



# Ohio

## One Percent Waiver Extension Request for Reading, Mathematics and Science

ESEA section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d)

**Addendum, Jan. 4, 2021**

**Ohio** | Department  
of Education

## INTRODUCTION

This addendum is submitted to provide additional data to Ohio's Nov. 4, 2020 request for a waiver extension for exceeding 1.0 student participation in the Alternate Assessment for Students with Significant Cognitive Disabilities (AASCD). Included in this addendum are the revised Table 4 showing Ohio's participation data by content area of reading, mathematics and science and comments received during the public comment period of Oct. 9-23, 2020.

Ohio's assessment participation is calculated using data from the Department's Education Management Information System (EMIS). This data includes high school assessments required for graduation in Ohio. Participation in the AASCD includes 10<sup>th</sup> graders taking reading, mathematics and science and 9-12 graders taking end of course assessments in reading, mathematics and science.

## COMPONENT 2

Component two of Ohio's one percent waiver extension request includes the percentage of students assessed using the Alternate Assessment for Students with Significant Cognitive Disabilities. Using the Department's Education Management Information System (EMIS), Table 4 provides a credible estimate of the percentage of students who took an alternate assessment by content area in grades 3-8 and 10<sup>th</sup> grade for school year 2019-2020. Using this data set, the total participation rates in Ohio's alternate assessments show 23, 012 students and 1,274,059 students taking the general assessments with a total percentage of 1.81% of students taking the alternate assessment.

**TABLE 4: Credible estimate of students who would have taken the alternate assessment in school year 2019-2020**

Content Area	Total Number of Alternate Students	Total Number of Standard Students	Total Percentage of Students taking Alternate Assessment
Reading	16,114	1,274,059	1.26%
Mathematics	16,114	1,274,059	1.26%
Science	7,187	1,274,059	0.56%
Totals	23,012	1,274,059	1.81%

## PUBLIC COMMENT

### Ohio's One Percent Waiver Extension Request for Reading, Mathematics and Science

On Oct. 9, 2020, the Ohio Department of Education (Department) posted a Draft for Public Comment of its One Percent Waiver Extension Request for Reading, Mathematics and Science. An accompanying message invited citizens to use a posted survey to comment on the draft from then through Oct. 23, 2020. The Department also notified all district and community school superintendents, special education contacts and testing coordinators of the public comment opportunity through its e-newsletter, [EdConnection](#), and through its email service, GovDelivery.

During the survey window, the Department received written comments from 9 respondents.

### Summary of Comments

***Comments included suggestions that students with significant cognitive disabilities should not be required to participate in state-wide standardized assessments.***

The Individuals with Disabilities Education Act (IDEA, 1997), most recently reauthorized in 2004, mandates that *all* children, including those with the most significant cognitive disabilities:

- Have access to the general curriculum;
- Be involved in the general curriculum; and
- Progress in the general curriculum.

The phrase “general curriculum” refers to the same grade-level academic content standards (called learning standards in Ohio) that guide instruction for other students. Federal guidelines allow for the use of alternate or extended academic content standards aligned to grade-level academic content standards for students with significant cognitive disabilities. IDEA also requires that all students participate in statewide assessments. Federal laws require all states, districts and schools to administer state tests to all students. IEP teams cannot exempt students from participating in statewide assessments. The role of the IEP team is to determine *how* a student will participate in state tests, not *if* they will participate.

***Commenters asked for clarity about the basis and fairness of the 1 percent threshold for the state waiver request. Some commenters expressed the opinion that the state should not use the 1 percent threshold because it is unrealistic and forces undue pressure on the state.***

Based on Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), a state education agency must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1.0 percent participation, statewide, in alternate assessment in any subject area. In June 2020, the U.S. Department of Education, sent a [memo](#) to state assessment, title I and special education directors providing guidance on the content required for state waivers.

***Comments included support for the request for extension of the 1 percent waiver.***

The Ohio Department of Education appreciates your support and time dedicated to all students. The Department aims to ensure **every** child is challenged, prepared and empowered to become a resilient, lifelong learner who contributes to society.

***Comments included concerns about the application and consequences of a 1 percent threshold or “cap” on districts and community schools.***

Whether a student is eligible to participate in the AASCD is a local IEP team decision, not a state decision. The Ohio Department of Education offers guidance to assist and support IEP teams to appropriately identify students who should participate in the alternate assessment. The Elementary and Secondary Education Act (ESEA) section 1111(b)(2)(D) and 34 CFR 200.6(c) and (d) requires the participation of students with the most significant cognitive disabilities in the alternate assessment. 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 alternate assessment to 1.0 percent of the total number of students in the state who are assessed in that subject. 34 CFR 200.6(c)(3), says that a state may not prohibit a district from assessing more than 1.0 percent of its testable students using an alternate assessment. However, when a district anticipates testing more than 1.0 percent of students in any subject with the alternate assessment, the state must require the district to submit justification for its need to exceed the 1.0 percent threshold. States must provide appropriate oversight of each district that is required to submit a justification and must make the justification publicly available, so long as the document does not reveal personally identifiable information about an individual student.