

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

November 13, 2017

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)(4), the Oklahoma State Department of Education (OSDE) will seek a waiver for the 2017-2018 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 13, 2017.

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 (OSDE) will submit a 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 20, 2017. The alternate assessment testing window opens for all subject areas on March 26, 2018.

(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

<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>
<i>2015</i>	<i>Asian</i>	<i>READING</i>	<i>45</i>	<i>6497</i>	<i>0.69%</i>

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>	1967	167944	1.17%

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

Science

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

2016	English Language Learner	195	6324	3.08%
2016	Female	761	68546	1.11%
2016	Hispanic	276	22005	1.25%
2016	Homeless	55	2948	1.87%
2016	Individual Education Plan	2176	22769	9.56%
2016	Male	1451	71314	2.03%
2016	Other	146	10632	1.37%
2016	White	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. Assessment data from the 2016-17 school year is not yet available but we have provided assessment data from the 2015-16 school year.

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	All	MATH	343026	345312	99.34%
2015	All	READING	338342	341491	99.08%
2015	Individual Education Plan	MATH	59836	60619	98.71%
2015	Individual Education Plan	READING	59227	60023	98.67%
2016	All	MATH	347476	349703	99.36%
2016	All	READING	343861	345700	99.47%
2016	Individual Education Plan	MATH	59845	60649	98.67%
2016	Individual Education Plan	READING	59265	59907	98.93%

Science

<i>Year</i>	<i>Report Subgroup</i>	<i>Numerator</i>	<i>Denominator</i>	<i>Participation Rate</i>
--------------------	-------------------------------	-------------------------	---------------------------	----------------------------------

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%

The OSDE will analyze all available data regarding the achievement of the children with disabilities subgroup and learner characteristics of students participating in the alternate assessment program. Analysis of these subgroups and learner characteristics will allow OSDE to identify school districts needing additional professional development regarding providing academic access and participation in the alternate assessment.

(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;

School districts will be required to submit a justification survey if exceeding 1% participation in the alternate assessment during the 2016-2017 school year. The justification survey will require school districts to identify how the district is assuring that individualized education program (IEP) teams are adhering to the criteria, as outlined in the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments*. Districts exceeding the 1% participation cap will complete one of 3 tiers of intervention/support. Upon receipt of the justification survey and a disproportionality analysis of district data, the OSDE-SES will assign the appropriate tiered intervention/support plan. The 3 Tiered Intervention/Support system is described in section (iv)(B) of this document.

The OSDE-SES will 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;
- Reporting assessment data publicly;
- Providing districts a justification survey with results to be posted in a public forum;
- Providing 2016-2017 alternate assessment participation rates to school districts;
- 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 districts 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 an advisory group of stakeholders in 2012 to revise the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments*, which identifies the eligibility criteria for participation in the alternate assessment. The criteria found in the checklist focuses on factors related to cognitive functioning and adaptive behavior. The OSDE will continue to provide professional learning opportunities for IEP team members and other educators regarding eligibility for participation in the alternate assessment.

The OSDE-SES worked in conjunction with an advisory group of stakeholders to develop a formal definition of “students with significant cognitive disabilities” during the fall of 2017. Upon completion of the formal adoption of this definition, an advisory group will reconvene to determine if additional revisions to the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments* are necessary .

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

- Public comment period from November 13, 2017 – December 13, 2017;
- Analysis of public comments from December 13, 2017 – December 20, 2017;
- Waiver request submitted to the U.S. Department of Education on December 20, 2017;
- Convene advisory group to determine if revision of the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments* is necessary- Winter 2017
- Alternate assessment testing window opens for all subject areas on March 26, 2018.

(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 provides professional development opportunities for all special education teachers and administrators every fall regarding the participation criteria found in the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments*. In addition, the training is recorded and posted on the OSDE-SES website. The trainings teach educators how to analyze the criteria found in the checklist and how to choose the appropriate state assessment. In addition to

the current training opportunities provided to educators, the following 3 Tiered Intervention/Support Monitoring system will be implemented.

Participation in a 3 Tiered Intervention/Support Monitoring system will be required for all districts over the 1 percent cap on alternate assessment participation. The goal of the 3 Tiered Intervention/Support Monitoring system is to improve district implementation of state guidelines for participation. OSDE-SES will provide support and oversight, monitor and evaluate district compliance, review training sufficiency and address any disproportionality in school districts in the state. The tiers of intervention/support are as follows:

Tier 1: Tier 1 support will be provided to districts that are slightly to moderately over the 1 percent participation cap on students participating in the alternate assessment, as defined by the OSDE-SES. An assurance statement regarding the provision of professional development for staff members about adherence to the eligibility criteria found in the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments* will be required. In addition, the following professional development opportunities will be offered:

- Webinars regarding participation criteria for educators and parents;
- Recorded training, available on the OSDE-SES website, regarding participation criteria for educators and parents;
- Technical support and guidance consisting of phone support and small group/individual training sessions.

Concepts covered in these professional development opportunities will include:

- 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: Tier 2 support will be provided to districts that are moderately over the 1 percent participation cap on students participating in the alternate assessment, as defined by the OSDE-SES. Tier 2 interventions/supports will consist of targeted professional development provided by state personnel and an assurance statement regarding adherence by IEP teams to the eligibility criteria found in the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments*.

Concepts covered in the targeted professional development will include:

- 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 3: Tier 3 intervention/support will be provided to districts that are significantly over the 1 percent participation cap on students participating in the alternate assessment, as defined by the OSDE-SES. Tier 3 interventions/supports will consist of all Tier 2 requirements and the following additional activities:

- Additional data analysis;
- On-site record reviews;
- Required support/training for district leadership;

If through the monitoring process it becomes evident the decision to place students on the alternate assessment was not made by the IEP team utilizing to the *Criteria Checklist for Assessing Students with Disabilities on Alternate Assessments*, the OSDE-SES will recommend to school district leadership that IEP teams reconvene and review assessment decisions.