KANSAS STATE DEPARTMENT OF EDUCATION

FAQ

Alternate Assessment based on Alternate Academic Achievement Standards (AA-AAAS) 1.0% Threshold

Frequently Asked Questions

Background

The 2015 reauthorization of the Elementary and Secondary Education Act (ESEA), known as the Every Student Succeeds Act (ESSA), includes a 1.0% threshold on state-level participation rates in the alternate assessment aligned to alternate academic achievement standards (AA-AAAS). No limit was placed on district or school rates, but districts must provide justifications to the state if they exceed or anticipate exceeding the 1.0% threshold. In addition, states are to provide oversight to these districts. These requirements mean that states, districts, schools, and Individualized Education Program (IEP) teams need to think carefully about which students should be included in the AA-AAAS. Further, districts should examine their data frequently to ensure that state guidelines are being followed and that appropriate decisions are being made for individual students. Having a data analysis and use plan is essential to being able to examine and discuss data in ways that inform how states and districts act on their data.[1]

1.0% Calculation and Accountability

How is the 1.0% calculated?

The formula:

- Calculated independently for ELA, math, and science

$$\frac{\text{Total tested AA} - \text{AAAS}}{\text{Total tested AA} - \text{AAAS} + \text{general assessment}} * 100$$

- Tested= has a reportable test score

Calculations are applied to the district level, not to school level. In addition, the data includes any students sent outside of the district for services but for whom the district is still accountable.

The 1.0% threshold must be reported with only one decimal point. (October 19, 2018)[2] The US Department of Education (ED) evaluates a State's AA-AAAS participation rate using one decimal place. ED considers anything above 1.00% as over the 1.0% threshold. KSDE will evaluate districts using this same method.

Some districts contract students out to other districts or programs in order to meet Free and Appropriate Public Education (FAPE). Will these students count in the district of attendance or the district of residence?

In circumstances where there is a special agreement for services, the district of residence is typically the accountability district. Therefore, most often the student is included in the participation counts for the district of residence and not the district that provides the services.

Students with special enrollments (attending a different district than the accountability district) are enrolled and rostered for the DLM in the attendance district/building. The accountability district is indicated on the DLM enrollment. These students will show up for the accountability district on the complete student test download on Academic Measures of Student Success (AMOSS) and will count toward the accountability districts 1.0% threshold.

How is the 1.0% rule applied for students who have a special circumstance code entered for why testing did not take place?

Students who had a special circumstance (SC) code entered on Kite Educator Portal (web-based application) do not count in the 1.0% calculation. Only students who took the DLM and received a valid test score are counted.

Special circumstance codes will count against the district's required 95% participation rate. The special circumstance codes for *other* and *catastrophic illness or accident* must be approved by KSDE. Those that are approved will be exempt and will not count against the district's required 95% participation rate. All other SC codes are counted as not tested.

Consequences for Testing Over 1.0% of Students on the AA-AAAS

What are the Consequences for States that are not Compliant with ESSA 1.0% Threshold Requirements?

A State's failure to meet the 1.0% threshold on the total number of students with the most significant cognitive disabilities who can take the AA-AAAS is treated in the same way that any other noncompliance with a Federal requirement is treated.

There is a range of enforcement options that ED may take, including requiring corrective action to address any noncompliance resulting in a failure to meet the 1.0% threshold, imposing a specific condition on a grant, or designating the State a high-risk grantee and, if the noncompliance persists, the possibility of withholding funds, in whole or in part, subject to notice and an opportunity for a hearing.

As a first step, a State that exceeds the 1.0% threshold in a given subject would need to examine its participation guidelines required under section 612(a)(16)(C) of the Individuals with Disabilities Education Act (IDEA) and 34 C.F.R. §300.160(c)of the IDEA Part B regulations (Part B)

for participation of students with the most significant cognitive disabilities in an AA-AAAS and how those guidelines are being implemented across the State (October 19, 2019).[2]

States that anticipate testing over 1.0% of students on the AA-AAAS may submit a waiver or waiver extension to the US Department of Education.

What are the consequences for districts that exceed the 1.0% threshold?

A State must require a Local Educational Agency (LEA) that assesses more than 1.0 percent of its assessed students in any subject with an AA-AAAS to submit information to the State justifying the need to exceed the 1.0% threshold. The justifications are completed within Kansas Integrated Accountability System (KIAS) authenticated applications in December of each year.

Each LEA that tested over 1.0% of students in any subject with an AA-AAAS the previous year must also complete assurances. Assurances include 1. The district correctly identified students with the most significant cognitive disability. 2. The district measured achievement of at least 95% of all students, including students with disabilities in tested grades. 3. The students who will be participating in the alternate assessment receive instruction linked to the Essential Elements. 4. Parents are informed of their child's participation in an alternate assessment and the implications for participating. 5. The district addresses any disproportionality in the percentage of students in any subgroup taking the alternate assessment. Assurances are included in the justifications on KIAS that are completed in December of each year.

Why is the Kansas State Department of Education (KSDE) providing tiered technical assistance (TA) for the 1.0% threshold?

As part of ESSA, States must provide appropriate oversight to each LEA that tested over 1.0% of its students on the AA-AAAS and are required to submit such a justification. KSDE began using a tiered system of TA during the 2020-2021 school year. KSDE used three data points when identifying which LEAs would receive targeted and intensive TA. These data points are the number and percentage of red flags based on the First Contact Survey, the three-year trend in the number and percentage of students taking the DLM, and the percentage of students taking the DLM for the previous school year. The Universal level of support could be thought of as tier 1 instruction, everyone receives this support. Online training and tools are posted on the KSDE DLM page. For Targeted Technical Assistance and Intensive Technical assistance, a 1.0% lead is assigned to assist the district in digging into their data and developing a plan for ensuring the right students are taking the right test. Districts are responsible for FAPE.

Public Posting of 1.0% Documents

Where are waiver requests posted publicly?

Beginning with the 2018-19 1.0% AA-AAAS waiver requests, the Department of Education posts the full State request appended to the Department's response. The Department is publishing the full State request at the behest of Congress. State requests will be reviewed and redacted so that any potentially personally identifiable information (PII) is masked. The Office of Elementary and Secondary Education (OESE) posts waiver responses here. This is a state-by-state index of all Title I waiver responses. (September 6, 2018)[2]

Is a State required to publicly post its 1.0% threshold waiver request and extension request?

Yes, all waiver and extension requests under section 8401 of ESEA require that a State accept public comment on the request. Requirements for a waiver request of the 1.0% threshold under section 8401 of ESEA are described in detail in the regulations in 34 C.F.R. §200.6(c). Note that, in preparing a waiver renewal request, a State must continue to meet each requirement associated with a first-year waiver. (October 19, 2018)[2]

KSDE has posted all waiver requests and plans for the 1.0% threshold on the ESEA page.

Must the state publicly post the actual LEA justification (with personal information redacted or deleted)?

In 34 CFR 200.6(c)(3)ii-iv, the requirement is that States must: "Require that an 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 such an alternate assessment; (iii) Provide appropriate oversight, as determined by the State, of an LEA that is required to submit information to the State; and (iv) Make the information submitted by an LEA under paragraph (c)(3)(ii) of this section publicly available, provided that such information does not reveal personally identifiable information about an individual student." (June 21, 2019)[2]

KSDE has posted LEA justifications and assurances for the 1.0% threshold on the ESEA page.

IEP Team Considerations

If a student meets the criteria from the KSDE DLM Participation Guidelines document, does a specific disability category matter?

No, the decision to participate in the DLM alternate assessment should be made by the IEP team. The IEP team should consider completing the KSDE DLM Participation Guidelines yearly to determine if a student is still eligible for the AA-AAAS. The IEP team can also use the Kansas Alternate Assessment Flow Chart and the Rubric for Determining Eligibility for the Kansas Alternate Assessment (DLM). That being said, there are disability categories that one would not expect to see participating in an alternate assessment. For example, IEP teams have determined that students qualifying for Specific Learning Disability (SLD) criteria have learning problems that are not primarily the result of an intellectual disability and do not meet the guidelines for a student with the most significant cognitive disability. For students identified with Emotional Disturbance (ED), the first criteria are an inability to learn that cannot be explained by intellectual, sensory, or health factors. The definition of a Speech and Language Impairment has no mention of an intellectual disability.

If a student is identified with a red flag from the First Contact Survey by KSDE, does the student need to be removed from the DLM?

No, the decision to participate in the KSDE DLM alternate assessment should be made by the IEP team. If a student is identified with one or more red flags, the IEP team should review the DLM Participation Guidelines to ensure the student is eligible for the DLM. The First Contact Survey should also be reviewed and updated at least yearly for accuracy. DLM Red Flags Fact Sheet for more information and guiding questions that IEP teams can ask.

Can a student continue participating in the DLM if the IEP team can't answer yes to all 4 criteria listed on the KSDE DLM Participation Guidelines?

The KSDE DLM participation guidelines state that the student should participate in the DLM only if ALL responses are marked YES. The IEP team makes the decision as to the participation of the child in the DLM; however, the LEA is responsible for considering and implementing the state's KSDE DLM Participation Guidelines. If the decision of the team appears to be inconsistent with the guidelines, the IEP team should consider reconvening and utilizing one of the KSDE DLM tools designed to assist IEP teams in discussing and determining if a student should participate in the DLM. If the IEP team determines the student should not be taking the DLM, the IEP team would need to amend the IEP to reflect the change in the assessment.

---

[1] Several tools have been developed by NCEO to assist with data analyses and planning. Available at www.nceo.info

[2]Strunk, K., & Thurlow, M. L. (2019). *Frequently asked questions on AA-AAAS*. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes. Available at www.nceo.info .

AA-AAAS 1.0% Threshold

FREQUENTLY ASKED QUESTIONS

For more information, contact:

Cary Rogers
Education Program Consultant
Special Education & Title Services
(785) 296-0619
cary.rogers@ksde.gov

Kansas State Department of Education
900 S.W. Jackson Street, Suite 102
Topeka, Kansas 66612-1212
www.ksde.gov

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the nondiscrimination policies: KSDE General Counsel, Office of General Counsel, KSDE, Landon State Office Building, 900 S.W. Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201.

July 2025