e.g., timeline of development, qualifications of item writers, item-writing training, item review processes and reviewer qualifications, field test processes for each domain, and technical advisory committee review).</li> </ul> For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of reasonable and technically sound procedures to develop and select items to assess ELP (e.g., involvement of experts with knowledge of English learners (ELs) with significant cognitive disabilities).</li> </ul>
<b>2.3 – Test Administration</b>	For ACCESS: <ul style="list-style-type: none"> <li>• Evidence of established contingency plans to address possible technology challenges during test administration.</li> </ul>
<b>2.5 – Test Security</b>	For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of policies and procedures that prevent assessment irregularities, including maintaining the security of test materials (both during test development and at time of test administration), proper test preparation guidelines and administration procedures, incident-reporting procedures, consequences for confirmed violations of test security, and requirements for annual training at the district and school levels for all individuals involved in test administration.               <ul style="list-style-type: none"> <li>○ Specifically, evidence for the Alternate ACCESS of policies and procedures to protect the integrity of the test given that the test form is unchanged for the past several years.</li> </ul> </li> </ul>

Critical Element	Additional Evidence Needed
<b>3.1 – Overall Validity, including Validity Based on Content</b>	<p>For ACCESS:</p> <ul style="list-style-type: none"> <li>• Documentation of adequate alignment between the State’s ELP assessment and the ELP standards the assessment is designed to measure in terms of language knowledge and skills and the depth and breadth of the State’s ELP standards across all proficiency levels, domains, and modalities identified therein.</li> <li>• Documentation of alignment between the State’s ELP standards and the language demands implied by, or explicitly stated in, the State’s academic content standards.</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence of adequate linkage to the State’s ELP standards in terms of content match (i.e., no unrelated content) and that the breadth of content and linguistic complexity determined in test design is appropriate for ELs who are students with the most significant cognitive disabilities.</li> </ul>
<b>3.2 – Validity Based on Linguistic Processes</b>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Adequate validity evidence that its assessments tap the intended language processes appropriate for each grade level/grade-band as represented in the State’s ELP standards.</li> </ul>
<b>3.3 – Validity Based on Internal Structure</b>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence that the scoring and reporting structures of the assessments are consistent with the subdomain structures of the State’s ELP standards (e.g., an explanation of how the included statistical analyses relate to the validity framework for the assessments).</li> </ul>
<b>3.4 – Validity Based on Relationships with Other Variables</b>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Adequate validity evidence that the State’s assessment scores are related as expected with other variables.</li> </ul>
<b>4.1 – Reliability</b>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence of test reliability, including: <ul style="list-style-type: none"> <li>○ Reliability by subgroups.</li> <li>○ Consistency and accuracy of estimates in categorical classification decisions for the cut scores, achievement levels or proficiency levels based on the assessment results.</li> <li>○ Evidence that reliability statistics are used to inform ongoing maintenance and development.</li> </ul> </li> </ul> <p>For ACCESS:</p> <ul style="list-style-type: none"> <li>• For computer-adaptive tests, evidence that the assessments produce test forms with adequately precise estimates of an EL’s ELP.</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence of reliability, including test information functions (TIFs) for overall composite scores.</li> </ul>
<b>4.2 – Fairness and accessibility</b>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence that the assessments are accessible to all students and fair across student groups in design, development, and analysis (e.g., the implementation of universal design principles, to the extent practicable, during item development and review, and additional differential item functioning analyses to include more student subgroups).</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>• Evidence that the State has taken reasonable and appropriate steps to ensure that its assessments are accessible to all EL students and fair across student groups, including ELs with disabilities, in their design, development, and analysis, guidance and instructions on appropriate instructional supports that can be used during the assessment, particularly for Braille and alternate modes of communication.</li> </ul>

Critical Element	Additional Evidence Needed
<b>4.3 – Full Performance Continuum</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that each assessment provides an adequately precise estimate of student performance across the full performance continuum for ELP assessments, including performance for EL students with high and low levels of ELP.</li> </ul>
<b>4.4 – Scoring</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that if an EL has a disability that precludes assessment of the student in one or more of the required domains/components (listening, speaking, reading, and writing) because there are no appropriate accommodations for the affected domain(s)/component(s), the State ensures that the student is assessed in the remaining domain(s)/component(s) in which it is possible to assess the student, including a description of how this will occur.</li> </ul> For ACCESS: <ul style="list-style-type: none"> <li>• Evidence of standardized scoring procedures and protocols that are designed to produce reliable and meaningful results, facilitate valid score interpretations, and report assessment results in terms of the State’s ELP standards (e.g., evidence that the scoring of speaking items on the paper form of the test is monitored.)</li> </ul> For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of the implementation of standardized scoring procedures and protocols (e.g., definitions of key terms and test administration and scoring procedures).</li> </ul>
<b>4.5 – Multiple Assessment Forms</b>	For ACCESS: <ul style="list-style-type: none"> <li>• Evidence that all forms adequately represent the State’s ELP standards and yield consistent score interpretations such that the forms are comparable within and across settings, particularly for the listening domain (e.g., rationales for why equating is not done for the paper versions of the reading and listening domains and rationales for the use of the anchor item sets).</li> </ul> For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that all forms adequately represent the State’s ELP standards and yield consistent score interpretations such that the forms are comparable within and across settings (e.g., evidence that using the same test items every year does not impact validity).</li> </ul>
<b>4.7 – Technical Analysis and Ongoing Maintenance</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of adequate technical quality is made public, including on the State’s website.</li> </ul> For the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of a system for monitoring, maintaining, and improving, as needed, the quality of its assessment system.</li> </ul>
<b>5.1 – Procedures for Including Students with Disabilities</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence of policies that require the inclusion of an EL with a disability that precludes assessment of the student in one or more of the required domains (i.e., ensuring that the student will be assessed based on the remaining components in which it is possible to assess the student).</li> </ul> For the Alternate Access: <ul style="list-style-type: none"> <li>• Evidence of procedures to ensure the inclusion of all public elementary and secondary school ELs with disabilities in the State’s assessment system (e.g., specific guidelines for participation in the AELPA).</li> </ul>
<b>5.3 –Accommodations</b>	For ACCESS and the Alternate ACCESS: <ul style="list-style-type: none"> <li>• Evidence that the provided accommodations:               <ul style="list-style-type: none"> <li>○ Are appropriate and effective for meeting the individual student’s need(s) to participate in the assessments.</li> <li>○ Do not alter the construct being assessed.</li> <li>○ Allow meaningful interpretations of results and comparison of scores for students who need and receive accommodations and students who do not need and do not</li> </ul> </li> </ul>

Critical Element	Additional Evidence Needed
	<p>receive accommodations.</p> <ul style="list-style-type: none"> <li>Evidence of a process to individually review and allow exceptional requests for a small number of students who require accommodations beyond those routinely allowed.</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>Evidence that appropriate accommodations are available for ELs.</li> <li>Evidence that accommodations do not deny students with disabilities or ELs the opportunity to participate in the assessment.</li> </ul>
<p><b>6.1 – State Adoption of ELP Achievement Standards for All Students</b></p>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>Evidence that the State adopted ELP achievement standards that address the different proficiency levels of ELs.</li> <li>If the State has developed alternate ELP achievement standards, evidence that it has adopted them only for ELs who are students with the most significant cognitive disabilities who cannot participate in the regular ELP assessment even with appropriate accommodations.</li> </ul>
<p><b>6.2 – ELP Achievement Standards-Setting</b></p>	<p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>Evidence that the State used a technically sound method and process for setting ELP achievement standards, such that cut scores are developed for every grade/grade band, content domain/language domain, and/or composite for which proficiency-level scores are reported.</li> </ul>
<p><b>6.3 –Aligned ELP Achievement Standards</b></p>	<p>For ACCESS:</p> <ul style="list-style-type: none"> <li>Evidence that ELP assessment results are expressed in terms that are clearly aligned with the State’s ELP standards and its ELP performance level descriptors.</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>If the State has developed alternate ELP achievement standards, evidence that the alternate ELP achievement standards are linked to the State’s grade-level/grade-band ELP standards and reflect professional judgment of the highest ELP achievement standards possible for ELs who are students with the most significant cognitive disabilities.</li> </ul>
<p><b>6.4 – Reporting</b></p>	<p>For ACCESS and the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>The State reports to the public its assessment results on ELP for all ELs including the number of ELs attaining ELP.</li> <li>Evidence that the State’s reporting of assessment results facilitates timely interpretations and uses of those results by parents, educators, State officials, policymakers and other stakeholders, and the public.</li> <li>Evidence that the State provides coherent and timely information about each student’s attainment of the State’s ELP standards to parents that are, to the extent practicable, written in a language that parents and guardians can understand or, if it is not practicable to provide written translations to a parent or guardian with limited English proficiency, are orally translated for such parent or guardian.</li> <li>Evidence that student reports are, upon request by an individual with a disability, provided in an alternative format accessible to that parent.</li> </ul> <p>For the Alternate ACCESS:</p> <ul style="list-style-type: none"> <li>Evidence that performance level descriptors are included on student score reports.</li> </ul>