



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 15, 2021

The Honorable Paolo DeMaria  
Superintendent of Public Instruction  
Ohio Department of Education  
25 South Front Street  
Columbus, OH 43215

Dear Superintendent DeMaria:

I am writing in response to the Ohio Department of Education's (ODE's) request on November 4, 2020, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) 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. Based on 2017-2018 and 2018-2019 data, and a credible estimate of students who would have taken an alternate assessment in 2019-20, ODE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2020-2021 school year.

After reviewing ODE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2020-2021, a one-year waiver extension 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.

As part of this waiver, ODE 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.
- Will test 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.

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<http://www.ed.gov/>

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

- Will implement, consistent with the plan submitted in the ODE waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the one percent cap.

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.

Given the workplan submitted by the ODE, I expect to see positive results of this plan in the 2020-2021 school year and beyond. Any future requests 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 in all tested subjects.

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). I note that ODE's 1.0 percent disproportionality methodology will follow the NCEO guidelines (e.g., determining relative risk of participating in the alternate assessment). In 2019, NCEO published several resources that may be helpful to stakeholders in your State. They may be found online at [https://nceo.info/Assessments/alternate\\_assessments](https://nceo.info/Assessments/alternate_assessments).

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 [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

A handwritten signature in black ink that reads "Frank T. Brogan". The signature is fluid and cursive, with the first letters of "Frank" and "Brogan" being significantly larger and more stylized.

Frank T. Brogan  
Assistant Secretary  
for Elementary and Secondary Education

cc: Jo Hannah Ward, Director – Office for Exceptional Children