



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Wayne D. Lewis, Jr.  
Commissioner of Education  
Kentucky Department of Education  
300 Sower Boulevard  
Frankfort, KY 40601

January 31, 2019

Dear Commissioner Lewis:

I am writing in response to the Kentucky Department of Education's (KDE) request on August 7, 2018, and the State's addendum to the request on November 1 and 6, 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. KDE requested this waiver because, based on State data for the 2017-2018 school year, KDE 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 KDE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2018-2019, a one-year extension 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 reading/language arts, mathematics and science. KDE demonstrated substantial progress in carrying out the plan that was submitted when the State initially requested this waiver a year ago.

As part of this waiver, KDE assured that it:

- 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

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

- Will submit its analysis of disproportionality data for the 2017-2018 school year to the Department once those data are available.
- Will implement, consistent with the plan submitted in KDE's waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 percent cap.

I note that Kentucky made progress in reducing the percentage of students taking an AA-AAAS in mathematics but not in reading/language arts or science. I am granting this extension despite the fact that Kentucky has yet to demonstrate progress in reducing the percentage of students taking an AA-AAAS in each subject. Given the significant work underway, I expect to see the results of these efforts in the 2018-2019 school year and beyond. Beginning next year, any request for an extension of this waiver will be contingent on both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS.

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 your students. If you have any questions, please contact my staff at [OSS.Kentucky@ed.gov](mailto:OSS.Kentucky@ed.gov).

Sincerely,

/s/

Frank T. Brogan,  
Assistant Secretary  
for Elementary and Secondary Education

cc: Gretta Hylton, Director, Division of Learning Services, Office of Teaching and Learning