



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MAY 17 2019

The Honorable Penny Schwinn
Commissioner of Education
Tennessee Department of Education
Andrew Johnson Tower, 9th Floor
710 James Robertson Parkway
Nashville, TN 37243-0375

Dear Commissioner Schwinn:

I am writing in response to the Tennessee Department of Education (TDOE) request on December 19, 2018, for an extension to its 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 who are assessed in reading/language arts, mathematics and science. TDOE requested this waiver because, based on State data for the 2017-2018 school year, the TDOE 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 TDOE'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 and mathematics. TDOE demonstrated substantial progress in carrying out the plan that was submitted when the State initially requested this waiver a year ago. However, I am denying TDOE's request for a waiver of section 1111(b)(2)(D)(i)(I) of the ESEA to assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in science.

As part of this waiver for reading/language arts and mathematics, TDOE 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 in reading/language arts and mathematics.
- 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.

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 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 Tennessee’s waiver request, the system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

Please note that I am granting this extension despite the fact that Tennessee 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. Tennessee 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.

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.

Regarding science, I am denying TDOE’s request for a waiver of section 1111(b)(2)(D)(i)(I) of the ESEA to assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in science. My reason for denial of the request is that TDOE did not meet the requirement in 34 CFR §200.6(c)(4) that, in order to be eligible for such a waiver, the State must assess at least 95 percent of all students and 95 percent of children with disabilities on the science assessments. In 2017-2018, TDOE assessed less than 95 percent of all students and less than 95 percent of children with disabilities on the science assessment.

If the data TDOE previously reported are erroneous and TDOE can demonstrate that it assessed at least 95 percent of all students and 95 percent of children with disabilities on the science assessments, TDOE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F) and resubmit the revised waiver request to address how it has met the requirements in 34 CFR §200.6(c)(4), including the requirement in 34 CFR §200.6(c)(4)(ii)(B) that the State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the ESEA who are enrolled in grades for which the State is required to administer statewide assessments. If TDOE decides to resubmit, it must do so no later than 60 days from the date of this letter.

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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: Tennessee.OESE@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: Eve Carney, Office of Consolidated Planning and Monitoring



December 19, 2018
Revised February 2, 2019

Dr. Nkemjika Ofodile-Carruthers
Education Program Specialist
Office of State Support | Office of Elementary and Secondary Education | U.S. Dept of Education
400 Maryland Ave, SW | 3W118 | Washington, DC 20202

Dear Dr. Ofodile-Carruthers,

The *Every Student Succeeds Act* (ESSA) amended a provision of Title I of the Elementary and Secondary Education Act of 1965 (ESEA) related to students participating in alternate assessments of each State Education Agency's (SEA's) statewide assessment. The ESSA requires SEAs to submit waiver requests to the United States Department of Education in the event they have more than one (1.0) percent of their students participating in the alternate assessments aligned with alternate academic achievement standards (AA-AAAS). ESEA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) contain requirements for the participation of students with the most significant cognitive disabilities in the AA-AAAS. ESEA section 1111(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an AA-AAAS to 1.0 percent of the total number of students in the state who are assessed in that subject. As described in 34 CFR 200.6(c)(3), a state may not prohibit a local education agency (LEA) from assessing more than 1.0 percent of its assessed students with an AA-AAAS. However, a state must require an LEA that assesses more than 1.0 percent of its assessed students in any subject with an AA-AAAS to submit information to the state justifying the need to exceed the 1.0 percent threshold. States must provide appropriate oversight of each LEA that is required to submit such a justification and must make the justification publicly available, provided that it does not reveal personally identifiable information about an individual student.

The Tennessee Department of Education (TDOE) conducted an extensive review of data from the Tennessee statewide assessment system for the 2017-18 school year and determined that the anticipated participation rates of students taking the AA-AAAS exceeded 1.0 percent of the total tested population. In particular, Tennessee expected to assess 1.44 percent of students on the AA-AAAS for the 2017-18 school year. Therefore, the TDOE applied for and was granted a waiver of section 111(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.

The TDOE then reviewed actual participation rates from the 2017-18 school year. The purpose of the review was to determine if the participation rates of students taking the AA-AAAS exceeded 1.0 percent of the total tested population. Based on the data analyzed, the state, in fact, exceeded the 1.0 percent state cap enacted by the ESSA for school year 2017-18. The actual percentages of students assessed on the AA-AAAS are listed below:

Participation Rate	
Overall participation rate of AA-AAAS by subject	
Subject	Participation rate
English Language Arts (ELA)	1.64%
Math	1.63%
Science	2.12%

Therefore, Tennessee is requesting an extension of the waiver it received on April 12, 2018.

The requirements for an SEA to seek a waiver are set forth at 34 C.F.R. §200.6(c)(4) and are reproduced in bold lettering below. The TDOE is requesting a waiver in response to these requirements because its most recent data on the percentage of students participating in the Tennessee alternate assessment program exceeds 1.0 percent.

B. Requirements for States that Seek a Waiver of the 1.0 Percent Cap on Participation on an AA-AAAS. If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under §200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. The requirements for such waiver requests are summarized below:

In accordance with 34 CFR 200.6 (c)(4), a State waiver request must:

(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;

Pursuant to 34 C.F.R. § 200.6(c)(4), the TDOE is seeking a waiver for all subject areas for the 2018-19 school year from the Secretary for the United States Department of Education. The testing window for the AA-AAAS begins on March 18, 2019. Submission of the TDOE waiver request comes 90 days prior to the start of the first testing window.

(ii) Provide State-level data, from the current or previous school year, to show -
a. The number and percentage of students in each subgroup of students who will take or took the AA-AAAS; and

Participation by subgroup is shown below. These data will help the TDOE understand whether there are:

- LEAs or schools with unusual patterns of participation rates;
- Certain grades in which participation in the AA-AAAS is higher than expected; and
- Potential disproportionality in specific subgroups, and grade levels of students taking alternate assessments.

Subgroup Data Percent of Overall Subgroup Population in State Taking AA-AAAS ELA	
Subgroup	Total Percent Taking AA-AAAS
Gender: Female	1.14% (n=2545)
Gender: Male	2.03% (n=4753)
Economically Disadvantaged	1.95% (n=3284)
English Learner	1.53% (n=329)
Race/Ethnicity: African American	2.10% (n=2291)
Race/Ethnicity: American Indian	(b)(6)
Race/Ethnicity: Asian	1.10% (n=119)
Race/Ethnicity: Hispanic	1.25% (n=632)
Race/Ethnicity: Pacific Islander	(b)(6)
Race/Ethnicity: White	1.49% (n=4226)

Subgroup Data Percent of Overall Subgroup Population in State Taking AA-AAAS Math	
Subgroup	Total Percent Taking AA-AAAS
Gender: Female	1.14% (n=2539)
Gender: Male	2.03% (n=4748)
Economically Disadvantaged	1.95% (n=3277)
English Learner	1.53% (n=327)
Race/Ethnicity: African American	2.10% (n=2288)
Race/Ethnicity: American Indian	(b)(6)
Race/Ethnicity: Asian	1.12% (n=119)
Race/Ethnicity: Hispanic	1.26% (n=632)

Race/Ethnicity: Pacific Islander	(b)(6)
Race/Ethnicity: White	1.49% (n=4218)

Subgroup Data Percent of Overall Subgroup Population in State Taking AA-AAAS Science	
Subgroup	Total Percent Taking AA-AAAS
Gender: Female	0.99% (n=2207)
Gender: Male	1.77% (n=4152)
Economically Disadvantaged	1.70% (n=2864)
English Learner	1.29% (n=277)
Race/Ethnicity: African American	1.71% (n=1854)
Race/Ethnicity: American Indian	(b)(6)
Race/Ethnicity: Asian	0.90% (n=95)
Race/Ethnicity: Hispanic	1.08% (n=545)
Race/Ethnicity: Pacific Islander	(b)(6)
Race/Ethnicity: White	1.35% (n=3843)

*Counts less than 35 students and thus were suppressed per state suppression requirements for public reporting.

- b. That the State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup who are enrolled in grades for which the assessment is required***

Tennessee follows the federal participation requirements for assessment and requires all students enrolled in public K-12 schools be assessed with accommodations, without accommodations, or with AA-AAAS. The only exception to participation for any student is to receive a medical exemption due to an extreme medical necessity. To date, Tennessee has met or exceeded the federal guidelines set at 95 percent participation rate of all students, including students with disabilities in the statewide Tennessee assessment system. The charts representing participation of students with and without disabilities for the 2017-18 school year are included below:

Chart 1

Participation by Assessment Type and Subgroup

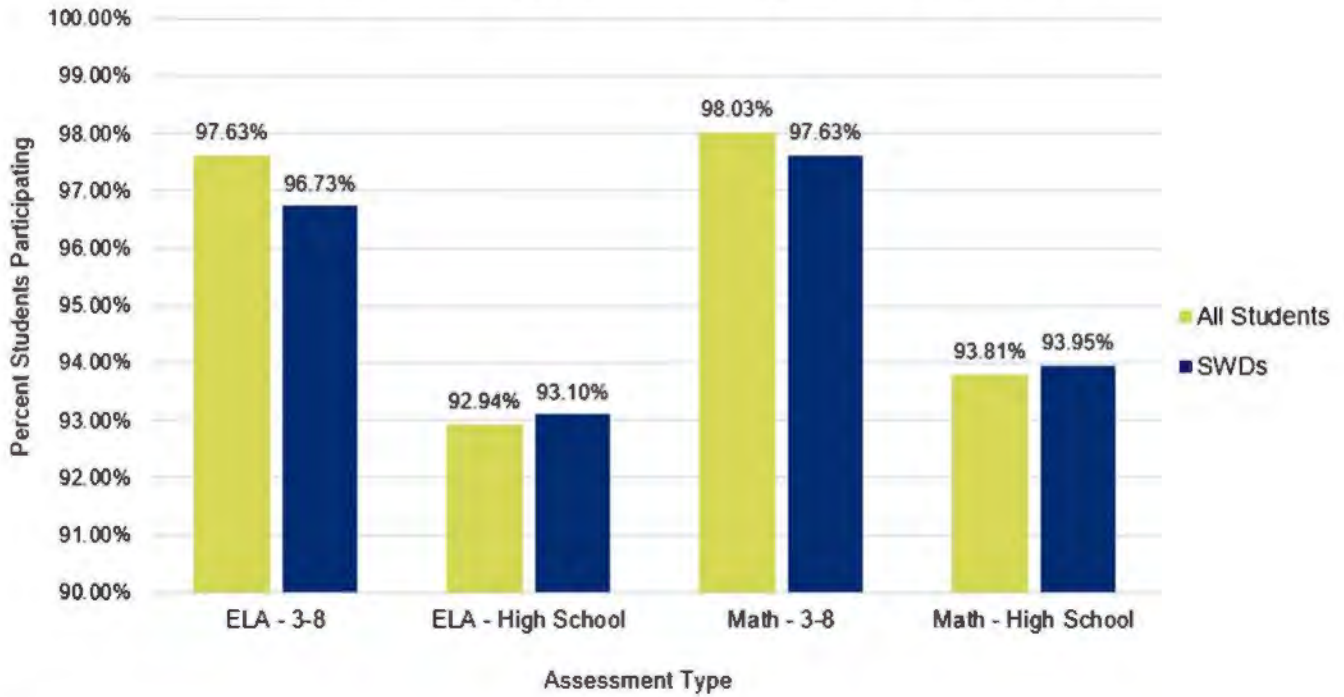
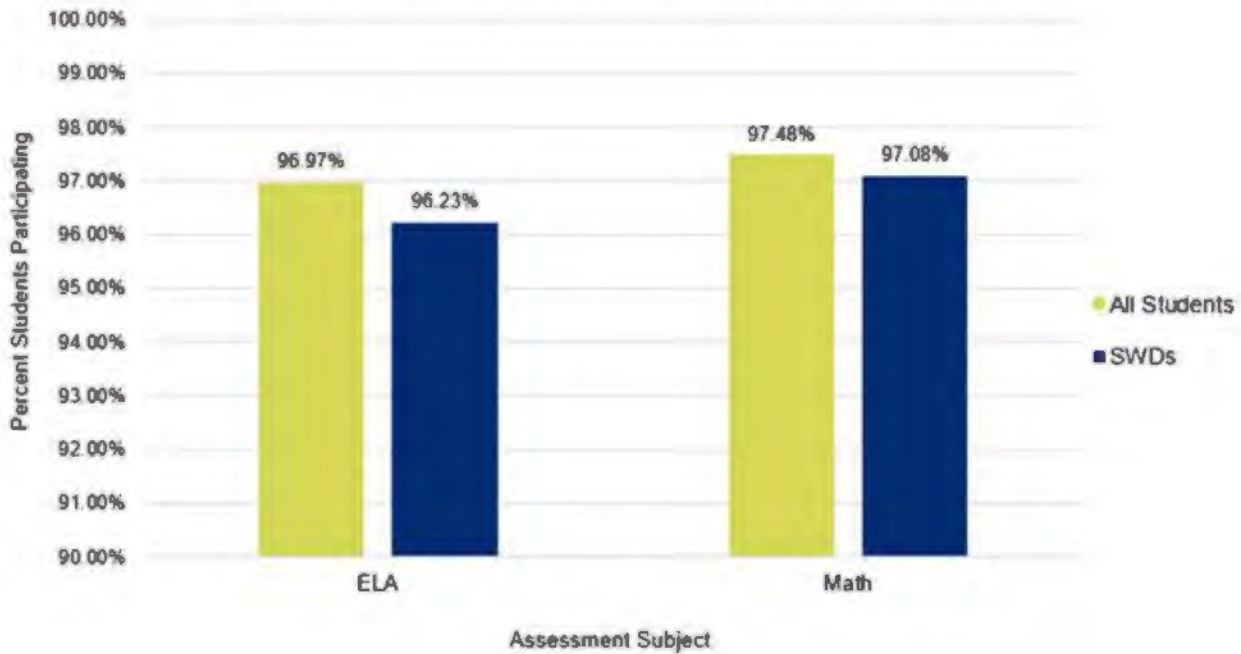


Chart 2

Participation by Assessment Subject and Subgroup



- (iii) **Include assurances from the State that it has verified that each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject using an AA-AAAS-**
- a. Followed the State's guidelines for participation in the AA-AAAS; and**

TDOE staff will conduct a review of LEAs' policies, practices, and procedures related to student participation on the AA-AAAS. After reviewing this information, LEAs will be ranked as requiring global, intermediate, or intensive technical assistance. TDOE will provide technical assistance to LEAs that report inappropriate policies, practices, and procedures in anticipation of those LEAs exceeding the 1.0 percent threshold using a three tier design.

1. Global level technical assistance: This will include a recorded webinar outlining the AA-AAAS criteria, considerations for determination, and link to available resources on the TDOE website.
2. Intermediate level technical assistance: This will consist of regional trainings available to special education leadership within the LEAs. LEAs determined as intermediate level need for support will be required to send at least one LEA special education leader.
3. Intensive level technical assistance: This will consist of an onsite full-day training that includes internal file reviews and development of an action plan. This will be a single LEA training in order to ensure more LEA special education staff can attend and to allow an environment for file reviews and discussion that adheres to student privacy rights. Follow-up will occur within these LEAs through the regional special education consultants.

- b. Will address any disproportionality in the percentage of students in any subgroup taking an AA-AAAS.**

To determine a risk ratio for these various subgroups, the TDOE examined the risk of each subgroup to participate in the AA-AAAS, compared to the risk of students not in the subgroup to participate in the AA-AAAS. The risk analysis of the various subgroups identified if any of the subgroups are more likely than others not in the subgroup to participate in AA-AAAS. The analysis provided the TDOE with information on the student subgroups in order to focus initiatives on reducing the percentage of students participating in this assessment. Using a risk ratio threshold of 2.0, no subgroups were identified as significantly disproportionate. Charts have been provided below delineating the final risk ratios generated for this disproportionality analysis:

Subgroup Disproportionality Data Percent of Overall Subgroup Population in State Taking AA-AAAS ELA	
Subgroup	Final Risk Ratio for Disproportionality
Gender: Female	0.56
Gender: Male	1.78

Economically Disadvantaged	1.40
English Learner	0.96
Race/Ethnicity: African American	1.46
Race/Ethnicity: American Indian	0.65
Race/Ethnicity: Asian	0.68
Race/Ethnicity: Hispanic	0.76
Race/Ethnicity: Pacific Islander	0.86
Race/Ethnicity: White	0.84

Subgroup Disproportionality Data Percent of Overall Subgroup Population in State Taking AA-AAAS Math	
Subgroup	Final Risk Ratio for Disproportionality
Gender: Female	0.56
Gender: Male	1.78
Economically Disadvantaged	1.40
English Learner	0.96
Race/Ethnicity: African American	1.46
Race/Ethnicity: American Indian	0.65
Race/Ethnicity: Asian	0.69
Race/Ethnicity: Hispanic	0.77
Race/Ethnicity: Pacific Islander	0.86
Race/Ethnicity: White	0.84

Subgroup Disproportionality Data Percent of Overall Subgroup Population in State Taking AA-AAAS Science	
Subgroup	Final Risk Ratio for Disproportionality
Gender: Female	0.56
Gender: Male	1.79
Economically Disadvantaged	1.40
English Learner	0.96
Race/Ethnicity: African American	1.32
Race/Ethnicity: American Indian	0.50
Race/Ethnicity: Asian	0.64
Race/Ethnicity: Hispanic	0.76
Race/Ethnicity: Pacific Islander	0.82
Race/Ethnicity: White	0.92

A State’s waiver request must include a plan and timeline by which—

- (i) ***The State will improve the implementation of its guidelines for participation in the AA-AAAS, including by reviewing and, if necessary, revising its definition of students with the most significant cognitive disability, so that the State meets the 1.0 percent cap in each subject for which assessments are administered in future years;***

The TDOE made significant progress in its implementation of the plan outlined in its initial waiver request as indicated below:

Advisory Group

On March 5, 2018, a stakeholder advisory group including special education supervisors, school psychologists, advocates, and parents met with TDOE representatives to examine the alternate assessment eligibility criteria with emphasis on the state definition of “students with the most significant cognitive disabilities”. They also reviewed the TDOE *Alternate Assessment Participation Guidelines* and provided recommendations for revisions. Based on recommendations, revisions were made to the participation guidelines along with the development of criterion decision-making tools¹.

¹ https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_1_Considerations.pdf;
https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_2_Considerations.pdf;
https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_3_Considerations.pdf

Internal Task Force

School districts completed a self-assessment of district policy, practices, and procedures related to participation decisions for the AA-AAAS. Self-assessments for districts projected to contribute to the state exceeding the 1.0 percent cap were reviewed by the internal task force in January 2018. Decision making trends were identified and a webinar was developed to address potential problematic trends (e.g., limited sources of data were identified to help make decisions regarding participation) as well as to review the participation guidelines in general. Districts projected to have more than 1.0 percent participation were required to participate in the webinar which occurred in February 2018. Additionally, an internal task force completed random file reviews of districts identified by multiple indicators as needing additional follow up. Findings from the file review informed the development of additional guidance in the criterion decision-making tolls and in the technical assistance trainings for IEP teams and parents to help determine participation on the AA-AAAS.

The revised guidelines and developed resources were published in August 2018. Training on the guidelines and resources was provided at the statewide TDOE special education supervisor's conference in August 2018 and additional training was provided in December 2018. A training plan for districts contributing to the state exceeding 1.0 percent participation was developed in December 2018 once participation data was available. The training plan provides in person trainings for districts demonstrating higher needs due to participation rates. Additional training resources, including an online course, will be provided to all districts whose participation exceeds 1.0 percent.

Assessment Data

An ongoing analysis of the data, including a review of the business rules used to calculate participation rate, resulted in a more accurate baseline of participation. In calculating participation using the newly refined business rules, the participation percentage appears to have increased, but in reality, is a similar participation rate to prior years. Previous business rules included too many students in the count, thus reducing the AA-AAAS participation artificially. It was determined that new rules needed to be developed in order to provide a valid measure of student participation. Therefore, the increase in student participation appears to be reflection of a change in practice within those business rules and is a more appropriate baseline for the statewide data.

Monitoring

The TDOE's office of consolidated planning and monitoring included AA-AAAS decision making as part of IEP reviews during on-site or desktop monitoring in the fall of 2018.

Next Steps

The TDOE is developing three tiers of technical assistance to address the following:

- Disproportionality in the percentage of students in each subgroup;
- Data analysis of student participation by eligibility;
- Eligibility based on the three criteria:
 - Student eligible under the most significant cognitive disability guidance,
 - Student is participating in instruction aligned to and derived from state standards including ELA, math, science, and social studies

- Student requires extensive, substantial, individualized supports, services, and/or modifications in order to make progress towards state standards and generalize learning.
- Least restrictive environment does not determine nor is it determined by the assessment;
- Available resources, guidance documents, and decision tools.

The TDOE will monitor AA-AAAS data and request justification from LEAs that exceed the 1.0 percent threshold. Longitudinal data will also be utilized in determining the technical assistance need for the LEA. The TDOE will provide professional development opportunities for special education supervisors, IEP team members, and other relevant stakeholders, particularly on the nature of the AA-AAAS and the students who are eligible to participate under the *Alternate Assessment Participation Guidelines*.

- (ii) *The State will take additional steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and implement the guidelines established by the State under paragraph 9d) of this section so that all students are appropriately assessed; and***

The TDOE will take additional steps to support and provide oversight to each LEA that exceeds the 1.0 percent threshold to ensure that only students with the most significant cognitive disabilities participate in the AA-AAAS. An annual review of local LEA data on participation rates in each subject of the AA-AAAS will be conducted. LEAs that exceed the 1.0 percent participation rate will be required to provide the TDOE with a detailed justification for exceeding the 1.0 percent threshold. LEAs with unusual patterns or higher participation rates may require additional examination by the TDOE to determine if there are unique reasons for higher percentages of students participating in the AA-AAAS. The TDOE will implement a targeted monitoring process based on LEAs with the highest level of disproportionality among the various subgroups based on their risk ratios and LEAs with the highest percent of participation.

The district support team in the division of special populations and student support will conduct on-site visits or desktop monitoring to ensure LEAs are utilizing the *Alternate Assessment Participation Guidelines* to make appropriate decisions for students who are participating in the AA-AAAS. Data from the monitoring will be used to develop targeted, content-specific training and support aimed at addressing each LEA's unique needs. For LEAs that continue to exceed the 1.0 percent threshold, a more intensive approach will be taken. The TDOE will provide intensive ongoing training, coaching, and support developed specifically for local special education supervisors and IEP team members to ensure appropriate assessment of all students.

Additionally, the TDOE will provide professional development opportunities for IEP team members and other educators with the focus on understanding the purpose of the AA-AAAS, characteristics of students

who are eligible to participate in the AA-AAAS, and guidance on the determination of a most significant cognitive disability based on the *Alternate Assessment Participation Guidelines*. The TDOE will provide training on the accessibility features and accommodations available for the general assessment, as those features and accommodations enable most students with disabilities to meaningfully participate in the general assessment.

Training will include:

- Using the *Alternate Assessment Participation Guidelines* to make assessment participation decisions;
- Selecting, implementing, and evaluating accessibility features and accommodations for instruction and assessments;
- Differentiating instruction and providing better access to academic content;
- Having high expectations for all students regardless of the category of their disability; and
- Understanding implications of student participation in the AA-AAAS as it applies to the type of diploma the student earns, as well as the student's postsecondary and career pathway.

The TDOE will make informational resources available to parents of students with disabilities so parents can contribute in the IEP decision making process regarding the assessment in which their child participates. The statewide IEP system has been updated to require that teams review the guidance with parents. Additionally, the system will include a signature line indicating that the parent understands that participation on the AA-AAAS means that the child is participating in a curriculum that will not lead to a regular high school diploma.

Additional parent informational resources will include:

- Explanation of the *Alternate Assessment Participation Guidelines*;
- Requirements of the AA-AAAS; and
- Accommodations that enable students to participate in the general assessment.

(iii) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section;

The TDOE will review LEA and school data on current and previous years' AA-AAAS participation rates in each subject area and will analyze the data by subgroup to determine whether disproportionality exists for students participating in the AA-AAAS. In the event the data reveal any disproportionality in the percentage of students taking the AA-AAAS, the TDOE will address the issue as follows:

- The TDOE will provide training on the *Alternate Assessment Participation Guidelines* to LEAs and schools with disproportionality.
- The TDOE will randomly monitor LEAs whose data indicate disproportionality in the percentage of students taking the AA-AAAS. The TDOE will achieve this through a desktop monitoring process of students in the affected subgroups, to determine whether decisions to place students in the AA-AAAS were made according to law.

In the event the decision to place the student on the AA-AAAS was not made pursuant to the applicable regulations and the *Alternate Assessment Participation Guidelines*, the TDOE will direct the LEA to reconsider the student's eligibility for the AA-AAAS.

- C. *Procedures for States that seek a waiver of the 1.0 percent cap on participation on an AA-AAAS. States that anticipate that they will need a waiver from the 1.0 percent cap on AA-AAAS participation should submit the request to the Department at least 90 days prior to the beginning of the testing window for the AA-AAAS.^[5] Each waiver request must be made in accordance with ESEA section 8401(b)(3), which explains that a State must provide the public and any interested LEA in the State with notice and a reasonable opportunity to comment and provide input on the request, in the manner in which the State customarily provides similar notice and opportunity to comment to the public.***

In its request, the State must include:

- (i) *Information regarding each requirement in 34 CFR 200.6(c)(4) (see section B), and***
- (ii) *Evidence that the State provided notice and a reasonable opportunity for the public and LEAs to comment and provide input on the request. This evidence must include:***
 - a. *Evidence or a description of the manner in which that the State provided such notice to the public and interested LEAs;***

The TDOE provided notice to the public and interested LEAs on its request for a waiver on the number of students participating in the AA-AAAS. This information was posted to the TDOE website, shared via TDOE newsletters for special education directors, directors of schools, and assessment coordinators, and disseminated via email to advocacy groups and partners.

- b. *Copies of all comments that the State received from LEAs in response to this notice, with a description of how the State addressed the comments; and***

During the public comment period, the department did not receive any written comments.

- c. *Evidence that the State also provided notice and a reasonable opportunity to comment to the public and LEAs in the manner in which the State customarily provides similar notice and opportunity to comment.***

The TDOE sought public comment on its request for a waiver on the number of students participating in the AA-AAAS. The notice for public comment was posted to the TDOE website, shared via TDOE newsletters for special education directors, directors of schools, and assessment coordinators, and disseminated via email to advocacy groups and partners. The notice for public comment can be found in *Attachment 1*.

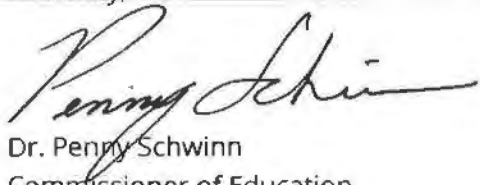
The TDOE believes its plan of:

- identifying LEAs with more than 1.0 percent of its students taking the AA-AAAS;

- providing training and technical assistance to LEAs to ensure appropriate decisions for participation in the AA-AAAS are made by IEP teams;
- identifying LEAs with subgroups that disproportionately participate in the AA-AAAS; and
- monitoring LEAs with more than 1.0 percent of their students participating in the AA-AAAS will act to reduce the percentage of Tennessee students participating in the AA-AAAS to the 1.0 percent limit required by ESSA.

Please contact Theresa Nicholls at Theresa.Nicholls@tn.gov or via phone (615) 253-2112 to discuss the content of this waiver request or to get any questions addressed. We look forward to working with the United States Department of Education staff to achieve a positive response to the request.

Sincerely,



Dr. Penny Schwinn
Commissioner of Education

[5] 34 CFR 200.6(c)(4)(i)
