

OKLAHOMA STATE DEPARTMENT OF EDUCATION  
PUBLIC NOTICE AND COMMENT PERIOD WAIVER  
REQUEST PURSUANT TO 34 C.F.R. §200.6(c)(4)

November 6, 2018

Pursuant to 34 C.F.R. 200.6(c)(2), State Education Agencies must limit the total number of students assessed with an alternate assessment in each subject area to no more than 1%. The participation cap is set by 34 C.F.R. 200.6(c)(2). In accordance with 34 C.F.R. §200.6(c)(2), the Oklahoma State Department of Education (OSDE-SES) will seek an extension of the waiver for the 2018-2019 school year from the Secretary of the United States Department of Education.

**NOTICE OF PUBLIC COMMENT PERIOD: Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments shall be accepted through December 6, 2018.**

*If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under § 200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. A state waiver request must:*

*(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;*

The Oklahoma State Department of Education, Special Education Services (OSDE-SES-SES) division is requesting an extension of the waiver request regarding the 1% cap on participation in the alternate assessment in the subject areas of English language arts, math and science. The waiver request will be submitted to the U.S. Department of Education on December 10, 2018. The alternate assessment testing window opens for all subject areas on March 11, 2019. This waiver extension request will be submitted 90 days prior to the start of the testing window as required.

*(ii) Provide State-level data, from the current or previous school year, to show—*

*(A) The number and percentage of students in each subgroup of students defined in section 1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards; and*

***ELA and Math***

***Replace subgroup data and provide data analysis summary***

<i>Year</i>	<i>Report Subgroup</i>	<i>Subject Group</i>	<i>Number OAAP</i>	<i>Number Tested</i>	<i>Participation Rate</i>
<i>2015</i>	<i>All</i>	<i>MATH</i>	<i>5308</i>	<i>343027</i>	<i>1.55%</i>
<i>2015</i>	<i>All</i>	<i>READING</i>	<i>5306</i>	<i>339118</i>	<i>1.56%</i>
<i>2015</i>	<i>American Indian</i>	<i>MATH</i>	<i>738</i>	<i>51275</i>	<i>1.44%</i>
<i>2015</i>	<i>American Indian</i>	<i>READING</i>	<i>720</i>	<i>50689</i>	<i>1.42%</i>
<i>2015</i>	<i>Asian</i>	<i>MATH</i>	<i>45</i>	<i>6645</i>	<i>0.68%</i>

2015	<i>Asian</i>	<i>READING</i>	45	6497	0.69%
2015	<i>Black</i>	<i>MATH</i>	759	31260	2.43%
2015	<i>Black</i>	<i>READING</i>	738	30843	2.39%
2015	<i>Economically Disadvantaged</i>	<i>MATH</i>	3880	207305	1.87%
2015	<i>Economically Disadvantaged</i>	<i>READING</i>	3860	203288	1.90%
2015	<i>English Language Learner</i>	<i>MATH</i>	389	21186	1.84%
2015	<i>English Language Learner</i>	<i>READING</i>	386	20056	1.92%
2015	<i>Female</i>	<i>MATH</i>	1843	167594	1.10%
2015	<i>Female</i>	<i>READING</i>	1833	165519	1.11%
2015	<i>Hispanic</i>	<i>MATH</i>	678	53812	1.26%
2015	<i>Hispanic</i>	<i>READING</i>	684	52677	1.30%
2015	<i>Homeless</i>	<i>MATH</i>	83	7500	1.11%
2015	<i>Homeless</i>	<i>READING</i>	94	7247	1.30%
2015	<i>Individual Education Plan</i>	<i>MATH</i>	5254	59836	8.78%
2015	<i>Individual Education Plan</i>	<i>READING</i>	5249	59227	8.86%
2015	<i>Male</i>	<i>MATH</i>	3465	175433	1.98%
2015	<i>Male</i>	<i>READING</i>	3473	173588	2.00%
2015	<i>Other</i>	<i>MATH</i>	340	25314	1.34%
2015	<i>Other</i>	<i>READING</i>	342	25156	1.36%
2015	<i>White</i>	<i>MATH</i>	2604	173525	1.50%
2015	<i>White</i>	<i>READING</i>	2620	171955	1.52%
2016	<i>All</i>	<i>MATH</i>	5772	347476	1.66%
2016	<i>All</i>	<i>READING</i>	5749	343861	1.67%
2016	<i>American Indian</i>	<i>MATH</i>	799	49889	1.60%
2016	<i>American Indian</i>	<i>READING</i>	810	49662	1.63%
2016	<i>Asian</i>	<i>MATH</i>	68	6822	1.00%
2016	<i>Asian</i>	<i>READING</i>	70	6702	1.04%
2016	<i>Black</i>	<i>MATH</i>	760	30997	2.45%
2016	<i>Black</i>	<i>READING</i>	778	30659	2.54%
2016	<i>Economically Disadvantaged</i>	<i>MATH</i>	4341	215469	2.01%
2016	<i>Economically Disadvantaged</i>	<i>READING</i>	4325	212115	2.04%
2016	<i>English Language Learner</i>	<i>MATH</i>	511	21979	2.32%
2016	<i>English Language Learner</i>	<i>READING</i>	503	20925	2.40%
2016	<i>Female</i>	<i>MATH</i>	1969	169739	1.16%

2016	<i>Female</i>	<i>READING</i>	<i>1967</i>	<i>167944</i>	<i>1.17%</i>
2016	<i>Hispanic</i>	<i>MATH</i>	<i>755</i>	<i>57805</i>	<i>1.31%</i>
2016	<i>Hispanic</i>	<i>READING</i>	<i>751</i>	<i>56606</i>	<i>1.33%</i>
2016	<i>Homeless</i>	<i>MATH</i>	<i>162</i>	<i>8174</i>	<i>1.98%</i>
2016	<i>Homeless</i>	<i>READING</i>	<i>161</i>	<i>7926</i>	<i>2.03%</i>
2016	<i>Individual Education Plan</i>	<i>MATH</i>	<i>5665</i>	<i>59845</i>	<i>9.47%</i>
2016	<i>Individual Education Plan</i>	<i>READING</i>	<i>5652</i>	<i>59256</i>	<i>9.54%</i>
2016	<i>Male</i>	<i>MATH</i>	<i>3803</i>	<i>177737</i>	<i>2.14%</i>
2016	<i>Male</i>	<i>READING</i>	<i>3782</i>	<i>175895</i>	<i>2.15%</i>
2016	<i>Other</i>	<i>MATH</i>	<i>424</i>	<i>28434</i>	<i>1.49%</i>
2016	<i>Other</i>	<i>READING</i>	<i>424</i>	<i>28118</i>	<i>1.51%</i>
2016	<i>White</i>	<i>MATH</i>	<i>2837</i>	<i>172276</i>	<i>1.65%</i>
2016	<i>White</i>	<i>READING</i>	<i>2796</i>	<i>170805</i>	<i>1.64%</i>

### Science

<i>Year</i>	<i>Report Subgroup</i>	<i>Number OAAP</i>	<i>Number Tested</i>	<i>Participation Rate</i>
2015	<i>All</i>	<i>2057</i>	<i>141442</i>	<i>1.45%</i>
2015	<i>American Indian</i>	<i>266</i>	<i>21652</i>	<i>1.23%</i>
2015	<i>Asian</i>	<i>10</i>	<i>2884</i>	<i>0.35%</i>
2015	<i>Black</i>	<i>276</i>	<i>12705</i>	<i>2.17%</i>
2015	<i>Economically Disadvantaged</i>	<i>1456</i>	<i>81085</i>	<i>1.80%</i>
2015	<i>English Language Learner</i>	<i>130</i>	<i>6495</i>	<i>2.00%</i>
2015	<i>Female</i>	<i>707</i>	<i>68844</i>	<i>1.03%</i>
2015	<i>Hispanic</i>	<i>264</i>	<i>21131</i>	<i>1.25%</i>
2015	<i>Homeless</i>	<i>28</i>	<i>2764</i>	<i>1.01%</i>
2015	<i>Individual Education Plan</i>	<i>2041</i>	<i>23860</i>	<i>8.55%</i>
2015	<i>Male</i>	<i>1350</i>	<i>72598</i>	<i>1.86%</i>
2015	<i>Other</i>	<i>139</i>	<i>9846</i>	<i>1.41%</i>
2015	<i>White</i>	<i>1015</i>	<i>72731</i>	<i>1.40%</i>
2016	<i>All</i>	<i>2212</i>	<i>139860</i>	<i>1.58%</i>
2016	<i>American Indian</i>	<i>313</i>	<i>20687</i>	<i>1.51%</i>
2016	<i>Asian</i>	<i>10</i>	<i>2809</i>	<i>0.36%</i>
2016	<i>Black</i>	<i>274</i>	<i>12344</i>	<i>2.22%</i>
2016	<i>Economically Disadvantaged</i>	<i>1642</i>	<i>82377</i>	<i>1.99%</i>

2016	<i>English Language Learner</i>	195	6324	3.08%
2016	<i>Female</i>	761	68546	1.11%
2016	<i>Hispanic</i>	276	22005	1.25%
2016	<i>Homeless</i>	55	2948	1.87%
2016	<i>Individual Education Plan</i>	2176	22769	9.56%
2016	<i>Male</i>	1451	71314	2.03%
2016	<i>Other</i>	146	10632	1.37%
2016	<i>White</i>	1121	70896	1.58%

*(B) The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under § 200.5(a);*

Oklahoma follows the federal requirements for participation in statewide assessments outlined in ESSA. All students enrolled in tested subject areas/grades in Oklahoma public schools are assessed either with or without accommodations or with an alternate assessment. The academic achievement of at least 95% of students enrolled in an assessed grade was measured during the 2017-2018 school year as indicated in the tables below.

***ELA and Math***

<i>Year</i>	<i>Report Subgroup</i>	<i>Subject Group</i>	<i>Numerator</i>	<i>Denominator</i>	<i>Participation Rate</i>
2015	<i>All</i>	<i>MATH</i>	343026	345312	99.34%
2015	<i>All</i>	<i>READING</i>	338342	341491	99.08%
2015	<i>Individual Education Plan</i>	<i>MATH</i>	59836	60619	98.71%
2015	<i>Individual Education Plan</i>	<i>READING</i>	59227	60023	98.67%
2016	<i>All</i>	<i>MATH</i>	347476	349703	99.36%
2016	<i>All</i>	<i>READING</i>	343861	345700	99.47%
2016	<i>Individual Education Plan</i>	<i>MATH</i>	59845	60649	98.67%
2016	<i>Individual Education Plan</i>	<i>READING</i>	59265	59907	98.93%

***Science***


<i>Year</i>	<i>Report Subgroup</i>	<i>Numerator</i>	<i>Denominator</i>	<i>Participation Rate</i>
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2015	All		141442	142730	99.10%
2015	Individual Education Plan		23860	24311	98.14%
2016	All		139860	141296	98.98%
2016	Individual Education Plan		22769	23256	97.91%

(iii) Include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are administered under § 200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—

- (A) Followed each of the State's guidelines under paragraph (d) of this section, except paragraph (d)(6); and
- (B) Will address any disproportionality in the percentage of students in any subgroup under section 1111(c)(2)(A), (B), or (D) of the Act taking an alternate assessment aligned with alternate academic achievement standards;

An assurance statement regarding the responsibility of IEP teams to follow the alternate assessment participation criteria is gathered annually. The OSDE-SES utilizes an online system to gather these assurance statements from LEA Superintendents before distributing funding. This is a new process implemented this year. An example of the assurance statement has been provided in the screen shot below.


STATE DEPARTMENT of EDUCATION

**Applicant:** [Redacted]

**Application Cycle:** 2018-2019 LEA Agreement - 00-Original Application

**Submissions due by:** 6/30/2018

**Project Period:** 7/1/2018 - 6/30/2019

**LEA Agreement:** [Dropdown]

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**Participation in Assessments**

By checking this box and saving the page, the local education agency (LEA) superintendent hereby certifies that he/she has read, understood and will comply with the assurances listed below.

The LEA assures that it will include students with disabilities in state/districtwide assessments, with appropriate accommodations, as indicated in the student's IEPs, in accordance with 34 CFR § 300.160 and the "Special Education Policies". Students who, even with appropriate accommodations, cannot participate in state/districtwide assessments will participate in the State's alternate assessments. The LEA will establish and implement guidelines for the participation of students with disabilities in districtwide assessments, with appropriate accommodations in administration, if necessary. These guidelines will also address participation of students with disabilities in alternate assessments for those students who cannot participate, even with appropriate accommodations, in standard districtwide assessment programs. The school district assures that only those students who meet the participation criteria identified in the Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments will participate in the Oklahoma Alternate Assessment Program. The school district also assures that IEP teams will complete the Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments on an annual basis prior to student participation in the alternate assessment.

**34 CFR § 300.160 Participation in Assessments.**

(A) General. A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in the respective IEPs.

(B) Accommodation guidelines.

- (1) A State (or, in the case of a district-wide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.
- (2) The State's (or, in the case of a district-wide assessment, the LEA's) guidelines must-
  - (i) Identify only those accommodations for each assessment that do not invalidate the score; and

(C) Alternate assessments.

- (1) A State (or, in the case of a district-wide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) of this section.
- (2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that -
  - (i) Are aligned with the State's challenging academic content standards and challenging student academic achievement standards;
  - (ii) If the State has adopted modified achievement standards permitted in 34 CFR 200.1(e), measure the achievement of children with disabilities meeting the State's criteria under § 200.1(e)(2) against those standards; and
  - (iii) If the State has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards.

(D) Explanation to IEP Teams. A State (or in the case of a district-wide assessment, an LEA) must provide IEP Teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of State and local policies on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

(E) Inform parents. A State (or in the case of a district-wide assessment, an LEA) must ensure that parents of students selected to be assessed based on alternate academic achievement standards are informed that their child's achievement will be measured based on alternate academic achievement standards.

(F) Reports. An SEA (or, in the case of a district-wide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- (1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.
- (2) The number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards.
- (3) The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards.
- (4) The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.
- (5) Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards, and alternate assessments based on alternate academic achievement standards if-
  - (i) The number of children participating in those assessments is sufficient to yield statistically reliable information; and
  - (ii) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

(G) Universal design. An SEA (or, in the case of a district-wide assessment, an LEA) must, to extent possible, use universal design principles in developing and administering any assessments under this section. (Authority: 20 U.S.C. 1412(a)(16))

The OSDE-SES-SES will continue to address disproportionality in the percentage of students in any subgroup taking the alternate assessment by completing the following activities:

- Providing professional development for the participation guidelines for Oklahoma’s alternate assessment;
- Providing 2017-18 alternate assessment participation rates to school LEAs;
- Completing a disproportionality analysis of alternate assessment data by subgroup, such as race/ethnicity, gender, English learner and students eligible for free or reduced price school meals;
- Addressing disproportionalities in subgroups within LEAs through a 3 tier intervention/support system

***(iv) Include a plan and timeline by which—***

- (A) The State will improve the implementation of its guidelines under paragraph (d) of this section, including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in paragraph (c)(2) of this section in each subject for which assessments are administered under § 200.2(a)(1) in future school years;***

The OSDE-SES worked in conjunction with three groups of stakeholders during the 2017-18 school year to develop a state definition of a student with a significant cognitive disability. The definition has been included in the required professional development module regarding the alternate assessment participation criteria. The alternate assessment participation criteria information in the module focuses on factors related to cognitive functioning and adaptive behavior. The OSDE-SES will continue to provide professional learning opportunities for IEP team members and other educators regarding eligibility for participation in the alternate assessment.

The following timeline identifies steps to be taken by the OSDE-SES:

- Public comment period from November 6, 2018 – December 6, 2018;
- Analysis of public comments from December 7 – 9, 2018;
- Waiver request submitted to the U.S. Department of Education on December 10, 2018;
- OSDE-SES assessment monitoring – November 2018 through February 2019
- Launch of online professional development module – December 2018
- Alternate assessment testing window opens for all subject areas on March 11, 2019.

- (B) The State will take additional steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and implement the guidelines established by the State under paragraph (d) of this section so that all students are appropriately assessed; and***

- (C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section;***

Oklahoma provided regional professional development workshops during the 2017-18 school year regarding the participation criteria found in the Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments. The trainings focused on how to analyze the criteria found in the checklist and how to choose the appropriate state assessment. In addition, the following 3 Tiered Intervention/Support Monitoring system was implemented.

Tier 1: LEAs slightly to moderately over the 1 percent participation cap were required to provide justification for assessing more than 1% with an alternate assessment and an assurance statement regarding following the alternate assessment eligibility criteria. The following professional development opportunities were offered:

- Regional professional development workshops
- Technical support and guidance consisting of phone support and small group/individual training sessions.

Concepts covered in these supports included:

- Using the Participation Guidelines to make assessment participation decisions;
- Helping fellow IEP team members understand the criteria for participation in the alternate assessment;
- Selecting, implementing and evaluating accessibility features and accommodations for instruction and assessments;
- Having high expectations for all students regardless of the severity of disability;
- Understanding and communicating to parents the implications of student participation in the alternate assessment.

Tier 2: LEAs moderately over the 1 percent participation cap were required to provide justification for assessing more than 1% with an alternate assessment and an assurance statement regarding following the alternate assessment eligibility criteria. The following professional development opportunities were offered:

- Regional professional development workshops
- Technical support and guidance consisting of phone support and small group/individual training sessions.

Concepts covered in these supports included:

- Using the Participation Guidelines to make assessment participation decisions;
- Helping fellow IEP team members understand the criteria for participation in the alternate assessment;
- Selecting, implementing and evaluating accessibility features and accommodations for instruction and assessments;
- Having high expectations for all students regardless of the severity of disability;
- Understanding and communicating to parents the implications of student participation in the alternate assessment.

In addition to the optional supports provided above, completion of an online professional development module will be required this Fall. OSDE-SES is in the final stages of completion of the module which will be launched at the end of November 2018. This module will be available to all LEAs but will be required of Tier 2 LEAs.

Tier 3: Tier 3 intervention/support were provided to LEAs significantly over the 1 percent participation cap. Tier 3 interventions/supports consisted of all Tier 2 requirements and the following additional activities:

- Additional data analysis;
- Comprehensive assessment monitoring;
- Required support/training for LEA leadership;

Upon a comprehensive review of the last two years of assessment data for all tier 3 LEAs, OSDE-SES has determined that approximately 12 LEAs will be visited during the 2018-19 school year. The data analysis began with looking at LEAs who assessed more than 5% of the tested population with an alternate assessment during the 2017 school year. The size of the total student population was taken into account as well as the existence of any special schools or long-term residential facilities for medically fragile children with severe/profound disabilities. IEPs in LEAs with higher percentages of students assessed with the alternate assessment were reviewed with a focus on cognitive and adaptive behavior testing data and categorical identification under the IDEA. The OSDE-SES does not promote the idea that certain disability categories deem a student ineligible for an alternate assessment, however the data can help monitoring staff develop a better understanding of the professional development needs in the LEA. The OSDE-SES then compared data from the 2017 and 2018 testing seasons as soon as the newest data became available in October 2018. The analysis of two years of assessment data indicates that many of our more concerning LEAs have decreased the number of students assessed via the alternate assessment. The OSDE-SES feels that the data analysis performed has resulted in the need to perform a comprehensive assessment monitoring of 15 LEAs which will include file reviews and required training for LEA leadership and special education staff.

Although Oklahoma continues to exceed the 1% cap, substantial progress has been made in lowering the percentage of students assessed with the alternate assessment. Justifications for overages and assurances submitted by Superintendents and supports such as regional trainings did have a positive impact on the percentage of students assessed with the alternate assessment. The chart below demonstrates the decrease in the percentage of students alternately assessed in Oklahoma in the last year. A future LEA incentive for adherence to the 1% cap will include the addition of a bonus point in the district data profile calculation.

<b>SchoolYear</b>	<b>DistrictName</b>	<b>Subject</b>	<b>OAAP Student Count</b>	<b>Total Students Tested</b>	<b>OAAP Percentage</b>
2018	State Total	MATH	5,107	344,800	1.48%
2018	State Total	READ	5,111	344,486	1.48%
2018	State Total	SCIE	1,640	143,957	1.14%
2017	State Total	MATH	5,840	346,763	1.68%
2017	State Total	READ	5,854	346,316	1.69%
2017	State Total	SCIE	2,167	128,009	1.69%