



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

May 10, 2022

The Honorable Catherine Truitt
Superintendent of Public Instruction
North Carolina Department of Public Instruction
6301 Mail Service Center
Raleigh, NC 27699-6301

Dear Superintendent Truitt:

I am writing in response to the North Carolina Department of Public Instruction (NCDPI) request on February 1, 2022, for an extension of its waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) which stipulates 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 the required subjects of reading/language arts (R/LA), mathematics, and science.

After reviewing NCDPI's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for the 2021-2022 school year, a one-year 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 R/LA, mathematics, and science.

As part of this waiver, NCDPI assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implement 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.
- Had assessed in 2018-2019 at least 95 percent of all students and students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required. Although the State did not assess at least 95 percent of all students and students with disabilities in the required subjects during 2020-2021 because of the disruptions caused by the COVID-19 pandemic, it assessed students with disabilities in these subjects at about the same rate as all students in 2020-2021. Therefore, consistent with information provided in the guidance to States on October 29, 2021,¹ I am also approving a one-year waiver of the requirement in 34 CFR § 200.6(c)(4)(ii)(B) that a State must have assessed at least 95 percent of students in the prior year in R/LA, mathematics, and science.
- 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.

¹ See: <https://oese.ed.gov/files/2021/10/Memo-to-States-re-One-Percent-Waiver-Requirements-2021-2022.pdf>.

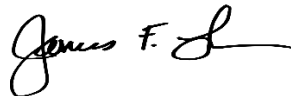
- Will provide appropriate oversight of an LEA that is required to submit such information to the State.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR § 200.6(d) – excluding (d)(6) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.
- Will implement, consistent with the plan submitted in NCDPI’s waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 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. I would also like to remind you that this waiver does not alleviate any of the State’s obligations in meeting all of the requirements found in section 612(a)(16) of the Individuals with Disabilities Education Act (IDEA) which address assessment participation, assessment accommodations, alternate assessments, and reporting for children with disabilities.

I appreciate the work you have undertaken to reduce the percentage of students taking an AA-AAAS in the 2020-2021 school year when compared to the 2018-2019 school year. I am pleased to see the positive results from your workplan and I want to thank you for your continued efforts in achieving this. We hope this will be the last year that North Carolina believes it needs this waiver.

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.

Sincerely,



James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Tammy Howard, NCDPI Director of Accountability Services