



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 21, 2025

The Honorable Emily Anne Gullickson  
Acting Superintendent of Education  
Virginia Department of Education  
P.O. Box 2120  
Richmond, VA 23218

Dear Acting Superintendent Gullickson:

I am writing in response to the Virginia Department of Education's (VDOE's) request on November 26, 2024 (with additional information provided on January 9, 2025), for a 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 more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). VDOE requested this waiver because, based on State data for school year (SY) 2023-2024, VDOE concluded that it may exceed the 1.0 percent cap on AA-AAAS in reading/language arts (R/LA), mathematics, and science.

After reviewing VDOE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for SY 2024-2025, a 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, VDOE 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 SY 2023-2024 at least 95 percent of all students and all students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required.
- 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.
- 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.

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- Will implement, consistent with the plan submitted in VDOE’s waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 percent cap.

As a reminder, 34 CFR § 200.6(c)(3)(iv) requires a State to make publicly available the information submitted by an LEA justifying the need 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, timeline, and progress to date in reducing the percentage of students taking the AA-AAAS.

Given the strong workplan submitted by VDOE, I expect to see positive results of this plan in the 2024-2025 school year and beyond. Thank you for your continued efforts in achieving these reductions. Future requests for a waiver extension will continue to expect both continued progress implementing your plan and progress in reducing the current percentage of students taking the AA-AAAS in all tested subjects.

I appreciate your work to improve Virginia’s schools and provide a high-quality education for your students. If you have any questions, please contact my staff at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,



Hayley B. Sanon  
Principal Deputy Assistant Secretary  
and Acting Assistant Secretary  
Office of Elementary and Secondary Education

cc: Jeff Phenicie, Executive Director of Data,  
Monitoring, and General Supervision