



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

**JAN 15 2019**

The Honorable John White  
State Superintendent  
Louisiana Department of Education  
PO Box 94064  
Baton Rouge, LA 70804-9064

Dear Superintendent White:

I am writing in response to the Louisiana Department of Education's (LDOE) request on November 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. LDOE requested this waiver because, based on State data for the 2017-2018 school year, the LDOE 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 LDOE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, an extension, for school year (SY) 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, LDOE assured 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.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202  
<http://www.ed.gov/>

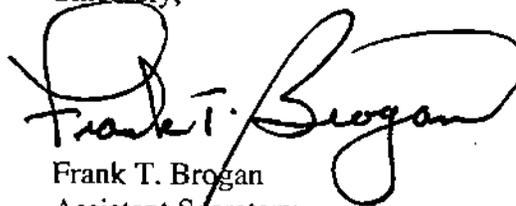
*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

- Will implement, consistent with the plan submitted in LDOE’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 Louisiana made progress in reducing the number and percentage of students taking an AA-AAAS in 2017-2018 compared to 2016-2017.

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 Brenda Calderon of my staff at [OSS.Louisiana@ed.gov](mailto:OSS.Louisiana@ed.gov).

Sincerely,

A handwritten signature in black ink that reads "Frank T. Brogan". The signature is written in a cursive style with a large, looping initial "F".

Frank T. Brogan  
Assistant Secretary  
for Elementary and Secondary Education

cc: Jamie Wong, State Director, Special Education



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TO: Ruth Ryder  
Acting Director, Office of Special Education Programs  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education

Patrick Rooney  
Deputy Director, Office of State Support  
Office of Elementary and Secondary Education  
U.S. Department of Education

FROM: Jamie Wong  
State Director, Special Education  
Louisiana Department of Education

DATE: November 6, 2018

SUBJECT: Waiver Request for the Cap on the Percentage of Students Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Standards in English Language Arts and Mathematics

The Every Student Succeeds Act (ESSA) amended a provision of Title I of the Elementary and Secondary Education Act of 1965 related to students participating in alternate assessments of each state education agency's (SEA's) statewide assessment. ESSA requires SEAs to submit a waiver request to the U.S. Department of Education (USDOE) if the SEA anticipates that more than 1.0 percent of students will participate in the alternate assessment for any tested subject in the upcoming school year. The USDOE will review the waiver request, and if granted, will waive the cap for that subject, pursuant to ESEA section 8401, for one year.

The Office of Special Education and Rehabilitative Services and the Office of Elementary and Secondary Education outlined specific requirements that SEAs must meet when submitting a waiver request in a May 16, 2017 [memorandum](#) and an August 27, 2018 [memorandum](#) to SEAs. This waiver request reflects those requirements.

**Louisiana Believes**



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The Louisiana Department of Education (LDOE) conducted an extensive review of data from Louisiana’s statewide assessments for the 2017-2018 school year to determine if LDOE anticipated that the rate of students participating in the alternate assessment aligned with alternate academic achievement standards would exceed the 1.0 percent participation cap, at the state level, during the 2018-2019 school year. Based on this review, the LDOE concluded that over 1.0 percent of students participated in alternate assessment for English language arts (ELA) and mathematics, and less than 1.0 percent of students participated in the alternate assessment for science. As a result, the LDOE anticipates that it will exceed the 1.0 percent state-level cap on students participating in the alternate assessment for the 2018-2019 school year in ELA and mathematics. This waiver reflects information and actions specific to ELA and mathematics.

## State-level Data on the Participation of Students to Show the Number and Percentage of Students Who Took the Alternate Assessment

Louisiana follows the federal participation requirement that the achievement of at least 95 percent of all students is measured through a statewide assessment. For the 2017-2018 school year, Louisiana’s participation rate for all students was 99.7 percent on ELA assessments and 99.6 percent on mathematics assessments. The participation rate for students with disabilities was 99.4 percent for both ELA and mathematics assessments, which ensures that statewide assessment results measure progress for all children.

Table 1: *Participation Rate for Statewide Assessments, All Students and Students with Disabilities in ELA and Mathematics for the 2017-2018 School Year (Preliminary Results)*

Subject	All Students Tested	All Students Enrolled	Participation Rate
ELA	362,908	364,094	99.7%
Mathematics	362,120	363,411	99.6%
Subject	Students with Disabilities Tested	Students with Disabilities Enrolled	Participation Rate
ELA	42,612	42,851	99.4%
Mathematics	42,594	42,843	99.4%



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Students in grades 3-8, and high school take either the general statewide assessment, the Louisiana Educational Assessment Program (LEAP) 2025, or the alternate assessment, which is transitioning from the LEAP Alternate Assessment, Level 1 (LAA1) to the LEAP Connect assessment. Students in high school take the LEAP 2025, end of course exams (EOC), or the LEAP Connect and LAA1 assessment. Students who take the general statewide assessment are measured in ELA, mathematics, science, and social studies. Students who take the alternate assessment are measured in ELA, mathematics, and science. Tables 2 and 3 below shows the participation of students in the general statewide assessments and aligned alternate assessments, by subject, for the 2017-2018 school year.

Table 2: *Students Assessed on Statewide Assessments (3-8, HS), Including the Alternate Assessment, in ELA for the 2017-2018 School Year (Preliminary Results)*

	Number Participating in Statewide Assessment (All Tested)	Number Participating in Alternate Assessment (Alternate Tested)	Percent Participating in Alternate Assessment
All Students	362,908	4,775	1.3%
Black or African- American	158,814	2,610	1.6%
White	163,012	1,778	1.1%
Hispanic	23,785	223	0.9%
Economically Disadvantaged	253,776	3,975	1.6%
English Language Learner	10,550	87	0.8%
Homeless	7,183	115	1.6%



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Table 3: *Students Assessed on Statewide Assessments (3-8, HS), Including the Alternate Assessment, in Mathematics for the 2017-2018 School Year (Preliminary Results)*

	Number Participating in Statewide Assessment (All Tested)	Number Participating in Alternate Assessment (Alternate Tested)	Percent Participating in Alternate Assessment
All Students	362,120	4,742	1.3%
Black or African-American	158,328	2,592	1.6%
White	162,809	1,766	1.1%
Hispanic	23,742	223	0.9%
Economically Disadvantaged	253,899	3,943	1.6%
English Language Learner	10,528	87	0.8%
Homeless	7,293	115	1.6%

## **Request for a Waiver 90 Days Before Alternate Assessment Testing Window for the Relevant Subject**

Pursuant to 34 C.F.R. § 200.66(c)(4), the LDOE is seeking a waiver for ELA and mathematics alternate assessment cap for the 2018 - 2019 school year. The LDOE has one testing window for the alternate assessment during the spring of each school year which begins on February 4, 2019 and concludes on March 15, 2019. The LDOE is submitting this request 90 days prior to the start of the testing window.

## **Assurance from the SEA that if Verified Specific Information for Each LEA that Exceeded the 1.0 Percent Threshold**

The LDOE reviewed alternate assessment participation data for the state and each local education agency (LEA). At the state level, the LDOE concluded that 1.3 percent of students participated in the ELA



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mathematics alternate assessments. Less than 1.0 percent of students participated in the science alternate assessment. The LDOE used 2017 - 2018 school year assessment results to determine that 100 of 182 LEAs—50 of 69 traditional LEAs and 50 of 113 charter LEAs—exceeded the 1.0 percent participation threshold in one or more tested subjects. The LDOE provided every LEA in the state with statewide assessment data, including alternate assessment participation data. If the participation rate exceeded the 1.0 percent participation threshold, the LEA was required to take additional actions. Each LEA:

- Provided written justification describing the specific reason(s) the percentage of students taking the alternate assessment exceeded 1.0 percent of eligible students;
- Provided written assurance that the LEA followed the State's [guidelines](#) (described further below) for participation in the alternate assessment; and
- Provided written assurance that the LEA would address any disproportionality in the percentage of students in any subgroup taking an alternate assessment.

The LDOE received justifications and assurances from each LEA that exceeded the alternate assessment participation threshold. These justifications will be publically available on the LDOE website, provided they did not reveal personally identifiable information about individual students, in Fall 2018. Justifications from the prior year's waiver request were publicly posted in Fall 2017 and can be found [here](#).

## **Evidence of Substantial Progress from 2016-2017 to 2017-2018 School Year**

As a result of the LDOE's actions to improve implementation of the State's guidelines, provide effective monitoring and oversight, and address any disproportionality, Louisiana's alternate assessment participation rate declined from 1.5 percent on the ELA alternate assessment and 1.6 percent on the mathematics alternate assessment in the 2016-2017 school year, to 1.3 percent on both the ELA and mathematics assessments in the 2017-2018 school year. These outcomes demonstrate substantial progress towards achieving each component of the prior year's plan and timeline, as outlined in the sections below.

## **The SEA's Plan and Timeline to Improve Implementation of State Guidelines**

Louisiana's alternate assessment was developed for students for whom there is evidence of a disability or multiple disabilities that significantly impact cognitive functioning and/or adaptive behavior. In order to participate in an alternate assessment, a student must meet three criteria:



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1. The student's cognitive and/or adaptive behavior is assessed and the student is functioning: a) 3 or more standard deviations below the mean; b) between 2.3 and 2.9 standard deviations below the mean and has completed fifth grade; or c) between 2.0 and 2.29 standard deviations below the mean and has completed fifth grade, with additional documentation required;
2. The student requires extensive modified instruction to acquire, maintain, generalize, demonstrate and transfer skills across academic areas; and
3. The decision to include the student in the alternate assessment is not solely based on factors such as placement, attendance rate, behavior, or other factors outlined in the participation guidelines.

## Progress Towards Achieving the Plan to Improve Implementation of State Guidelines

Last year, the LDOE outlined a plan to improve implementation of state guidance through oversight, monitoring, and technical assistance. Based on targeted monitoring results (described in greater detail below), the LDOE focused on improving the understanding and implementation of the State's participation criteria. The LDOE took the following actions:

- Required all school systems to document cognitive and adaptive evaluation results, including the name of the assessment, date administered, and standard deviation, in the statewide system for IEPs, known as the Special Education Reporting (SER) system. SER then prepopulates those results in the IEP form where IEP teams document whether a student meets the the State's eligibility criteria. This provides IEP teams with clear, transparent data to make better informed decisions. Previously, IEP teams would have to locate and interpret paper-based evaluation results. SER enhancements were deployed in July 2018 and school systems have until January 4, 2019 to document evaluation results for all students who will be assessed on the alternate assessment.
- Provided training and support to school systems across the state to clarify the state' eligibility criteria and SER evaluation documentation requirements including:
  - Targeted webinars in July 2018 (click [here](#)) and October 2018 (click [here](#)). Targeted webinars on alternate assessment participation are in-depth trainings for special education leaders and practitioners who need guidance and support on implementation on the State's criteria.
  - In person collaboration sessions at four locations (Harvey, Ruston, and Baton Rouge two times) across the state in September 2018 (click [here](#) for presentation materials and [here](#) for more information on Teacher Leader Collaborations). Teacher Leader Collaborations provide leaders and educators with the supports and resources they need to raise the bar for students in Louisiana.



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- Recurring presentations at monthly Special Education Leader webinars (for examples, click [here](#) and [here](#)). Special Education Leader webinars bring together special education directors, coordinators, and other special education leaders for updates on key initiatives across the agency and targeted information on special education-related priorities.
- Recurring notices during monthly School System Planning Calls (for examples, click [here](#), slide 41 and [here](#), slide 57). School System Planning Calls provide school system leaders with key updates and information needed for the current month, or near future. Key participants include chief academic officers, assessment coordinators and curriculum directors.
- Recurring notices through weekly newsletters (for an example, click [here](#), for all archived newsletters click [here](#)). Weekly newsletters provide school system leaders and practitioners detailed information on upcoming events and important deadlines.
- Provided additional guidance to school systems (click [here](#)) and IEP teams (click [here](#)) to understand whether participation in the alternate assessment is the appropriate based on the State's guidelines, and the student's unique needs and educational goals.
- Provided individualized support to school systems when monitoring results of student-level files indicated IEP teams decisions were not consistent with the State's alternate assessment participation criteria

## Additional Plan and Timeline to Improve Implementation of State Guidelines

To continue progress in improving the implementation of state guidelines, the LDOE has convened a team of experts from across the state to review and, if necessary, revise the State's guidelines for participation in the alternate assessment. The team is conducting its work during Fall 2018, and will provide recommendations at the November 2018 Special Education Advisory Panel (SEAP) meeting and the December 2018 Board of Elementary and Secondary Education (BESE) meeting. Based on the results of the BESE meeting, the LDOE will develop a plan to implement policy changes beginning in the 2018-2019 school year and continuing through the 2019-2020 school year.



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## **The SEA's Plan and Timeline to Provide Support and Oversight to each LEA that the State Anticipates Will Exceed the 1.0 Percent Threshold**

### Progress Towards Achieving the Plan to Provide Support and Oversight

In the 2017-2018 school year, the LDOE completed targeted alternate assessment monitoring of over 50 school systems (both traditional districts and charter schools) that exceeded 1.0 percent participation in the alternate assessment. In the school systems, the LDOE monitored approximately 300 student-level files. The LDOE reviewed evidence to verify if school systems met specific criteria outlined by the USDOE ESSA waiver guidance and state eligibility policy, including:

- Evidence of a school system-level disproportionality review and a summary of the school systems results of this review;
- Evidence to verify that monitored students met the State's eligibility criteria including, but not limited to, current IEPs and current evaluations containing cognitive and/or adaptive assessment results, current IEPs with evidence of curriculum and goals aligned to Louisiana Connector standards, and evidence that assessment decisions are not based on factors (absences, disruptive behavior, English language status, etc.) outlined in the State's criteria.

When the LDOE could not verify the monitored student file met the State's eligibility criteria, the school system was placed on a corrective action plan (CAP). In order to exit a CAP, school systems are required to correct the instances of noncompliance, submit evidence that student-level noncompliance was remedied, and address any systemic issues related to the noncompliance. All school systems placed on an alternate assessment CAP successfully completed the corrective actions and exited the CAP by Fall 2018.

### Additional Plan and Timeline to Provide Support and Oversight

The LDOE reviewed alternate assessment participation data for the State and each LEA and took a series of specific actions to provide support and oversight to all LEAs to ensure that only students with the most significant cognitive disabilities participate in an alternate assessment. The LDOE disseminated data to every LEA in the State on alternate assessment and general statewide assessment participation for ELA, math, and science in the 2017-2018 school year, including:

- LEA-level participation figures on the general statewide assessments for all students



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- LEA-level participation figures and participation rates on the alternate assessment for all students
- LEA-level participation figures on the general statewide assessments for each of the State's ESSA subgroups including major racial/ethnic groups, and economically disadvantaged, limited English proficient and homeless students
- LEA-level participation figures and participation rates on the alternate assessment for each of the State's ESSA subgroups including major racial/ethnic groups, and economically disadvantaged, limited English proficient, and homeless students
- School-level participation figures on the general statewide assessments for all students, when applicable
- School-level participation figures and participation rates on the alternate assessments for all students, when applicable

All LEAs were required to review their alternate assessment participation data for the 2017-2018 school year. The LDOE anticipates that any LEA that exceeded the 1.0 percent participation threshold in the 2017-2018 school year will also exceed the threshold in the 2018-2019 school year, unless they experience significant student population changes. Those LEAs were required to submit a written justification and take additional required actions.

To provide immediate support to LEAs that exceeded the 1.0 percent alternate assessment participation threshold, the LDOE hosted a webinar in October 2018 to review the requirements for alternate assessment participation under ESSA, review alternate assessment participation data, provide guidance for determining disproportionality, provide guidance to enforce the State's alternate assessment participation guidelines, and provide additional guidance and support on other required actions.

In the 2018-2019 school year, the LDOE is adding an alternate assessment self-assessment domain to the "IDEA Self-Assessment Monitoring Guide". The self-assessment provides school systems with a structured review protocol to identify whether student-level files are compliant with the State's participation criteria. School systems engage in an analysis that reveals the strengths and weaknesses of the local special education program by evaluating its impact on student achievement. When completed with fidelity, the self-assessment helps school systems identify the root causes of performance and compliance issues.

In addition, the LDOE plans to provide oversight to every LEA that exceeds 1.0 percent alternate assessment participation threshold during Spring 2019 through a waiver process. Earlier this year, BESE approved changes to the State's education accountability policy to require any school system with more than 1.0 percent of students participating in an alternate assessment to request a waiver. The LDOE will



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review waiver requests for compliance with state policy and guidance. If the LDOE finds instances of noncompliance, it may impact the school systems accountability results. This waiver does not “cap” the percentage of students who can participate in an alternate assessment. Instead, it builds in a process to ensure students meet the State's eligibility criteria so they are participating in the most appropriate assessment of their knowledge.

## **The SEA’s Plan and Timeline to Address any Disproportionality in the Percentage of Students Taking an Alternate Assessment**

### Progress Towards Achieving the Plan to Address Disproportionality

At the state-level, the LDOE compared the participation rate across the tested subjects for ESSA subgroups. While participation rates across ESSA subgroups did not raise to the level of disproportionality, the LDOE believes that much work remains to ensure that IEP teams are positioned to make well-informed decisions on a student’s participation in the alternate assessment, based on the State's guidelines and the student’s educational goals.

At the LEA-level, In the 2017-2018 school year, the LDOE completed targeted alternate assessment monitoring of over fifty school systems (both traditional districts and charter schools) that exceeded 1.0 percent participation in the alternate assessment. In the school systems, the LDOE required LEAs to submit evidence of a school system-level disproportionality review and a summary of the school systems results of this review, including:

- a list of individuals (with titles) involved in the disproportionality review,
- the date(s) the review took place,
- the outcome of the review, including any subgroups in which the LEA identified disproportionality,
- if disproportionality was found, an action plan with dates

The LDOE reviewed evidence as part of the alternate assessment monitoring process.

### Additional Plan and Timeline to Address Disproportionality

To determine if disproportionality of students participating in the alternate assessment of Louisiana's statewide assessments exists, the LDOE will analyze the participation of students taking the alternate assessment in each of the following subgroups outlined in the State’s ESSA Plan:

- Major racial / ethnic groups including Black or African-American, White, and Hispanic



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- Economically disadvantaged status
- English language learner status
- Homeless status

The LDOE will review disproportionality at the state-level and require each LEA that exceeded the 1.0 percent participation threshold to review disproportionality at the LEA-level during the 2018-2019 school year.

At the state-level, the LDOE will compare the participation rate across the tested subjects for ESSA subgroups. If the LDOE determines disproportionality exists across the state, it will take additional action to address. This may include reviewing and refining guidance to LEAs, conducting additional targeted monitoring, and/or providing additional training and support to LEAs. The LDOE will conduct a review of disproportionality in the fall and winter of the 2018-2019 school year and will take additional actions, if warranted, in the spring of the 2018-2019 school year and the summer of 2019.

At the LEA-level, the LDOE is requiring every LEA that exceeded the 1.0 percent participation threshold for the alternate assessment in the 2017-2018 school year to provide assurance that they would review disproportionality of the subgroups included in the State's ESSA plan. During an October 2018 webinar, the LDOE provided additional guidance to LEAs to conduct that review including guidance on comparing ESSA subgroups for disproportionality. The agency instructed LEAs to convene a team of knowledgeable individuals to conduct the review, to develop a plan of action and execute that plan if disproportionality existed, and to maintain documentation of the review and plan for monitoring purposes. The LDOE will review these actions and may provide additional targeted follow-up and support based on the unique needs of each LEA monitored.

Results from the state-level and LEA-level disproportionality reviews will inform additional oversight and support to LEAs to ensure equity in access and participation of students with significant cognitive disabilities in the alternate assessment.

## **Notice of Intent for Public Comment**

SEAs are required to include evidence that the State requesting the waiver provided notice and reasonable opportunity for the public and LEAs to comment and provide input on the request.

- The LDOE posted a notice of intent to request a waiver on its website. It also disseminated information of the notice of intent including the call for public comment during the Special Education Advisory Panel meeting on September 26, 2018, during a monthly Special Education Leader's webinar on October 4, 2018 and during an alternate assessment webinar on October 9,



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2018. The LDOE's notice of intent for an alternate assessment waiver for public comment can be found [here](#). The notice was posted for over three weeks, in accordance with agency practice for such notices for public comment.

- The LDOE presented information on the alternate assessment waiver request to the Special Education Advisory Panel meeting on September 26, 2018. Materials from that presentation were also made available to the public and can be found in the Special Education Advisory Panel section [here](#). The advisory panel did not receive public comments on the waiver request process or content.
- The LDOE did not receive any comments during the public comment period.

The LDOE believes that its plan and timeline will ensure that only students with the most significant cognitive disabilities, who meet the State's participation guidelines, will participate in the alternate assessment.

We look forward to working with the USDOE to receive a positive response to this request. Please contact the Division of Special Education Policy at [specialeducation@la.gov](mailto:specialeducation@la.gov) with any questions.

We thank you for your shared commitment to Louisiana's students with the most significant cognitive disabilities.

Sincerely,

(b)(6)

Jamie Wong

Director of Special Education

CC: John White, Superintendent of Education  
Bridget Devlin, Chief of Staff  
Jessica Baghain, Assistant Superintendent  
Catherine Pozniak, Assistant Superintendent



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