



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Sheila A. Alles
Interim State Superintendent of Schools
Michigan Department of Education
608 West Allegan Street
Lansing, Michigan 48909

April 12, 2019

Dear Superintendent Alles:

I am writing in response to the Michigan Department of Education's (MDE's) request on January 9, 2019 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. MDE requested this waiver because, based on State data for the 2017-2018 school year, MDE 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 MDE's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for the 2018-2019 school year, 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. MDE 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, MDE 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 universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.
- Will implement, consistent with the plan submitted in MDE's waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid using an AA-AAAS to assess more than 1.0 percent of the total number of tested students in the State.

I am granting this extension in part because Michigan has demonstrated progress in reducing the percentage of students taking an AA-AAAS in each subject. However, Michigan still has some of the highest rates of AA-AAAS participation in the nation. Because of these high rates of AA-AAAS participation, I expect to see the continued efforts to substantially reduce these rates in the 2018-2019 school year and beyond.

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

In practice, a student’s Individualized Education Program (IEP) team follows the State’s participation guidelines to determine whether the AA-AAAS is the most appropriate assessment for a given student. In accordance with 34 CFR § 200.6(d)(1), a State “must establish, consistent with section 612(a)(16)(C) of the IDEA, and monitor implementation of, clear and appropriate guidelines for IEP teams to apply in determining, on a case-by-case basis, which students with the most significant cognitive disabilities will be assessed based on alternate academic achievement standards.” The regulation also includes that such guidelines must include a State definition of “students with the most significant cognitive disabilities.” In our review of MDE’s extension request, we did not find a clear State definition for “students with the most significant cognitive disabilities” in the State’s AA-AAAS participation guidelines.

Beginning next year, any request for an extension of this waiver will be contingent on both continued progress implementing your plan and substantial progress in reducing the percentage of students taking the AA-AAAS. Any request for an extension of the waiver will also be contingent on the development of a clear State definition of “students with the most significant cognitive disabilities” and evidence that the State has incorporated this definition into the State’s AA-AAAS participation guidelines.

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.

Finally, in order to help all States support implementation of the 1.0 percent participation threshold for AA-AAAS participation, the Department is supporting work by the National Center on Educational Outcomes (NCEO) and the Center on Standards and Assessment Implementation (CSAI) to host three Peer Learning Groups (PLGs):

- Digging into Your Data: Building a One Percent Data Analysis and Use Plan
- Guiding and Evaluating District Justifications for Exceeding the One Percent Cap
- Building Capacity of IEP Teams and Parents in Making Decisions about Assessment Participation

If you have questions about any of these PLGs, please contact Susan Hayes, NCEO, at shayes@wested.org or (802) 951-8210.

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.Michigan@ed.gov.

Sincerely,

/s/

Frank T. Brogan
Assistant Secretary
for Elementary and Secondary Education

cc: Teri Chapman, Director of Special Education