



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Johnny Key
Commissioner of Education
Arkansas Department of Education
Four Capitol Mall, Room 304A
Little Rock, AR 72201-1071

March 4, 2019

Dear Commissioner Key:

I am writing in response to the Arkansas Department of Education's (ADE) request on December 7, 2018, for an extension of the State's 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. ADE requested this waiver because, based on State data for the 2017-2018 school year, ADE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2018-2019 school year.

After reviewing ADE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, an extension, for school year 2018-2019, of the State's 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, ADE assures that the State:

- 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 school year (2017-2018) 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 design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

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

In addition, I note that the State demonstrated progress in carrying out the plan you submitted originally requested this waiver. I also note that ADE made progress in reducing the number and percentage of students taking an AA-AAAS in 2017-2018 compared to 2016-2017.

In addition, I want to remind you of the requirement in 34 CFR § 200.6(c)(3)(iv) that the State must make publicly available the information submitted by an LEA justifying the need of the LEA to assess more than 1.0 percent of its students on the AA-AAAS, provided that such information does not reveal personally identifiable information about an individual student. I also encourage you to make available your State's plan and timeline and your progress to date in reducing the percentage of students taking the AA-AAAS.

I appreciate the work you are doing to improve your schools and provide a high-quality education for students. If you have any questions, please contact my staff at OSS.Arkansas@ed.gov.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

cc: Matt Sewell, Associate Director, Special Education Unit, ADE