

KENTUCKY DEPARTMENT OF EDUCATION PUBLIC NOTICE AND COMMENT PERIOD

WAIVER REQUEST PURSUANT TO [34 CFR. §200.6\(c\)\(4\)](#)

July 28, 2021 through August 11, 2021

Pursuant to [34 CFR §200.6\(c\)\(4\)](#), the Kentucky Department of Education (KDE) will seek to extend a waiver for the 2021-2022 school year from the Secretary for the United States Department of Education. The regulation in question, found at [34 CFR. §200.6\(c\)\(2\)](#), requires State Education Agencies to limit the total number of students assessed in a subject area using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). The limit on the percentage of students assessed by the AA-AAAS is set by the federal regulation, stating the total number of students assessed with the AA-AAAS per subject area shall not exceed 1.0%.

Specifically, [34 CFR §200.6\(c\)\(2\)](#) provides:

“For each subject for which assessments are administered under [34 CFR §200.2\(a\)\(1\)](#), the total number of students assessed in that subject using an AA-AAAS under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.”

NOTICE OF PUBLIC COMMENT PERIOD: Any individual or organization may submit written comments on the proposed waiver pursuant to [34 CFR §200.6\(c\)\(4\)](#). Written comments shall be accepted through August 11, 2021.

You may send written comments on the proposed waiver to: Sylvia Starkey, Director, Division of IDEA Monitoring and Results, Office of Special Education and Early Learning, Kentucky Department of Education, 300 Sower Boulevard, Fourth Floor, Sower Building, Frankfort, KY 40601.

Comments may also be submitted electronically mailed to Sylvia.Starkey@education.ky.gov. Also, comments may be submitted by telephone at (502) 564-4970 extension 4118, or by fax at (502) 564-4124.

The requirements for a State Education Agency to seek a waiver are set forth at [34 C.F.R §200.6\(c\)\(4\)](#) and are reproduced below. The KDE is requesting to extend a waiver previously granted by the United States Department of Education because its most recent data (2020-2021 preliminary data) on the percentage of students taking Kentucky’s AA-AAAS in all subject areas is at least 1.0% (*see Table 1*).

The waiver requirements are in bold lettering below.

**Kentucky 1.0% Request to Extend Waiver for
Reading, Mathematics and Science**
ESSA section 1111(b)(2)(D) and 34 CFR §200.6(c) and (d)
Submission to United States Department of Education
August 17, 2021

In accordance with [34 CFR 200.6\(c\)\(4\)](#), Kentucky is providing evidence of all requirements to extend Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science.

Requirement 1 (34 C.F.R §200.6(c)(4) Submission 90-Days Prior to State Testing Window Opening

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

The KDE is submitting a waiver extension request to the United States Department of Education (ED) 90 days prior to the start of the testing window for the alternate assessment aligned with alternate Academic achievement standards (AA-AAAS).

Kentucky’s statewide assessment – the Kentucky Performance Rating for Educational Progress (K-PREP) first of two assessment windows for the AA-AAAS for students with significant cognitive disabilities is scheduled to begin on November 15, 2021 or later.

Evidence of Progress

The KDE sought public comment for the *Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science*. The public was notified through a press release that the public comment period was open Wednesday, July 18, 2021 through Wednesday, August 11, 2021. The press release was posted on KDE’s website, shared on listservs used by local education agency (LEA) assessment coordinators and directors of special education (DoSEs), and disseminated via e-mail to other advisory groups and stakeholders. The public comment posting followed the KDE protocol and was open for two weeks.

After receiving public comments, the KDE will review and revise the *Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science* accordingly and submit it to the ED.

Requirement Two –34 CFR §200.6(c)(4) State Level Data

(ii): Provide state-level data, from the current or previous year, to show:

(A) the number and percent in each subgroup who took the AA-AAAS in the subject area;

The KDE reviewed preliminary data from Kentucky’s statewide assessment for the 2020-2021 school year. The purpose of this review was to determine the participation rates of students taking the AA-AAAS. Table One includes the preliminary data¹ with the number and

¹ Preliminary data for school year 2020-2021 is the raw number of students participating in state assessments provided by KDE assessment vendors. The preliminary data does not include state required review and validation at state, LEA and school level that will impact final data for public reporting.

percentage of Kentucky students participating in statewide assessments, including participation in AA-AAAS.

The participation rates revealed at least 1.0% of Kentucky students participated in each of the subject areas included in the AA-AAAS in the 2020-2021 school year. Therefore, based on these preliminary data, Kentucky anticipates exceeding the 1.0% threshold outlined in the ESSA for the 2021-2022 school year.

Table One displays preliminary participation rates by subject area for the 2020-2021 school year AA-AAAS. The final assessment data will be publicly available on the [Open House](#) website and the [Kentucky School Report Card](#) in October 2021. Therefore, in Attachment One, the KDE provided the number and percentage of all students, including each subgroup of students, who participated in the AA-AAAS in the 2020-2021 school year by subject area.

Kentucky’s state assessment window for the AA-AAAS is scheduled to begin November 15, 2021 or later. Due to the requirement that states submit a waiver at least 90 days prior to the assessment window, there was insufficient time to calculate final participation data from the 2020-2021 school year assessment before the deadline for submission of the waiver request. When the final assessment data are available in October 2021, the KDE will review and submit the final data. Final data will be submitted to ED no later than November 1, 2021.

Table One: 2020-2021 school year AA-AAAS Participation by Subject²

SUBJECT	NUMBER PARTICIPATING IN AA-AAAS	NUMBER PARTICIPATING IN STATEWIDE ASSESSMENT	PERCENT PARTICIPATING IN AA-AAAS
Reading (elementary/middle/high)	2,990	294,783	1.0%
Math (elementary/middle/high)	2,986	294,586	1.0%
Science (elementary/middle)	1,258	120,150	1.1%

Evidence of Progress

The KDE analyzed various sources to measure progress made towards the previously approved 1.0% waiver from ED. In the subject areas of reading, math and science, the percentage of students participating in the AA-AAAS has decreased each year. The KDE does not have 2019-2020 school year assessment participation data; however, the KDE could estimate assessment participation data derived from AA-AAAS eligibility found within Individual Education

² Preliminary data for school year 2020-2021 is the raw number of students participating in state assessments provided by KDE assessment vendors. The preliminary data does not include state required review and validation at state, LEA and school level that will impact final data for public reporting.

Programs (IEPs) at the end of the 2019-2020 school year. Student IEPs which documented eligibility to participate in the AA-AAAS for the 2019-2020 school year were included in this calculation. Table Two demonstrates the percent change in AA-AAAS participation between the 2019-2020 school year³ and the 2020-2021 school year.

Table Two: *Estimated 2019-2020 school year and 2020-2021 school year AA-AAAS Participation by Subject*

SUBJECT	2019-2020 SCHOOL YEAR ESTIMATED PERCENT PARTICIPATING IN AA-AAAS	2020-2021 SCHOOL YEAR PERCENT PARTICIPATING IN AA-AAAS	ESTIMATED PERCENT CHANGE BETWEEN SCHOOL YEARS 2019-2020 & 2020-2021
Reading (elem/middle/high)	1.0%	1.0%	0.0%
Mathematics (elem/middle/high)	1.0%	1.0%	0.0%
Science (elem/middle/high)	1.0%	1.1%	0.1%

In addition to the participation being at 1.0% in two subject areas, the KDE data analysis revealed the overall statewide percentage of student participation (not by subject area) in the AA-AAAS to be at 1.0%. These data indicate students eligible to participate in the AA-AAAS is at or below the 1.0% threshold.

Table Three demonstrates the overall statewide (not by subject) percentage of students who participated in the AA-AAAS is at 1.0%.

Table Four demonstrates the overall statewide percentage of students eligible for the AA-AAAS is below 1.0% and has been for five consecutive school years.

³ Estimated number and percentage of students anticipated to participate in the general assessment and AA-AAAS based upon 2020-2021 IEP and student population data. These numbers include students who may have been exempt from participating and does not include students where IEP teams have yet to determine assessment decisions for the upcoming school year.

Table Three: Statewide Participation (not by subject)

School Year	Number of Students Participating in AA-AAAS	Number of Students Participating in Statewide General Assessments	Percent of Students Participating in AA-AAAS
2020-2021	3,402	329,639	1.0%
2019-2020 ⁴	4,151	408,927	1.0%
2018-2019	4,918	496,407	1.0%
2017-2018	5,477	496,074	1.0%
2016-2017	5,911	499,674	1.2%

Table Four: Statewide percentage of students eligible to participate in the AA-AAAS (not by subject area)

School Year	Number of Students Eligible to Participate in the AA-AAAS	Number of Students Statewide	Percentage of Students Eligible to Participate in the AA-AAAS
2020-2021	5,430	654,523	0.83%
2019-2020 ⁵	5,687	666,785	0.85%
2018-2019	5,505	654,068	0.84%
2017-2018	6,242	648,369	0.96%
2016-2017	6,380	656,588	0.97%

The five-year (2016-2021) data trend in Table Four indicates a continued decrease in number of students eligible to participate in the AA-AAAS and continues to be under 1.0% of the student population in the state.

Additionally, the KDE reported a decrease in the number of students statewide, but a slight increase in the percentage of LEAs in Kentucky that assessed more than 1.0% of students using an AA-AAAS in one or more subjects. Table Five includes the number of LEAs assessing more than 1.0% of students using the AA-AAAS in one or more subject areas. The KDE continues to monitor those LEAs assessing over 1.0% of students using an AA-AAAS and anticipates the decrease in statewide eligibility for the AA-AAAS to continue with the sustained implementation

⁴ Estimated number and percentage of students who may have participated in the general assessment and AA-AAAS based upon end of year 2019-2020 IEP and student population data. These numbers include students who may have been exempt from participating. The projected number of students eligible for an AA-AAAS may change due to student identifications, eligibility determinations and enrollment changes.

⁵ Number and percentage of students eligible to participate in the general assessment and AA-AAAS based upon end of year 2019-2020 IEP and student population data. These numbers include students who may have been exempt from participating.

of the AA-AAAS [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#), additional professional development opportunities and an improved plan for monitoring LEAs. These data show the effect of ongoing efforts from the KDE, regional special educational cooperatives, LEAs and other stakeholders to be responsive to the individual needs of students with the most significant cognitive disabilities.

Table Five: LEAs assessing more than 1.0% of students using AA-AAAS

School Year	Number of LEAs Exceeding 1.0% AA-AAAS Participation in At Least One Subject	Percentage of LEAs Exceeding 1.0% AA-AAAS Participation in At Least One Subject Area
2020-2021	112	65.12%
2019-2020 ⁶	93	54%
2018-2019	132	77%
2017-2018	144	83%
2016-2017	173	98%

(B) Data showing at least 95% participation overall and for students with disabilities subgroup

Kentucky met or exceeded the federal guidelines set at 95% participation for all students, including students with disabilities (SWDs), in the Kentucky Performance Rating for Educational Progress (K-PREP) assessment every year. The Kentucky Department of Education applied for a [waiver](#) of statewide assessment, accountability and reporting requirements in the Elementary and Secondary Education Act (ESEA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19). The waiver was approved on March 27, 2020.

Table Six demonstrates the state assessed less than 95% of all students, including students with disabilities, during the 2020-2021 school year. Kentucky were granted a [waiver of the accountability, school identification, and related reporting requirements in the Elementary and Secondary Education Act of 1965 \(ESEA\)](#) for the 2020-2021 school year. A state receiving this waiver is not required to implement and report the results of its accountability system, including calculating progress toward long-term goals and measurements of interim progress or indicators, or to annually meaningfully differentiate among its public schools using data from the 2020-2021 school year. This flexibility explicitly includes waiving the requirement that the Academic Achievement indicator be adjusted to account for a participation rate below 95%. The KDE anticipates meeting the federal guidelines for participation in the 2021-2022 school year based upon trend data analysis.

⁶ Projected number of LEAs identified as possibly exceeding 1.0% participation for 2019-2020 is based upon the number of students eligible for the AA-AAAS and overall population of students as of April 2020.

Table Six: 2020-2021 School Year Overall Statewide, Assessed by Subject⁷

Subject	Enrolled	Assessed	Percent Tested
Reading/Language Arts - All Students Total Grades 3 - 8 and High School (HS)	297,328	253,192	85.2%
Reading/Language Arts -SWD Total Grades 3 - 8 and HS	49,420	41,591	84.2%
Mathematics - All Students Total Grades 3 - 8 and HS	297,276	253,091	85.1%
Mathematics - SWD Total Grades 3 - 8 and HS	49,408	41,495	84.0%
Science - All Students Total Grades 3 - 8 and HS	127,231	104,630	82.2%
Science - SWD Total Grades 3 - 8 and HS	19,649	16,112	81.1%

Requirement Three (34 CFR §200.6(c)(4) Assurances

(iii): include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0% of its assessed students in any subject using AA-AAAS did the following:

(A) Each LEA follows the state’s participation guidelines:

With final assessment data for the 2020-2021 school year not yet available, the KDE required [written assurances](#) from all 171 LEAs in the state.

When KDE has final participation data for the 2020-2021 school year, the KDE will contact all LEAs who exceeded 1.0% participation in the AA-AAAS in at least one subject area. Those LEAs will be required to provide KDE with a detailed justification for exceeding the 1.0% threshold. The justification will confirm:

- IEP team(s) utilized the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#)
- IEP team members used the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) appropriately for each student who would participate in the alternate assessment

⁷ Preliminary data for school year 2020-2021 is the raw number of students participating in state assessments provided by KDE assessment vendors. The preliminary data does not include state required review and validation at state, LEA and school level that will impact final data for public reporting.

- LEA addressed any disproportionality in the percentage of students within each subgroup taking the AA-AAAS

The Local District Justifications for Alternate Assessment Participation (2020-2021 school year Assessment Data) results from the justification requirement form will be published and available on the [Kentucky Alternate Assessment Participation Waiver webpage](#).

Evidence of Progress

The request for written assurances sent to LEAs is included in Attachment Two. The [2021-2022 school year District AA-AAAS Participation Assurances](#) are located on the [Kentucky Alternate Assessment Participation Waiver](#) webpage of the KDE website.

During the 2020-2021 school year, Kentucky required LEAs who had more than 1.0% of students eligible to participate in the AA-AAAS submit information to the state justifying the need to exceed the 1.0% threshold. The KDE developed a [Justification Requirement Form](#) to lead LEAs through a root cause analysis to determine why more than 1.0% of the student body was assessed using the AA-AAAS. The justification form is reviewed and revised annually by the Alternate Assessment and Diploma Advisory Group (AADAG). LEAs who assessed more than 1.0% of students in any subject of the AA-AAAS were provided the LEA data along with instructions on completing a Justification Requirement Form. The [District Alternate Assessment Participation \(school year eligibility data\) Justification Summary](#) included a summary of the LEA responses. The summary document is published and available on the [Kentucky Alternate Assessment Participation Waiver](#) webpage on the KDE website.

The [Justification Requirement Form](#) also required LEAs to report and document:

- local training needs
- description of appropriate training, support and oversight provided to IEP team members
- justification(s) for exceeding 1.0% participation
- analysis of AA-AAAS eligibility data
- descriptions of the monitoring process used to monitor AA-AAAS participation and possible disproportionality

Regional special education cooperatives received justification responses from LEAs for the 2020-2021 school year. The responses assisted cooperatives in determining needed trainings and support.

The KDE will continue to provide guidance, support and oversight to all LEAs who anticipate exceeding the 1.0% threshold. More information on the KDE plan for guidance and oversight is provided in [Requirement 4\(B\)—34 CFR §200.6\(c\)\(4\)\(iv\)](#) below.

B) Assurance that LEAs over 1.0% will address any disproportionality in the students taking the AA-AAAS.

Through the justification process, LEAs are required to describe the processes used to monitor AA-AAAS eligibility and possible disproportionality in participation.

The KDE will provide guidance and training on calculating, identifying and addressing disproportionality in AA-AAAS participation through training in Fall of 2021. The KDE will continue to provide LEAs and regional special educational cooperatives with statewide and LEA level data based on a rate comparison calculation to ensure LEAs can address any disproportionality.

In the event the data reveals any disproportionality in the percentage of students participating in the AA-AAAS, the KDE will address the issues as follows:

- Monitor LEAs with high rates of disproportionality (threshold of 2.0 or greater).
- Complete desk audits of student files in the identified subgroup to determine if the decision for a student to participate on the AA-AAAS met requirements.
- Issue corrective action plans if the decision for a student's participation in the AA-AAAS did not meet the criteria pursuant to state guidance to LEAs identified with noncompliance related to AA-AAAS participation.
- Assist LEAs in developing action steps in Corrective Action Plans (CAP) to correct any disproportionality issues identified.

Evidence of Progress

The KDE examined statewide and LEA disproportionality preliminary data by subgroup and subject area for the 2020-2021 school year. The KDE determined whether subgroups had a risk of disproportionate participation in the AA-AAAS using a disproportionality rate comparison. For the analysis, the KDE used a rate comparison without a threshold. The rate comparison identifies when the data for any group is disproportionate to others not in the measured group. Any disproportionality rate greater than 1.0 means the examined group's representation in a particular category differs substantially from the representation of others in that category. If the disproportionality rate of the measured group is less than 1.0, then the group is less likely to be identified than those not in the group. The KDE reviewed disproportionality data from the 2020-2021 school year preliminary assessment data and determined no subgroups exceed the 2.0 threshold in any subject area.

The KDE, in collaboration with LEAs, addressed disproportionality in subgroups taking the AA-AAAS through:

- calculation and analysis of subgroup participation rates and disproportionality rate comparisons in each subject area provided to LEAs for analysis;
- an off-site review conducted by the KDE of student due process files for 41 LEAs to determine whether the students met all eligibility criteria to participate in the AA-AAAS; and

- a review of due process files conducted by LEAs in collaboration with Kentucky’s special educational regional cooperatives for a sample of students eligible for the AA-AAAS using the [Participation Guidelines for the Kentucky Alternate Assessment Review Document](#).

Attachment Three lists the 2020-2021 school year Comprehensive Coordinated Early Intervening Service (CCEIS) trainings and meetings provided to LEAs, regional training centers and regional educational cooperatives where disproportionality was discussed.

The KDE will continue to provide LEAs and regional special educational cooperatives with state and LEA data based upon a rate comparison calculation to ensure LEAs are able to address any disproportionality in the students taking the AA-AAAS. In addition, the KDE will use 2020-2021 assessment participation data and eligibility data to continue to address disproportionality, by subgroup, in the percentage of students taking an AA-AAAS through statewide data analysis, LEA level data analysis and the targeted monitoring process.

In collaboration with regional special educational cooperatives, LEAs will continue to review due process files of students eligible to participate in the AA-AAAS to determine that appropriate assessments are provided, and subgroups are not being disproportionately identified.

Requirement Four—[34 CFR §200.6\(c\)\(4\)](#)

(iv) The SEA must submit a plan and timeline by which the following will be accomplished:

(A) 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 disabilities

Attachment Four includes the 2021-2022 school year timeline for the KDE 1.0% waiver initiatives.

During the 2020-2021 school year, the KDE, in collaboration with the AADAG, continued to meet and focus on analyzing data to identify trends, develop new training and guidance to educate staff and parents on AA-AAAS participation and students with significant cognitive disabilities.

The [2020-2021 Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science](#) outlined plans to create parent resources, including parent training modules, an informational brochure for parents and a revision of the Parent Guide: Kentucky Alternate Assessment. The new parent resources will be available to LEAs and parents during the 2021-2022 school year. Parent resources will include information regarding:

- Kentucky Alternate Assessment Participation Guidelines Documentation Form Options for Inclusion
- Comparing the K-PREP and Alternate K-PREP
- Alternative High School Diploma

- Accommodations and Modifications
- Accessing the General Education Classroom
- Communication Plans

The KDE will continue to collaborate with technical assistance (TA) centers funded by ED's Office of Special Education Programs (OSEP) and will maintain its involvement in the National Center on Educational Outcomes (NCEO) 1.0% Communities of Practice to improve the KDE's ongoing work for students with the most significant cognitive disabilities.

The KDE will continue to seek feedback from stakeholders to review and, if necessary, revise state resources related to AA-AAAS participation and the definition of students with the most significant cognitive disabilities. If any revisions are required, the KDE will collaborate with the regional special education cooperatives to develop trainings and guidance to support LEAs with those updates.

Evidence of Progress

The KDE worked with NCEO and IDEA Data Center (IDC) to support the agency's ongoing work around students with significant cognitive disabilities during the 2020-2021 school year. For example, the KDE participated and presented at the NCEO 1.0% Community of Practice webinar meetings and other state-sponsored convenings to improve the agency's ongoing work pertaining to students with significant cognitive disabilities and their participation in AA-AAAS.

Regional special education cooperatives used 2019-2020 Data Verification Reports to assist LEAs in identifying specific areas of training or coaching needed. During the 2020-2021 school year, regional special educational cooperatives provided ongoing training virtually and in-person for LEA staff which included:

- understanding and completing the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#)
- [Kentucky Academic Standards](#) for students participating in the AA-AAAS
- monthly collaborative meetings
- coaching sessions
- due process file reviews

The additional parent resources planned from the previous Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science plan were discussed and planned in the 2019-2020 school year and developed during the 2020-2021 school year. Attachment Five includes the actions and completion dates for the work the AADAG completed.

To improve the implementation of its guidelines, the KDE completes an AA-AAAS participation desk audit and issues CAPs to LEAs to address any noncompliance identified. The CAP process allows the KDE and the LEA to identify the root causes for misidentification and documentation errors and then develop a plan to train and implement the guidelines more efficiently. In

addition, the KDE uses the CAP process to monitor and review training effectiveness and CAP action steps. More information on the CAP process is provided in the [Monitoring Manual](#).

(B) State will take additional steps to support and provide oversight to each LEA that the State anticipates will exceed the 1.0% threshold to ensure that only students with the most significant cognitive disabilities take an alternate assessment. 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 for participation in AA-AAAS so that all students are appropriately assessed.

The KDE and regional special education cooperatives will continue to support each LEA through guidance, training and coaching sessions which include:

- AA-AAAS eligibility requirements
- IEP development and implementation
- Instructing and assessing students participating in the AA-AAAS

More information about the trainings offered can be located on each [regional special education cooperatives](#) webpage. More information on the KDE trainings and guidance available to support districts in the implementation of the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) can be located on the [Kentucky Alternate Assessment Participation Waiver webpage](#).

In order to continually improve the monitoring and oversight process, the KDE developed a [Monitoring Manual](#) for LEAs. The KDE also updated the AA-AAAS desk audit protocol and drafted an updated Participation Guidelines for the Kentucky Alternate Assessment Review Document to review appropriate identification and documentation of students eligible to participate in the alternate assessment during the desk audit. The AA-AAAS desk audit protocol includes a thorough analysis of the variety of sources of data, including:

- LEAs over 1.0% eligibility for AA-AAAS in 2020-2021 school year
- LEAs under 1.0% eligibility for AA-AAAS in 2020-2021 school year
- LEAs assessing over 3.0% of students based on current and previous year AA-AAAS data
- LEAs exceeding 1.0% AA-AAAS eligibility/participation in more than one subject over multiple years
- LEAs with AA-AAAS participants not identified in disability categories indicative of a cognitive disability
- LEA Justification Responses
- LEA Learner Characteristic Inventory (LCI) data for high functioning students on AA-AAAS

- Benchmark Report (includes achievement levels on statewide assessments for the student's entire school career)
- Statewide and LEA disproportionality ratios by subgroup

The KDE will continue to provide oversight to LEAs through the AA-AAAS participation desk audits. The KDE will follow the monitoring process to review a sample of due process files from the statewide student information system, known as Infinite Campus (IC), for students found eligible to participate in the AA-AAAS. The sample of student due process files will be regularly reviewed by the Division of IDEA Monitoring and Results (DIMR) team using the [2020-2021 IDEA Compliance Review Document](#) and the [Participation Guidelines for the Kentucky Alternate Assessment Review Document](#). During the review, the KDE will monitor whether the students met all eligibility criteria to participate in the AA-AAAS and will verify whether the LEA correctly utilized the [Kentucky Alternate Assessment Participation Guidelines Documentation Form](#) to document all IEP team decisions. The KDE issues a report of findings (Attachment 12) to each LEA monitored.

The KDE plans to work with the regional special educational cooperatives during the 2021-2022 school year to calibrate the use of a revised Participation Guidelines Review Document to review AA-AAAS participation eligibility.

The KDE will continue to partner with the University of Kentucky (UK) Human Development Institute (HDI) to provide [universal trainings](#) to all LEAs. All teachers working with students taking the AA-AAAS are required to complete the modules annually. LEA administrators and KDE staff monitor and track the completion of trainings annually.

Evidence of Progress

Although students in Kentucky did not participate in state testing during the 2019-2020 school year, the KDE reviewed AA-AAAS eligibility data to identify LEAs with more than 1.0% of students eligible for the AA-AAAS during the 2020-2021 school year. Those LEAs were required to submit a [Justification Requirement Form](#) to the KDE by January 31, 2020. A summary of the [Kentucky Alternate Assessment: District Justifications for Alternate Assessment Participation \(2020-2021 School Year Eligibility Data\)](#) is located on the KDE website.

The KDE provided district justification responses to the regional special education cooperatives to review and follow up with the district. The responses indicated 31 districts who needed to be contacted by the cooperatives to provide guidance and support.

For the 2020-2021 school year desk audit, each LEA completed a root cause analysis and CAP if the KDE identified noncompliance. Common themes identified in the root cause analyses included:

- a need for additional training for staff on appropriate documentation,
- a need for a district-level compliance monitoring system and

- a need for training on how to document and utilize the student's present levels of performance.

During the root cause analysis and CAP development, the LEA was provided technical assistance from the KDE. LEAs were also provided support from regional special education cooperatives. The KDE met with the regional special education cooperative consultants virtually to discuss the 2020-2021 school year desk audit results and discuss the support needed from LEAs.

(C) State will address any disproportionality in the percentage of students taking the alternate assessment.

The KDE will continue to address any disproportionality in the percentage of students in any subgroup taking the AA-AAAS through a variety of activities, including:

- calculating and analyzing AA-AAAS participation rates among subgroups at the state and LEA levels;
- comparing subgroup data for multiple school years to identify any trends in subgroup participation;
- calculating and analyzing statewide and LEA-level data using a disproportionality rate comparison;
- reviewing LEA justifications to examine and identify LEA-level processes in place to address disproportionality, specific support and guidance needed for LEAs and any unusual patterns in the data;
- engaging with advisory groups to address disproportionality and to make certain only students with the most significant cognitive disabilities are participating in the AA-AAAS;
- maintaining and updating guidance and training resources on the KDE website;
- providing ongoing training on disproportionality;
- making assessment data publicly available;
- analyze state disproportionality data to identify the subgroups where disproportionality needs to be addressed through the desk audit process;
- provide LEAs and regional special educational cooperatives with statewide and LEA-level data based upon a rate comparison calculation to ensure LEAs can address any disproportionality in the students participating in the AA-AAAS;
- analyze 2020-2021 school year AA-AAAS participation and eligibility data to address disproportionality by subgroup through statewide data analysis, LEA data analysis, and the monitoring process; and
- provide guidance and regional training specific to calculating and addressing disproportionality at KDE meetings and trainings.

For the 2021-2022 school year AA-AAAS participation desk audit, the KDE will monitor the percentage of students participating in the AA-AAAS through the following methods:

- Gather LEA data for current and previous school years for each subject of the AA-AAAS.
- Analyze the data by subgroups.
- Monitor LEAs with high rates of disproportionality (threshold of above 2.0).
- Require justification from all LEAs that exceed the 1.0% cap.
- Provide professional development and technical assistance to LEAs with identified disproportionality.

Evidence of Progress

Due to COVID-19, the KDE does not have 2019-2020 disproportionality data based on assessment participation. The KDE reviewed disproportionality data from the 2020-2021 school year preliminary assessment data and determined no subgroups exceed the 2.0 threshold in a subject area, (see Attachment Six for statewide disproportionality data).

The KDE also conducted a desk audit during the 2020-2021 school year to identify any disproportionate representation within AA-AAAS eligibility and participation, which included a sample of due process files for students who were eligible for free or reduced lunch. All LEAs with noncompliance identified through the desk audit were required to complete a CAP that included correction of all noncompliance, training needs, monitoring process, compliance validation through student due process folder comparison reviews, and determining and addressing any disproportionate representation identified. All LEAs with systemic noncompliance were also required to complete a root cause analysis.

Requirement Five 34 CFR §200.6(c)(4)

(v) If the State is requesting to extend a waiver for an additional year, the State is to meet the requirements in paragraph (c)(4)(i) through (c)(4)(iv) and demonstrate substantial progress toward the achievement of each component of the prior year's plan and timeline, which was required under Requirement 4(C).

The KDE has met all requirements of [34 CFR §200.6\(c\)\(4\)\(i\) through \(c\)\(4\)\(iv\)](#) and provided evidence demonstrating substantial progress and completion toward each component of the 2020-2021 Kentucky 1.0% Request to Extend Waiver for Reading, Mathematics and Science plan and timeline. The 2021-2022 school year 1.0% Request to Extend Waiver, including action steps and timeline, is included in Attachment Four. In addition, documentation of evidence can be found in [Appendix A](#). The KDE outlined the revisions to its plan and timeline to facilitate continued progress in reducing the percentage of students participating in the AA-AAAS and continuing progress toward meeting the 1.0% statewide goal set by the Every Student Succeeds Act (ESSA).

Appendix A: Documentation of Evidence

SECTION 1: INITIAL WAIVER REQUEST REQUIREMENTS

Requirement One – [34 CFR §200.6\(c\)\(4\)\(i\)](#):

State Response	Supporting Evidence
Kentucky indicated the dates of its upcoming AA-AAAS testing window. The State provided the opportunity for public comment and confirmed that the waiver request was submitted 90 days prior to the beginning of the testing window.	<ul style="list-style-type: none"> Start date of first AA-AAAS testing window for 2021-2022 school year: November 15, 2021 (or later) Date that is 90 days prior to the start date for the first AA-AAAS testing window: November 15, 2021 (or later) Attachment Seven: Documentation that defines updated AA-AAAS testing windows for 2021-2022 school year <p>Documents related to the public comment period:</p> <ul style="list-style-type: none"> Attachment Eight: KDE’s news release of the public notice and comment period

Requirement Two (A) – [34 CFR §200.6\(c\)\(4\)\(ii\)\(A\)](#):

State Response	Supporting Evidence
Kentucky provided detailed preliminary data ⁸ on AA-AAAS participation in 2020-2021 school year for all ESSA-required subgroups.	<ul style="list-style-type: none"> Attachment One: Participation of Kentucky Students in Statewide Assessment for 2020-2021 school year – By Sub-Group Table One: school year 2020-2021 AA-AAAS Participation by Subject Table Two: Estimated school year 2019-2020 and 2020-2021 school year AA-AAAS Participation by Subject

Requirement Two (B) - [34 CFR §200.6\(c\)\(4\)\(ii\)\(B\)](#):

State Response	Supporting Evidence
Kentucky provided detailed data on overall assessment participation rates for all students and for students with disabilities to confirm that at least 95% of all	<ul style="list-style-type: none"> Table Six: 2020-2021 Overall Statewide, Assessed by Subject KDE School Report Card 2020-2021 School Year – Assessment and Performance Data (available November 2021)

⁸ Preliminary data for school year 2020-2021 is the raw number of students participating in state assessments provided by KDE assessment vendors. The preliminary data does not include state required review and validation at state, LEA and school level that will impact final data for public reporting.

students and at least 95% of students with disabilities participated in state assessments for the 2020-2021 school year.	
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Requirement Three (A) – [34 CFR §200.6\(c\)\(4\)\(iii\)\(A\)](#):

State Response	Supporting Evidence
Kentucky provided an assurance that it has verified that each LEA with more than 1.0% participation in the AA-AAAS followed the State’s guidelines for participation.	<ul style="list-style-type: none"> • Attachment Two: Documentation that the KDE requested each LEA over 1.0% AA-AAAS participation to provide a written confirmation that its IEP teams: <ul style="list-style-type: none"> ○ Followed the State’s guidelines for participation in the AA-AAAS; ○ Informed parents of students with the most significant cognitive disabilities of the implications of participation in the AA-AAAS; and, ○ The LEA reported disproportionality in the percentage of students in any subgroup taking the AA-AAAS or that the LEA is currently addressing or has plans to address any disproportionality. • 2021-2022 1.0% CAP on AA-AAAS Participation LEA Assurance Form • 2021-2020 1.0% CAP on AA-AAAS Participation District Assurance Form Responses • 2020-2021 LEA AA-AAAS Participation Justification Requirement Form • 2020-2021 LEA AA-AAAS Participation Justification Summary

Requirement Three (B) – [34 CFR §200.6\(c\)\(4\)\(iii\)\(B\)](#):

State Response	Supporting Evidence
Kentucky provided an assurance that it has verified that each Kentucky LEA with more than 1.0% participation in the AA-	<ul style="list-style-type: none"> • Attachment Two: Documentation that the KDE requested each LEA over 1.0% AA-AAAS participation to provide written confirmation that (1) its IEP teams followed the State’s guidelines for participation in the AA-AAAS, (2) its IEP teams

State Response	Supporting Evidence
<p>AAAS will address any disproportionality in participation in the AA-AAAS.</p>	<p>informed parents of students with the most significant cognitive disabilities of the implications of participation in the AA-AAAS, and (3) the LEA has addressed or has plans to address disproportionality in the percentage of students in any subgroup taking the AA-AAAS.</p> <ul style="list-style-type: none"> • 2021-2022 1.0% CAP on AA-AAAS Participation LEA Assurance Form • 2021-2020 1.0% CAP on AA-AAAS Participation District Assurance Form Responses • 2020-2021 LEA AA-AAAS Participation Justification Requirement Form • 2020-2021 LEA AA-AAAS Participation Justification Summary • Public reporting of AA-AAAS participation by subgroup is located in the School Report Card under Academic Performance, Assessment and Performance, State Assessments (Enrollment), Assessed vs. Not Assessed • Public reporting of percent of LEAs with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. • Attachment Nine: Information on how disproportionality is calculated by the State. • Discussion and input on ways to address disproportionality in AA-AAAS participation: <ul style="list-style-type: none"> ○ Attachment Three: List of trainings and meetings where disproportionality was discussed • See Requirement Four (B) and (C) in Waiver request for documentation of state monitoring based on disproportionality rate comparison.

Requirement Four (A) – [34 CFR §200.6\(c\)\(4\)\(iv\)\(A\)](#):

State Response	Supporting Evidence
<p>Kentucky provided a plan and timeline for improving</p>	<ul style="list-style-type: none"> • Kentucky 1% Request to Extend Waiver for Reading, Mathematics, and Science to be submitted by August

State Response	Supporting Evidence
its alternative assessment guidelines.	<p>17, 2021 includes an outline of the steps the State took to improve implementation of its participation guidelines</p> <ul style="list-style-type: none"> • Attachment Four: 2021-2022 Waiver Initiatives Timeline Draft • Attachment 10: Universal training module outline – A series of six universal training modules are required for all IEP team members and are located on the UK HDI Learning Management System (LMS). The purposes of these training modules were to implement the requirements set forth in the ESSA and to support LEAs in the implementation of the Kentucky Alternate Assessment Participation Guidelines Documentation form • Kentucky 1.0% Waiver information, guidance, training and other resources are available on the new Kentucky Alternate Assessment Participation Waiver page of the KDE website • Parent Guide: Kentucky Alternate Assessment • Attachment 11: Parent info sheet (draft) – to be used in an IEP team meeting discussing state assessment participation • Attachment Five: 2020-2021 Waiver Initiatives Timeline

Requirement Four (B) – [34 CFR §200.6\(c\)\(4\)\(iv\)\(B\)](#):

State Response	Supporting Evidence
Kentucky provided a plan and timeline for additional steps it is has taken to support and provide appropriate oversight of Kentucky LEAs expected to assess more than 1.0% on the AA-AAAS.	<ul style="list-style-type: none"> • Requirement Three and Requirement Four of the Kentucky 1.0% Waiver to be submitted by August 17, 2021 that includes an outline of the State’s steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0% with the AA-AAAS • See Examples of Evidence in Requirement Four (A) –34 CFR §200.6(c)(4)(iv)(A) above • Attachment Four: 2021-2022 Waiver Timeline Draft • 2020-2021 LEA AA-AAAS Participation Justification Summary – The KDE reviewed and analyzed responses and feedback from LEAs to determine LEA-specific training and supports needed • Monitoring Manual

Requirement Four (C) – [34 CFR §200.6\(c\)\(4\)\(iv\)\(C\)](#):

State Response	Supporting Evidence
<p>Kentucky provided a plan and timeline for addressing any disproportionality.</p>	<ul style="list-style-type: none">• See Examples of Evidence in Requirement Three (B) –34 CFR §200.6(c)(4)(iii)(B) above• Requirement Four (C) of the Kentucky 1% Waiver submitted by August 17, 20221 includes an outline of the steps the State took to address any disproportionality in the percentage of students taking the AA-AAAS• Attachment Three: List of trainings and meetings where disproportionality discussed• Attachment Six: 2020-2021 – Statewide Disproportionality of Students Participating in AA-AAAS• Public reporting of AA-AAAS participation by subgroup is located in the School Report Card under Academic Performance, Assessment and Performance, State Assessments (Enrollment), Assessed vs. Not Assessed table• Attachment 12: AA-AAAS Participation Desk Audit Report template –Template of the Report the KDE provided to LEAs which were monitored through the AA-AAAS participation state monitoring process

SECTION Two: WAIVER CONTINUATION REQUESTS

Requirements 1, 2(A), 2(B), 3(A), 3(B), 4(A), 4(B), 4(C) [see [SECTION 1](#)] – Meet the requirements in paragraph (c)(4)(i) through (c)(4)(iv).

State Response	Supporting Evidence
<p>The State showed that it met each of the four requirements for waiver approval.</p>	<ul style="list-style-type: none"> • Kentucky continues to meet requirements for requesting a waiver as documented in the Kentucky 1% Waiver to be submitted by August 17, 2021 • Section One of the 2020-2021 Kentucky Waiver Requirements Evidence Table above documents completion of Requirements 1, 2(A), 2(B), 3(A), 3(B), 4(A), 4(B), 4(C) • Table Two - Documentation of changes in participation rates in AA-AAAS in each subject area • Attachment One: Participation of Kentucky Students in Statewide Assessment for 2020-2021 school year by subgroup • Table One: Participation of Kentucky Students in Statewide Assessment for 2020-2021 school year

Requirement Five – [34 CFR §200.6\(c\)\(4\)\(v\)](#):

State Response	Supporting Evidence
<p>The State showed that it made progress toward its prior year’s plan and timeline.</p>	<p>Evidence to support this requirement includes:</p> <ul style="list-style-type: none"> • Kentucky documented completion and progress of each component of the prior year’s plan and timeline as evidence of progress in the waiver to be submitted by August 17, 2021 • Table Three and Table Four: Overall Statewide Yearly Trend in Participation and Eligibility in the Kentucky AA-AAAS • LEA AA-AAAS Participation: Documentation of LEAs exceeding 1.0% participation (Appendix A)