



Dr. Robbie Fletcher
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

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August 12, 2025

Ruth Ryder
Deputy Assistant Secretary for Policy and
Programs and Acting Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Kimberly Mitchell
U.S. Department of Education
Office of Special Education Programs
400 Maryland Ave., SW
Washington, DC 20202

Dear Acting Assistant Secretary Ryder:

I am writing to request a waiver of section 1111 (b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), for the requirement that a state may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0% of the total number of assessed students in the state. The Kentucky Department of Education (KDE) is requesting a waiver of this requirement because it anticipates that Kentucky will exceed the 1.0% cap for the 2025-2026 school year based on the percentage of students who took the AA-AAAS previously.

The attached document, “Kentucky One Percent Waiver Request 2025-2026 School Year,” outlines the requirements necessary for the 1.0% waiver. KDE requests this waiver for the 2025-2026 school year while it continues to monitor, support and provide technical assistance to Kentucky’s local education agencies (LEAs) to ensure that all students are assessed appropriately. KDE assures that if it is granted this waiver, it will:

- Continue to meet all other requirements of ESSA and take additional steps to support and provide oversight to each LEA that will exceed the 1.0% threshold to ensure only students with the most significant cognitive disabilities take an AA-AAAS;
- Monitor and regularly evaluate LEAs to ensure the LEA provides sufficient training to LEA staff who participate as members of Individualized Education Program (IEP) team meetings, known in Kentucky as an Admissions and Release Committee (ARC);
- Address any disproportionality in the percentage of students taking an AA-AAAS; and

- Verify that each LEA that anticipates will assess more than 1% of its assessed students in any subject area using an AA-AAAS has followed Kentucky's participation guidelines for the AA-AAAS.

The KDE posted public notice of the waiver request and provided stakeholders with the opportunity to comment on the waiver request. The notice of the waiver request is available on [Kentucky Alternate Assessment Participation Waiver](#) page of the KDE website.

The KDE expects the efforts outlined in the attached one percent waiver request will reduce the percentage of students participating in the AA-AAAS and facilitate Kentucky's progress toward meeting the one percent requirement set by ESSA.

Please contact Carol Ann Morrison at carol.morrison@education.ky.gov or (502) 564-4970, extension 4123, to discuss Kentucky's AA-AAAS waiver. We look forward to working with the United States Education Department (ED) staff to achieve a positive response to the application.

All IN,



Dr. Robbie Fletcher
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Kentucky's 1.0% Waiver for Reading, Mathematics and Science
ESSA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d)
Submission to the U.S. Department of Education
Aug. 12, 2025

In accordance with 34 CFR 200.6(c)(4), Kentucky is providing evidence of all requirements to request a 1.0% waiver for Reading, Mathematics and Science. Please note, additional information will be included in an addendum after final participation data is available.

Requirement One (ESEA Section 8401 (b)(3)(A)): Public Comment

The Kentucky Department of Education (KDE) sought public comment for the “Kentucky One Percent Waiver for Reading, Mathematics and Science.” The public was notified through a press release that the public comment period was open from July 21 through Aug. 2, 2025. The press release was posted on KDE’s website, shared on listservs used by local educational agencies (LEAs) and disseminated via email to other stakeholders, including the state parent advisory group. The press release is attached in Appendix A.

During the public comment period, the KDE received one written comment. The submitted comment and response from KDE is included in Appendix B.

Requirement Two (34 CFR 200.6(c)(4)(i)): Submission 90 Days Prior to State Testing Window Opening

The KDE is submitting a waiver request to the United States Education Department (ED) 90 days prior to the start of the testing window for the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

Kentucky’s statewide AA-AAAS, the Alternate Kentucky Summative Assessment (AKSA), first of two assessment windows, is scheduled to begin on Nov. 10, 2025. More information about KDE’s state testing windows for AA-AAAS can be found on the [Alternate Kentucky Summative Assessment \(AKSA\)](#) page.

Requirement Three (34 CFR 200.6(c)(4)(ii)): State Level Data

The KDE reviewed eligibility data from the state’s student information system, Infinite Campus (IC), for the 2024-2025 school year to estimate participation rates for the AA-AAAS. Because final assessment data were not yet available by the waiver submission deadline, preliminary estimates were used. Table One shows the number and percentage of Kentucky students eligible to participate in statewide assessments, including the AA-AAAS, by subject area and student subgroup.

The eligibility data indicates that at least 1.0% of students were eligible for the AA-AAAS in each tested subject for the 2024-2025 school year. Based on these estimates, Kentucky anticipates exceeding the 1.0% participation threshold set by the Every Student Succeeds Act (ESSA) for the 2025-2026 school year.

The eligibility data reflects raw counts from IC and does not include validation at the state, LEA or school levels, which may affect final reporting. The AA-AAAS testing window is scheduled to begin on Nov. 10, 2025. Due to the requirement that waiver requests be submitted at least 90 days in advance, the KDE used Dec. 1 Child Count data to estimate participation.

Final assessment data will be available in January 2026 and reported publicly on the [Open House](#) website and the [Kentucky School Report Card](#). KDE will update Table One and submit the finalized data to the ED in an addendum by Feb. 28, 2026.

Table One: 2024-2025 school year AA-AAAS Eligible Students

| SUBJECT | ELIGIBLE TO PARTICIPATE IN AA-AAAS | ELIGIBLE TO PARTICIPATE IN STATEWIDE ASSESSMENT | PERCENT ELIGIBLE TO PARTICIPATE IN AA-AAAS |
|-------------------------------|---|--|---|
| Reading (elem/middle/high) | 4,229 | 340,038 | 1.24% |
| Math (elem/middle/high) | 4,229 | 340,038 | 1.24% |
| Science (elem/middle) | 1,734 | 142,107 | 1.22% |

Table Two will demonstrate the overall rates of assessment participation for the 2024-2025 assessment year. When the final assessment data is available, the KDE will review and submit the final data in an addendum. Table Two will be updated when the final assessment data are available.

Table Two: Overall Rates of Assessment Participation for 2024-2025

| Group | All Students Grades 3-8 and High School (HS) Reading/Language Arts (R/LA) | Students with Disabilities Grades 3-8 and High School (R/LA) |
|-------------------------------|--|---|
| Students Assessed | | |
| Students Enrolled | | |
| Assessment Participation Rate | | |

| Group | All Students Grades 3-8 and High School (HS) Reading/Language Arts (Math) | Students with Disabilities Grades 3-8 and High School (Math) |
|-------------------|--|---|
| Students Assessed | | |

| | | |
|-------------------------------|--|--|
| Students Enrolled | | |
| Assessment Participation Rate | | |

| Group | All Students Grades 3-8 and High School (HS) Reading/Language Arts (Science) | Students with Disabilities Grades 3-8 and High School (Science) |
|-------------------------------|---|--|
| Students Assessed | | |
| Students Enrolled | | |
| Assessment Participation Rate | | |

Table Three will demonstrate the participation rates for each subgroup that participated in the AA-AAAS. When the final assessment data is available, the KDE will review and submit the final data in an addendum. Table Three will be updated when the data are available.

Table Three: AA-AAAS Participation Rates by Subgroup for 2024-2025

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

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

| Group | Total Number in Grades 3-8 and HS | Number Taking AA-AAAS in Grades 3-8 and HS | Percent Taking AA- AAAS in Grades 3-8 and HS |
|-------------------------------|--|---|---|
| Economically Disadvantaged | | | |

Table Four demonstrates the AA-AAAS rates by subject for the last six years. The data for the 2024-2025 school year is an estimate of students eligible to take the AA-AAAS based on Dec. 1 Child Count data. The estimated data for 2025-2026 is not yet available. When the final assessment data is available in January 2026, the KDE will review and submit the final data for 2024-2025 along with the estimated data for the 2025-2026 school year in an addendum. Table Four will be updated when the data are available.

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

| School Year | R/LA | Mathematics | Science |
|----------------------|-------------|--------------------|----------------|
| 2024-2025 (estimate) | 1.24% | 1.24% | 1.22% |
| 2023-2024 | 1.19% | 1.19% | 1.22% |
| 2022-2023 | 1.16% | 1.15% | 1.14% |
| 2021-2022 | 1.12% | 1.12% | 1.14% |
| 2020-2021 | 1.10% | 1.10% | 1.10% |
| 2018-2019 | 1.13% | 1.13% | 1.14% |
| 2017-2018 | 1.13% | 1.13% | 1.12% |

Table Five will demonstrate the percentage of students with disabilities who participated in the AA-AAAS during the 2024-2025 school year. Table Five will be analyzed after the final participation data is calculated in January 2026. This section will be updated when the data are available and included in the addendum.

Table Five: 2024-2025 School Year Overall Statewide, Assessed by Subject

| Subject | Enrolled | Assessed | Percent Tested |
|---|-----------------|-----------------|---------------------------|
| Reading/Language Arts - All Students Total Grades 3 - 8 and High School (HS) | | | |
| Reading/Language Arts -Students with Disabilities (SWD) Total | | | |

| | | | |
|---|--|--|--|
| Grades 3 - 8 and HS | | | |
| Mathematics - All Students Total Grades 3 - 8 and HS | | | |
| Mathematics - SWD Total Grades 3 - 8 and HS | | | |
| Science - All Students Total Grades 3 - 8 and HS | | | |
| Science - SWD Total Grades 3 - 8 and HS | | | |

Requirement Four (34 CFR 200.6(c)(4)(iii)): Assurances

In accordance with 34 CFR 200.6 (c)(4)(iii), a waiver must include assurances from the state that it has verified that each LEA the state anticipates will assess more than one percent of all students assessed in any subject using an AA-AAAS has followed the state's participation guidelines and will address any disproportionality in the percentage of students in any student group taking the AA-AAAS.

With final assessment data for the 2024-2025 school year not yet available, the KDE required written assurances from all LEAs in the state. Each Director of Special Education (DoSE), or designee, was required to ensure that the LEA has the following in place:

- All ARCs in the LEA follow the state's guidelines for participation in the AA-AAAS;
- The LEA has evidence that the DoSE, all ARC chairpersons and all special education teachers with a caseload that includes students eligible to participate in the alternate assessment have completed the required alternate assessment training modules (see page 12);
- All ARCs in the LEA inform parents of students with the most significant cognitive disabilities of the implications of participation in the alternate assessment; and
- The LEA addresses disproportionality in the percentage of students in any subgroup participating in the alternate assessment.

Requirement Five (34 CFR 200.6(c)(3)(ii)): Justification

As required by 34 CFR 200.6 (c)(3)(ii), a state must require an LEA to submit information justifying the LEA's need to assess more than 1.0% of its assessed students in any subject with an alternate assessment. The KDE required LEAs who had more than 1.0% of students participating in the 2023-2024 AA-AAAS to submit information to the state justifying the need to exceed the 1.0% threshold. The KDE developed a Justification Requirement Form to lead LEAs through a root cause analysis to determine why more than 1.0% of the student body was assessed using the AA-AAAS. The justification form is reviewed and revised annually by the KDE's Office of Special Education and Early Learning (OSEEL). LEAs who assessed more than 1.0% of students in any subject of the AA-AAAS were provided instructions on completing a Justification Requirement Form. A summary of LEA justification responses, as well as a list of

the LEAs that exceeded the one percent threshold in one or more subject areas, can be found in the [Justification Response Summary](#).

The justification form acknowledges:

- ARC teams utilized the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) appropriately for each student who would participate in the alternate assessment;
- LEAs addressed any disproportionality in the percentage of students within each subgroup taking the AA-AAAS;
- LEAs analyzed student data to make decisions for each student participating in the alternate assessment;
- Local training needs;
- Descriptions of appropriate training, support and oversight provided to ARC team members; and
- Justification(s) for exceeding 1.0% participation.

When KDE has final participation data for the 2024-2025 assessment year, KDE will contact all LEAs who exceeded the 1.0% participation in the AA-AAAS in at least one subject area and require the completion of a new justification form as outlined in the requirements of 34 CFR 200.6 (c)(3)(ii).

Requirement Six (34 CFR 200.6(c)(4)(iv)): Plan and Timeline

In accordance with 34 CFR 200.6 (c)(4)(iv), the waiver request from a state must include a plan and a timeline by which the state will improve the implementation of the state's guidelines for participation in the AA-AAAS. KDE's full plan and timeline can be found in Appendix C.

(A) Implementation of the State's Guidelines

To improve the implementation of participation guidelines, KDE's OSEEL conducts desk reviews, issues corrective action plans (CAPs) and provides targeted technical assistance to LEAs as needed. This process helps both KDE's OSEEL and LEAs to identify any root causes of misidentification and documentation errors related to AA-AAAS participation decisions.

The KDE's OSEEL reviews ARC team decisions regarding alternate assessment participation and determines whether these decisions were compliant with the Individuals with Disabilities Education Act (IDEA) and federal and state regulations [34 CFR § 300.320 \(a\)\(6\)\(ii\)](#) and [707 KAR 1:320, Section 5](#).

LEAs are required to follow the [Guidance for ARCs on Participation Decisions for the Kentucky Alternate Assessment](#) to ensure that students meet all eligibility criteria for participating in the AA-AAAS and to document ARC team decisions on the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) or in the Conference Summary. The KDE's OSEEL conducts desk reviews to ensure that students are appropriately meeting eligibility criteria to participate in the AA-AAAS, and ARC team decisions are documented based on federal and state regulations.

All LEAs that assess over 1.0% of their student population using the AA-AAAS are subject to a desk review when the LEA meets the established criteria. For each LEA identified, the KDE's OSEEL reviews a sample of student records from the student information system, known as IC, for students found eligible to participate in the AA-AAAS. The student records are reviewed by a KDE OSEEL team using the [Participation Guidelines for the Kentucky Alternate Assessment Record Review](#) document.

During the review, KDE's OSEEL monitors whether the students have been appropriately identified as meeting all eligibility criteria to participate in the alternate assessment and verifies whether the LEA correctly utilized the *Kentucky Alternate Assessment Participation Guidelines Documentation Form* to document all ARC team decisions, per 707 KAR 1:320, Section 5 (11).

If an LEA is found to meet one or more of the criteria below, the KDE's OSEEL will perform further monitoring by reviewing a sample of student files. The criteria for determining whether an LEA requires additional monitoring include:

- The LEA exceeded the 1.0% AA-AAAS participation rate in the assessment year. Through a desk review process, the KDE's OSEEL will randomly review 10% of LEAs assessing greater than 1.0% of their population using the AA-AAAS.
- The LEA met state-established criteria for high disproportionality of racial or ethnic groups participating in the AA-AAAS during the assessment year. The KDE's OSEEL uses a comparison rate methodology to determine if disproportionality in AA-AAAS participation exists in LEAs. For AA-AAAS, disproportionality by race or ethnicity exists when the following occurs:
 - There are at least 30 students assessed, using both AA-AAAS and regular assessment, in the racial or ethnic group being examined;
 - There are at least 10 students in the racial or ethnic group being examined who were assessed using an AA-AAAS; and
 - The rate at which students in the racial or ethnic group being examined is 2.0 times or greater than the rate in all other races identified.

Table Six displays the results of desk reviews conducted for the last five years.

Table Six: Compliance Rates of LEAs that used AA-AAAS Participation Guidelines Appropriately

| School Year | Number of LEAs reviewed | Number of LEAs that demonstrated compliance | Compliance Rate of LEAs |
|-------------|-------------------------|---|-------------------------|
| 2019-2020 | 40 | 5 | 12.50% |
| 2020-2021 | 33 | 9 | 27.27% |
| 2021-2022 | 14 | 11 | 78.57% |

| | | | |
|-----------|----|---|--------|
| 2022-2023 | 14 | 9 | 64.28% |
| 2023-2024 | 13 | 7 | 53.85% |

Any LEA identified as noncompliant for AA-AAAS participation receives a CAP. The CAP is an opportunity for KDE and the LEA to work together to strengthen the processes within the LEA to better support students with the most significant cognitive disabilities. The CAP requires that LEAs correct all instances of student specific noncompliance as well as address systemic noncompliance through training of LEA staff around AA-AAAS participation guidelines.

The KDE analyzed monitoring data for the last two years and found the most common areas of noncompliance:

- [707 KAR 1:320, Section 5 \(11\)](#), which states if an ARC team “determines a child meets criteria for participation in the alternate portfolio, as provided in 703 KAR 5:070, it shall provide a statement of its decision and the reasons for the decision.”
- [34 CFR 200.6\(d\)\(1\)](#), which says “states must establish and monitor implementation of clear and appropriate guidelines for ARC teams to apply in determining, on a case-by-case basis, which students with the most significant cognitive disabilities will be assessed based on alternate academic achievement standards. Such guidelines must include a definition of “students with the most significant cognitive disabilities” that addresses factors related to cognitive functioning and adaptive behavior.”

KDE will continue to meet and focus on analyzing data to identify trends and develop new training and guidance to educate staff and parents on AA-AAAS participation guidelines and students with the most significant cognitive disabilities.

Additionally, KDE developed recorded parent modules to assist parents in understanding the AA-AAAS participation guidelines. The KDE met with stakeholders, including Kentucky’s Parent Training and Information Center (PTI), Kentucky Special Parent Involvement Network (KY-SPIN), to gain input before publishing the modules. Five modules were developed and published:

- [Comparing the Regular State Assessment and Alternate Assessment](#);
- [Kentucky State Assessment Participation Options](#);
- [Regular Diploma vs. Alternative High School Diploma](#);
- [Accommodations vs. Modifications](#); and
- [Completing the Kentucky Alternate Assessment Participation Guidelines](#).

The recorded parent modules can be found under parent resources on the [Kentucky Alternate Assessment Waiver](#) webpage. The modules were shared with stakeholders through KDE’s OSEEL’s weekly “News You Can Use”, which is distributed to LEAs and other stakeholders, including KY-SPIN.

The KDE will continue to seek feedback from stakeholders to review and, if necessary, revise

state resources related to AA-AAAS participation and the definition of students with the most significant cognitive disabilities. If any revisions are required, the KDE will collaborate with the Special Education Regional Technical Assistance Centers (SERTACs) to develop training and guidance to support LEAs. All of Kentucky's LEAs are eligible to receive services at no cost through SERTACs. Services include technical assistance (TA) to improve outcomes for students with disabilities. In addition, these TA services align with KDE's OSEEL initiatives to meet the federal requirements of the IDEA and the priorities established by the Office of Special Education Programs (OSEP).

(B) Additional Steps

The state is required to take additional steps to support and provide oversight to each LEA that exceeds the one percent threshold.

To demonstrate substantial progress in reducing AA-AAAS participation rates, the state will implement the following action steps, summarized below.

Required Training Modules: The KDE, in collaboration with the University of Kentucky's (UK's) Human Development Institute (HDI), will continue to provide LEAs with six professional development modules related to AA-AAAS. The modules will be required for all new and current ARC team members, including special education teachers, ARC chairpersons and DoSEs. More information about module topics and who is required to participate can be found in Appendix D.

- [Module 1: The KY 1% Alternate Assessment Waiver 3rd-12th Grade;](#)
- [Module 2: Completing the Participation Guidelines for 3rd-12th Grade;](#)
- [Module 3: Preparing for ARC- Participation Guidelines for 3rd-12th Grade;](#)
- [Module 4: Learner Characteristic Inventory;](#)
- [Module 5: Using Data Sources to Understand and Describe Alternate Assessment Population;](#) and
- [Module 6: Annual Review Guidance for Alternate Assessment .](#)

Starting in the 2025-2026 school year, KDE will begin requesting completion certificates from LEAs confirming ARC team members have completed the required modules during monitoring activities.

National Center on Educational Outcomes (NCEO): The KDE will continue to work with NCEO to support KDE's ongoing work around students with the most significant cognitive disabilities during the 2025-2026 school year. KDE participates in NCEO sponsored activities, including the 1% Community of Practice (CoP) bi-weekly calls, webinars and other state-sponsored convenings to improve the agency's ongoing work pertaining to students with significant cognitive disabilities and their participation in the AA-AAAS.

Additionally, the KDE participates in bi-annual collaboratives sponsored by the Council of Chief State School Officers (CCSSO). Through collaboration, the KDE interacts with other states to enhance state assessment, accountability and curriculum and instruction systems to provide

equity and inclusion for students with disabilities.

Assessment Practices and Safeguards: The KDE’s Office of Assessment and Accountability (OAA) is working to strengthen testing procedures and best practices to ensure that every student participates in the assessment that best aligns with their instructional needs.

Beginning with the Fall 2025 testing window, OAA will conduct on-site visits to observe the administration of the AA-AAAS. These visits will initially focus on LEAs that had reported testing allegations during the 2024–2025 assessment year. OAA will utilize a standardized set of [Site Visit Survey Questions](#) during these visits.

In the 2025–2026 assessment year, OAA will implement more targeted training for AA-AAAS administrators. Updates to the “Administration Code for Kentucky’s Educational Assessment Program” will include guidance on make-up testing windows—specifically, procedures for administering make-up tests to students who were not eligible for the AA-AAAS during the first testing window. In cases where LEAs request make-up testing, OAA will conduct student record reviews to confirm that all participation guidelines were met before approving the request.

Increased Communication: For the 2025–2026 school year, KDE’s OSEEL will enhance its communication with LEAs regarding the AA-AAAS. Currently, training for DoSEs is provided at the beginning and end of each school year, and information about the AA-AAAS will continue to be included in those sessions.

In addition, KDE’s OSEEL will regularly share AA-AAAS updates through its weekly email newsletter, “News You Can Use,” which is distributed to all LEAs. Beginning in 2025–2026, AA-AAAS content will be included in the newsletter at least once per month. These updates will feature upcoming training opportunities, monitoring reminders and links to key AA-AAAS guidance documents.

SERTAC provided training: KDE uses information gathered from the Justification Response Form to work with SERTACs to plan training around AA-AAAS. KDE will share information from the most recent Justification form completed by LEAs with SERTACs. Based on submissions, LEAs identified the need for additional training in:

- Analyzing longitudinal data;
- Excessive modifications and accommodations;
- Parent guidance;
- Analyzing disproportionality; and
- Participation guidelines.

SERTACs will develop training around these topics with approval from KDE.

Additionally, SERTACs work with LEAs identified with noncompliance during the monitoring process. LEAs can request assistance from their SERTAC director in developing training to meet the requirements of their CAP.

Low Incidence Task Group: Representatives from the SERTACs have developed a low

incidence task group to share instructional resources and supports with school level staff working with students with the most significant cognitive disabilities.

For the 2025-2026 school year, representatives from KDE's OSEEL and OAA will attend the low incidence task group meetings to gain insight into what additional AA-AAAS supports school level staff need. Additionally, KDE staff will work with the low incidence group to complete a root cause analysis to determine the reasons the AA-AAAS participation rate is increasing in Kentucky. Using the results from the root cause analysis, KDE will work with the low incidence group to develop targeted training for school-based staff.

Risk Assessment Rubric: As part of general supervision responsibilities outlined in the Individuals with Disabilities Education Act (IDEA), KDE monitors LEAs based on their level of risk. In Kentucky, an LEA's level of risk is determined by LEA Annual Determinations and KDE's OSEEL's Risk Assessment Rubric. LEAs identified as "high risk" receive desk reviews of student files as well as onsite monitoring that includes interviews with LEA staff. Starting in the 2025-2026 school year, AA-AAAS participation rates will be included in the Risk Assessment Rubric based on the following criteria:

- 0 points- The LEA does not have an overall AA-AAAS participation rate above the 1.0% threshold;
- 1 point- The LEA has an overall AA-AAAS participation rate between 1.01-1.25%;
- 2 points- The LEA has an overall AA-AAAS participation rate between 1.26-1.74%; and
- 3 points- The LEA has an overall AA-AAAS participation rate of 1.75% or above.

By including LEA AA-AAAS participation rates in the risk assessment, KDE will have additional opportunities to monitor AA-AAAS participation guidelines to ensure ARCs are making decisions in the best interest of students.

(C) Disproportionality

The state is required to address any disproportionality in the percentage of students taking an AA-AAAS.

As part of the Justification Response Form, LEAs are required to describe the processes used to monitor AA-AAAS eligibility and possible disproportionality in participation.

The KDE will continue to review LEAs based on a rate comparison calculation to ensure disproportionality is addressed. The rate comparison calculation identifies when the data for any group is disproportionate to others not in the measured group.

Kentucky uses a risk ratio calculation. A risk ratio is the comparison of two different risks: the risk for a specific student group to participate in the AA-AAAS compared to the risk for all students not in that student group to participate in an AA-AAAS.

For example,

- White students participating in the AA-AAAS: 2;
- All white students assessed in the LEA: 250;
- Non-white students participating in the AA-AAAS: 4;
- Non-white students assessed in the LEA: 2000;
- The risk of white students participating in the AA-AAAS is $2/250=0.008=.8\%$;
- The risk of nonwhite students participating in the AA-AAAS is $4/2000=.002=.2\%$;
- Risk ratio= $.8/.2=4.00$; and
- Therefore, white students are 4.00 times more likely than non-white students to participate in the AA-AAAS.

In the event the data reveals any disproportionality in the percentage of students participating in the AA-AAAS, the KDE will address the issues as follows:

- Review LEAs with high rates of disproportionality;
 - As stated in the National Center of Educational Outcomes (NCEO) 2019 brief titled, [Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments](#), “a risk ratio of 1.0 indicates that the proportion of focal group students who are AA-AAAS participants is the same as the focal group who are not AA-AAAS participants. In other words, there is no evidence of disproportionality when the risk ratio is at or very near 1.” The KDE referenced the principles established in the NCEO framework and example provided by NCEO, reviewed Kentucky specific data and determined a 2.0 threshold was appropriate to determine disproportionality;
- Complete desk reviews of student files in the identified subgroup to determine if the decision for a student to participate in the AA-AAAS met regulatory requirements using the [Participation Guidelines for the Kentucky Alternate Assessment Review](#) document;
 - If the decision has not met regulatory requirements and noncompliance is found, the LEA is issued a CAP. The CAP must include a root cause analysis of systemic issues, a statement of noncompliance to be corrected, the steps the LEA will take to correct the problem and how compliance will be documented;
- Provide technical assistance if the decision for a student’s participation in the AA-AAAS did not meet the state criteria for a “significant cognitive disability.” The LEA may seek technical assistance from its SERTAC with the development of the CAP. These activities may include, but are not limited to, the following:
 - Assisting LEAs in developing action steps to correct any disproportionality issues identified;
 - Training for chairpersons of ARC team meetings;
 - Training for special education teachers;
 - Scheduled record reviews of students with disabilities eligible to participate in the AA-AAAS;
 - Training for LEA staff who are ARC members; and
 - Resources for parents of students participating in the AA-AAAS.
- Assist LEAs in developing action steps to correct any issues identified with disproportionality.

To better understand and address any disproportionality in the percentage of students taking an

AA-AAAS, KDE reviews alternate assessment participation rates for each subject area by student group. Tables Eight, Nine and 10 show participation rates by student group from the 2022-2023 and 2023-2024 school years. As shown in the final columns of each table, Kentucky witnessed a reduction in AA-AAAS participation rates for 10 student groups in reading, seven student groups in mathematics and three student groups in science.

Table Eight: AA-AAAS Participation Rates by Student Group, 2022-2023 and 2023-2024 school years, Reading

| Student Group | 2022-2023 | 2023-2024 | Difference from 2022-2023 to 2023-2024 |
|----------------------|------------------|------------------|---|
| African American | 2.24% | 1.33% | -0.91% |
| American Indian | 1.86% | 1.13% | -0.73% |
| Asian | 1.80% | 1.00% | -0.80% |
| Hispanic | 1.77% | 0.94% | -0.83% |
| Pacific Islander | 0.92% | 0.61% | -0.31% |
| White | 2.03% | 1.21% | -0.82% |
| Two or More Races | 1.91% | 1.24% | -0.67% |
| Male | 1.50% | 1.57% | +0.07% |
| Female | 0.81% | 0.80% | -0.01% |
| English Learner | 1.23% | 1.05% | -0.18% |
| Econ. Disadvantaged | 1.53% | 1.51% | -0.02% |

Table Nine: AA-AAAS Participation Rates by Student Group, 2022-2023 and 2023-2024 school years, Mathematics

| Student Group | 2022-2023 | 2023-2024 | Difference from 2022-2023 to 2023-2024 |
|----------------------|------------------|------------------|---|
| African American | 2.22% | 1.33% | -0.89% |
| American Indian | 1.86% | 1.13% | -0.73% |
| Asian | 1.77% | 1.00% | -0.77% |
| Hispanic | 1.70% | 0.95% | -0.75% |
| Pacific Islander | 0.90% | 0.61% | -0.29% |
| White | 2.03% | 1.21% | -0.82% |
| Two or More Races | 1.90% | 1.24% | -0.66% |
| Male | 1.49% | 1.56% | +0.07% |
| Female | 0.80% | 0.80% | - |
| English Learner | 1.10% | 1.08% | -0.02% |
| Econ. Disadvantaged | 1.51% | 1.51% | - |

Table 10: AA-AAAS Participation Rates by Student Group, 2022-2023 and 2023-2024 school years, Science

| Student Group | 2022-2023 | 2023-2024 | Difference from 2022-2023 to 2023- 2024 |
|----------------------|------------------|------------------|--|
| African American | 1.38% | 1.30% | -0.08% |
| American Indian | 1.06% | 0.93% | -0.13% |
| Asian | 0.86% | 1.20% | +0.34% |
| Hispanic | 0.93% | 1.04% | +0.11% |
| Pacific Islander | 1.65% | 0.73% | -0.92% |
| White | 1.14% | 1.24% | +0.10% |
| Two or More Races | 1.06% | 1.20% | +0.14% |
| Male | 1.48% | 1.57% | +0.09% |
| Female | 0.78% | 0.86% | +0.08% |
| English Learner | 1.04% | 1.05% | +0.01% |
| Econ. Disadvantaged | 1.52% | 1.60% | +0.08% |

Appendix A: KDE's news release of public notice and comment period



Press Release

Media Contact: Jennifer Ginn
Director of Communications
Office: (502) 564-2000
jennifer.ginn@education.ky.gov
Advisory 25-180

July 21, 2025

SEEKING PUBLIC COMMENT



KDE seeking public comment on proposed alternate assessment participation waiver

(FRANKFORT, KY) – The Kentucky Department of Education (KDE) is seeking public comment on a request to the U.S. Department of Education (USED) for a

waiver related to the number of students participating in the alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

The AA-AAAS is aligned with alternate academic achievement standards on the annual statewide Kentucky Summative Assessment (KSA).

According to federal law, no more than 1% of the total number of students participating in a statewide assessment may take an AA-AAAS in each tested subject area.

Eligibility data from the 2024-2025 school year shows that slightly more than 1% of Kentucky's students were eligible to participate in AA-AAAS. Under [34 C.F.R. §200.6\(c\)\(4\)](#), if a state anticipates it will exceed the cap for any subject for which assessments are administered in a school year, the state may request that the U.S. Secretary of Education waive the cap for the relevant subject for one year. KDE plans to submit a waiver to USED in reading, mathematics and science.

To receive a waiver, KDE must:

- Gather data on the characteristics of students participating in the AA-AAAS;
- Determine whether only those students who have significant cognitive disabilities are participating;
- Monitor alternate assessment data and request justification from all districts exceeding 1% participation in any subject; and
- Address any disproportionality in the percentage of students taking the alternate assessment.

The [proposed waiver](#) is available on KDE's website. General information on Kentucky's AA-AAAS is available on [KDE's Alternate Kentucky Summative Assessment webpage](#).

The public comment period will be July 21-Aug. 1.

The public may send written comments on the proposed waiver to Carol Ann Morrison, Director, Division of IDEA Monitoring and Results, Office of Special Education and Early Learning, Kentucky Department of Education, 300 Sower Blvd., Fourth Floor, Frankfort, KY 40601.

Comments also may be submitted by email to [Carol Ann Morrison](#), by telephone at (502) 564-4970 or by fax at (502) 564-4124.



Kentucky Department of Education

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Appendix B: Public Comments

| Date | Position | Affiliation | Public comment | KDE Response |
|-------------|---|-------------------------------|---|---|
| 7/21/2025 | Director of Personnel and Human Resources | Graves County School District | I just want to state that I am in favor of this proposal as I have never understood how this federal requirement truly recognizes the needs of the individual student when a cap to address needs exists. It defies logic for the cap to exist, as I have seen instances where students needed more support or had unrealistic expectations set because of this rule. IEP means IEP. This cap defies the entire purpose of an individualized education. | The agency appreciates the comment and recognizes that there may be legitimate reasons for a district to have more than 1% of its student body participating in the AA-AAAS. KDE monitors and assists districts in implementing IEPs that are tailored to meet each student's individual needs. The ARC is the decision-making body that must determine if the student has the “most significant cognitive disability” and meets the participation requirements for the AKSA. |

Appendix C: Action Plan for 2025-2026 Assessment Year

| Action Step | Date |
|--|---|
| Post waiver request for public comment | July 21, 2025 |
| Submit 1.0% Waiver Request for Reading, Math and Science to ED | August 12, 2025 |
| Beginning of the Year (BOY) Training for DoSEs | September 2025 |
| Increase Communication with LEAs via “News You Can Use” | Monthly through the 2025-2026 school year |
| Participation in the NCEO CoP 1% group | Meets biweekly throughout the year |
| ARC members complete HDI Modules | September-October 2025 |
| KDE collects and verifies certificates from HDI modules during monitoring activities | April-May 2026 |
| OAA completes on site visits during the Fall AA-AAAS testing window | November 10-December 19, 2025 |
| Updates/training needs shared with SERTACs | July 11, 2025 |
| KDE representatives attend Low Incidence Task Group meetings | Monthly throughout 2025-2026 school year |
| Root Cause Analysis completed by Low Incidence Task group to develop additional training | Winter 2025 |
| Submit addendum with 2024-2025 assessment data to ED | February 2026 |
| LEAs over 1.0% participation notified and sent Justification Response Form | March 2026 |
| LEAs selected for AA-AAAS monitoring notified | April 2026 |
| AA-AAAS Monitoring via desk reviews | April-May 2026 |
| LEAs with noncompliance notified through a Report of Findings | May 2026 |
| AA-AAAS Participation Rates added to the Risk Assessment Rubric | Spring 2026 |
| End of Year Training for DoSEs | May 2026 |
| Assurances Form sent to all LEAs | June 2026 |

Appendix D: Universal Training Module Outline

| | | |
|---|---|--|
| <p><u>Administrator Track</u></p> <p>Focuses on:</p> <ul style="list-style-type: none"> • How my LEA fits into the bigger picture (Modules 1 and 5) • How my LEA stays compliant with state expectations (Modules 2 and 4) | <p><u>Educator Track</u></p> <p>Focuses on:</p> <ul style="list-style-type: none"> • How what I see and collect in the classroom informs how my student participates in KY assessments (Module 3) • How what I see and collect in the classroom informs the completion of the LCI (Module 4) | <p><u>Annual Review for ARC Members Module</u></p> <p>Refresher module focuses on:</p> <ul style="list-style-type: none"> • How to complete the participation guidelines • How what I see and collect in the classroom informs how my student participates in KY assessments • How what I see and collect in the classroom informs the completion of the LCI |
|---|---|--|

| | | | | |
|---|--|--|---|--|
| <p><u>Module 1</u> <u>The KY 1% Alternate Assessment waiver</u></p> <ul style="list-style-type: none"> • Change in reporting requirement • Communicating with LEA staff | <p><u>Module 2</u> <u>Completing the Participation Guidelines</u></p> <ul style="list-style-type: none"> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. Modification • How to use the Participation Guidelines for determination | <p><u>Module 3</u> <u>Preparing for the ARC- Participation Guidelines</u></p> <ul style="list-style-type: none"> • Defining a significant cognitive disability • How students participate in KY assessments • Accommodation vs. modification • How to prepare to answer the Participation Guidelines 4 criterion | <p><u>Module 4</u> <u>Completing the Learner Characteristics Inventory</u></p> <ul style="list-style-type: none"> • Purpose and use • Guidance on answering each question | <p><u>Module 5</u> <u>Understand Your LEAs alternate assessment population in relation to the CAP</u></p> <ul style="list-style-type: none"> • Data sources that could be used • LEA comparisons • Red flags to explore |
|---|--|--|---|--|