



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Stephen L. Pruitt  
Commissioner of Education  
Kentucky Department of Education  
300 Sower Boulevard  
Frankfort, KY 40601

October 27, 2017

Dear Commissioner Pruitt:

I am writing in response to Kentucky's request on August 7, 2017, for 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), of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State. Kentucky requested this waiver because, based on State data for the 2015—2016 school year, the Kentucky Department of Education has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017—2018 school year.

After reviewing Kentucky's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, the following waiver for school year (SY) 2017—2018:

- A waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in a subject.

As part of this waiver, Kentucky assured that the State educational agency (SEA):

- Will continue to meet all other requirements of section 1111 of the ESEA and implementing regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Assessed in the prior SY (2016—2017) at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which an assessment is required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State, and it will make such information publicly available.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR 200.6(d) (with the exception of incorporating principles of universal

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design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

- Will implement, consistent with the plan submitted in Kentucky’s waiver request, the system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

In addition, approval of this waiver is conditioned on Kentucky submitting data on the number and percentage of students in each subgroup that took an AA-AAAS in SY 2016—2017 by October 30, 2017.

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 Millie Bentley-Memon of my staff at [OSS.Kentucky@ed.gov](mailto:OSS.Kentucky@ed.gov).

Sincerely,

/s/

Jason Botel  
Acting Assistant Secretary

cc: Gretta Hylton, Director, Division of Learning Services, Kentucky Department of Education  
Rhonda Sims, Director, Office of Assessment & Accountability, Kentucky Department of Education