



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 20, 2018

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

Dear Commissioner Key:

I am writing in response to the Arkansas Department of Education's (ADE) request on December 18, 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, 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 2016-2017 school year, ADE 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 ADE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, the following waiver for school year 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 reading/language arts and mathematics.

As part of this waiver, ADE assures that the State educational agency:

- 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.
- 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 C.F.R. 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.

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 Joseph Lee Suh of my staff at [OSS.Arkansas@ed.gov](mailto:OSS.Arkansas@ed.gov).

Sincerely,

/s/

Jason Botel,  
Principal Deputy Assistant Secretary, Delegated the  
Authority to Perform the Functions and Duties of the  
Assistant Secretary of Elementary and Secondary  
Education

cc: Lisa Tyler, Associate Director, Special Education Unit, ADE  
Robin Stripling, Curriculum and Assessment Coordinator, Special Education Unit, ADE