



DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

One Percent Waiver Request

Exceeding one percent student participation in state alternate assessments

Pursuant to ESEA 1111(b)(2)(D) and 34 C.F.R. §200.6 (c) and (d)

Background

The Elementary and Secondary Education Act (ESEA) allows states to administer alternate assessments, based on alternate achievement standards.¹ These assessments are reserved for students with the most significant cognitive disabilities. In the District of Columbia, these alternate assessments are the Multi State Alternate Assessment (MSAA) in English Language Arts (ELA) and Mathematics.

ESEA requires that no more than 1 percent of the total number of students in the state be administered on the alternate assessment.² In instances where the state exceeds the 1 percent cap, the state may apply for a waiver from the statute.³ The District of Columbia Office of the State Superintendent (OSSE) issues guidance to LEAs and schools describing what constitutes a significant cognitive disability for the purposes of testing on the MSAA. OSSE expects LEAs and schools to evaluate a student's needs with their IEP team to determine testing eligibility.

The District of Columbia is comprised of a relatively small number of students when compared with other state education agencies (SEAs). In school year 2017-18, 36,709 students tested in Math and 36,867 tested in English Language Arts. In the same year, 449 students tested on the MSAA in Math and 441 students tested on the MSAA in English Language Arts. The District of Columbia exceeded the statutory 1 percent cap in both Math and English Language Arts at 1.2 percent and 1.2 percent, respectively.

To be eligible to submit a waiver of the 1 percent cap for alternative assessments, states must meet the requirements for participation rates on assessments for all students and for students with disabilities.⁴ The data included in this waiver request demonstrates that the District of Columbia exceeded the requirement for a 95 percent participation rate. Therefore, the District of Columbia is eligible and seeking a waiver to exceed the 1 percent cap in state alternative assessments.

Data

Pursuant to 34 C.F.R. § 200.6(c)(4)(ii)(A), the data from the previous school year, 2017-18, is provided in the table below and sets forth the number and percentage of students overall and from each subgroup of students who took the MSAA with respect to each subject for which the State seeks a waiver.

¹ 20 U.S.C. § 6311(b)(1)(E)

² 20 U.S.C. § 6311(b)(2)(D)(i)(I)

³ 20 U.S.C. § 6311(b)(2)(D)(ii)(IV) and § 7861

⁴ 34 C.F.R. § 200.6(c)(4)

Table 1: MSAA Participation, English Language Arts (ELA)

Group	Total Students Assessed in Grades 3-8 and 11 ELA	# Taking State ELA MSAA in Grades 3-8 and 11	% Taking State ELA MSAA in Grades 3-8 and 11
All Students	36867	441	1.2
English language learners	4182	67	1.6
Black	25404	344	1.35
Hispanic/Latino	6414	67	1.04
Asian	516	2	0.39
White	3706	18	0.49
Economically Disadvantaged	17418	225	1.29

Table 2: MSAA Participation, Math

Group	Total Students Assessed in Grades 3-8 and 11 Math	# Taking State Math MSAA in Grades 3-8 and 11	% Taking State Math MSAA in Grades 3-8 and 11
All Students	36709	449	1.2
English language learners	4136	69	1.67
Black	25400	350	1.38
Hispanic/Latino	6324	69	1.09
Asian	512	2	0.39
White	3667	18	0.49
Economically Disadvantaged	17396	230	1.32

Pursuant to 34 C.F.R. § 200.6(c)(4)(ii)(B), the data to show that the State has assessed the achievement of at least 95 percent of all students and 95 percent of children with disabilities who are enrolled in grades for which the assessment is required, including all students assessed with the general assessment and the MSAA for each applicable subject is presented in the table below.

Table 3: Assessment Participation Rates, ELA & Math

Subject Area/Group	Enrolled	Assessed	% Assessed
ELA- All Students Total Grades 3-8, 11	38030	37310	98.11
ELA- Students with Disabilities Grades 3-8, 11	7259	6928	95.44
Math- All Students Total Grades 3-8, 11	38117	37388	98.09
Math- Students with Disabilities Grades 3-8, 11	7276	6941	95.40
Science- All Students Grades 4, 7, and 11	N/A	N/A	N/A
Science- Students with Disabilities Grades 4, 7, and 11	N/A	N/A	N/A

LEA Oversight

Evidence that the SEA has verified that each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject using the MSAA:

- ***Followed the State's guidelines for participation in the MSAA; and***
- ***Will address any disproportionality in the percentage of students in any subgroup taking an MSAA.***

Data from school year 2017-18 show that nine LEAs exceeded the threshold for the 2017-2018 school year. OSSE asked the nine LEAs that exceeded the threshold to submit a justification by Nov. 9 indicating how they have implemented the state guidelines for participation in the MSAA.

The justification form requires that each LEA provide a description of how the district will assure that individualized education programs (IEP) teams adhere to the state guidelines defining a student with a significant cognitive disability. These guidelines are also outlined in the DC Alternate Assessment Participation Decision Documentation Form which is used to determine eligibility for participation in the MSAA. Additionally, the justification form requires LEAs to describe their procedures for compliance with the alternate assessment participation decision documentation form and procedures for evaluating the effectiveness of IEP teams trained on identification of eligible students. Moreover, to address disproportionality, OSSE provided LEAs with their alternate assessment participation rates within the justification form and asked for the LEA's plan to address the issue.

The DC Exceeding 1 Percent Cap Justification Form and the DC Alternate Assessment participation Decision Documentation Form can be found attached to this waiver.

Action Plan

A plan and timeline with clear, actionable steps and milestones that includes:

A clear description of how the State will improve the implementation of its guidelines for participation in the MSAA, including by reviewing and, if necessary, revising its definition of students with the most significant cognitive disabilities, so that the State meets the 1.0 percent cap in each subject for which assessments are administered in future school years.

OSSE will develop and implement additional procedures to ensure appropriate oversight of each local education agency (LEA) that exceed the one percent cap. The OSSE will develop a plan which includes the following steps:

- Review state-level guidance on the definition of significant cognitive disability to provide additional clarity to district and school administrators and IEP teams.
- Require LEAs who exceed one percent participation to submit an LEA eligibility determination process and certify the LEA's eligibility determination when advancing an applicant for state review.

A clear description of how it will monitor and regularly evaluate each LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an individualized

education program (IEP) team or other placement team understand and implement the guidelines established by the State for participation in an MSAA so that all students are appropriately assessed.

OSSE will develop and implement procedures to ensure appropriate oversight of each local education agency (LEA) that exceed the one percent cap. OSSE will develop a plan which includes the following steps:

- Require LEAs who exceed one percent participation to submit annually a participation eligibility training plan, including a calendar of activities, target audiences (e.g., special education coordinators, teachers, related service providers, parents/guardians), training goals, and training materials. Additionally, OSSE will require LEAs to submit attendance records for all trainings on participation eligibility conducted.
- Provide LEAs who exceed one percent participation with technical assistance on the following:
 - The quality of their training plans, as evidenced by OSSE review of annual training plans and supporting materials submitted;
 - The quality of training execution, as evidenced by OSSE monitoring of delivery of a portion of LEA training materials and or activities; and
 - A discrepancy report between OSSE eligibility determinations, LEA eligibility determinations, and IEP team eligibility determinations, flagging IEP teams whose judgment is inconsistent with state guidance and LEA judgment.
- Request LEAs who exceed one percent participation to provide a targeted training plan for those IEP teams flagged in the eligibility determination discrepancy report.

A clear description of how the State will address any disproportionality in the percentage of students taking an MSAA as identified through the data provided.

OSSE will develop and implement procedures to ensure appropriate oversight of each local education agency (LEA) that exceed the one percent cap. OSSE will develop a plan which includes the following steps:

- Monitor for disproportionality in the percentage of students determined to be eligible for alternate assessments and support LEAs to complete self-studies on any disproportionality that occurs; and
- Analyzing subgroup data over time to identify trends in subgroups participation with the goal of decreasing disproportionality.

Timeline

Oct. 2018: The Office of the State Superintendent of Education (OSSE) held the first meeting with stakeholders across the agency to discuss reviewing the state-level guidance on the definition of significant cognitive disability

Dec. 2018: OSSE submits the state waiver to the US Department of Education

Mar. 2019: Multi-State Alternate Assessment window opens

Apr. 2019: OSSE will conduct an internal meeting across multiple divisions in the agency to review the definition of significant cognitive disability

May 2019: Multi-State Alternate Assessment window closes

Jun. 2019: OSSE receives MSAA student data file

Jun. 2019: OSSE will conduct a webinar on the requirements for the annual LEA eligibility training plan

Jul. 2019: LEAs will submit their eligibility training plan to OSSE

Jul. 2019: OSSE will release guidance to LEAs on the requirements of the eligibility determination process and how to submit it to OSSE

Aug. 2019: LEAs will submit their eligibility determination process

Aug. 2019: OSSE review LEA eligibility training plans and provide feedback

Sep. 2019: LEAs will provide a targeted training plan for IEP teams flagged in the eligibility determination discrepancy report to OSSE based on the feedback provided

Public Comment

On November 21, 2018, OSSE posted the notification of the one percent waiver request and request for public comment on OSSE's website, consistent with how OSSE customarily provides similar notice and opportunity for comment on ESSA related documents.⁵ OSSE also sent notices of the waiver request to LEAs chiefs, special education directors, and district test coordinators. Public comments and feedback are attached to this waiver request. The comments that OSSE received did not raise any questions or provide any specific feedback except that the commenters were supportive of OSSE's waiver request.⁶

⁵ 20 U.S.C. § 7861(a)(3)(A)(i)

⁶ 20 U.S.C. § 7861(a)(3)(A)(ii)