www.education.ne.gov
301 Centennial Mall South
P.O. Box 94987
Lincoln, NE 68509-4987
TEL 402.471.2295
FAX 402.471.0117

NEBRASKA
DEPARTMENT OF EDUCATION

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David Lewis
Office of State Support, OESE, USDE
400 Maryland Ave., SW
Washington, DC 20202
202-401-1427
David.Lewis@ed.gov

Kimberly Mitchell
U.S. Department of Education
Office of Special Education Programs
400 Maryland Ave., SW
Washington, DC 20202
202-245-7472
Kimberly.Mitchell@ed.gov

Dear Mr. Lewis and Ms. Mitchell:

The *Every Student Succeeds Act (ESSA)* amended the provision of Title I of the Elementary and Secondary Education Act of 1965 related to students participating in alternate assessments of each State Education Agency's (SEA's) statewide assessment. The ESSA requires SEAs to submit waiver requests to the United States Department of Education in the event they have more than 1% of their students participating in the alternate assessment.

The Nebraska Department of Education (NDE) has conducted a review of data from Nebraska's statewide assessment for the school year 2016-17. The purpose of the review was to determine the participation rates of students taking the alternate assessments aligned to Nebraska's College and Career Ready Academic Standards with Extended Indicators.

The data revealed that just over one percent of Nebraska students participated in each of the content areas included in Nebraska's Alternate Assessment (Table 1). Based on this data, the state anticipates exceeding the one percent threshold enacted by the ESSA for school year 2017-18.

Table 1: Participation in Alternate Assessment by Content

Subject	Number of Alternate Assessments Given	Number of all Assessments Given	Percent Participation
English Language Arts (3 – 8, 11)	**2,054**	**161,149**	**1.27%**
Math (3 – 8, 11)	**2,058**	**161,998**	**1.27%**
Science (3 – 8, 11)	**892**	**68,749**	**1.30%**

Pursuant to 34 C.F.R. §200.6(c)(4), the Nebraska Department of Education (NDE) is seeking a waiver for all subject areas for the 2017-2018 school year from the Secretary for the United States Department of Education. Nebraska has one testing window during the spring of each year. The start date for each subject is scheduled for March 19, 2018. Submission of the NDE waiver request comes 90 days prior to the start of the first testing window.

The NDE sought public comment on its request for a waiver on the number of students who participate in Nebraska Student-Centered Assessment System Alternate Assessment (NSCAS-AA). The NDE accepted public input from December 4-18, 2017 on the waiver request. The public input was gathered through NDE's website, shared on listservs for district assessment coordinators and directors of special education, and disseminated via email to other stakeholders. The notice was posted for two weeks, the usual amount of time the agency posts such notices for public comment.

During the public comment period the NDE received a total of nine comments. The documents are included in the following attachments:

- Attachment 1 includes NDE release of the public notice and comment period.
- Attachment 2 includes the public notice of waiver request posted for public comment.
- Attachment 3 includes public comments received by the NDE.

Nebraska follows the federal participation requirements for assessment and requires all students enrolled in public K-12 schools be assessed with accommodations, without accommodations or with alternate assessment.

To date, Nebraska has consistently exceeded the federal guidelines set at 95% participation rate of all students. For the 2016-17 school year Nebraska's

participation rate for all students and for students with disabilities exceeded 99% for all content areas.

Local district data were reviewed and analyzed. There were 134 of 244 districts that assessed more than one percent of its assessed students with NeSA Alternate Assessment during the 2016-17 school year. (http://nep.education.ne.gov/)

NDE will reach out to each district with a participation rate greater than one percent and request written assurances that each Individual Education Program (IEP) Team, is following the criteria for determining participation in the NSCAS-AA when making assessment participation decisions.

The NDE will develop and implement procedures to ensure appropriate oversight of each local school district that exceeds the one percent cap. The NDE will develop a plan and timeline for:

- Reviewing and revising (as necessary) the state's guidelines for participation in alternate assessment, including the state's definition of students with the most significant cognitive disabilities;
- Describing the steps the state will take in providing appropriate oversight to each district 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;
- Addressing any disproportionality in the percentage of students taking an alternate assessment;
- Developing and distributing resources for parents that include information on Nebraska's alternate assessment participation guidelines, and accommodations that enable students to participate in the general assessment to the maximum extent possible; and
- Reporting assessment data publicly.

Statewide technical assistance will be available to all districts. Topics may include the following implementation requirements set forth in the ESSA:

- Using the alternate assessment participation guidelines (developed by NDE to determine if a student will take part in NSCAS-AA) to make appropriate assessment participation decisions;
- Selecting, implementing, and evaluating accessibility features and accommodations for instruction and assessments;
- Differentiating instruction and providing better access to academic content;
- Having high expectations for all students regardless of the category of their disability;
- Reviewing implications of student participation in the alternate assessment as it applies to completing requirements for a regular high school diploma;
- Reviewing the state's definition of students with the most significant cognitive disabilities;

- Assist LEA in informing and engaging parents in the conversations and decisions around participating in NSCAS-AA; and
- Addressing any disproportionality in the percentage of students taking NSCAS-AA.

An annual review of disaggregated district data on participation rates in each subject of the alternate assessment will be conducted by the NDE. Districts that exceed the one percent participation rate will be required to provide NDE with a detailed justification for exceeding the one percent cap.

Districts with unusual patterns or higher participation rates will require additional examination by the NDE to determine the reasons for higher percentages of students participating in NSCAS-AA.

The NDE will provide support to districts to ensure they are utilizing the criteria for determining participation in the NSCAS-AA to make appropriate decisions for students who are participating in NSCAS-AA. For districts that continue to exceed the one percent threshold, a more intensive approach will be taken. The NDE will provide ongoing training, coaching, and support to ensure appropriate assessment of all students.

Districts will be required to address disproportionality among subgroups of students participating in NSCAS-AA beginning in the fall of 2018.

To determine if disproportionality among subgroups of students participating in the NSCAS-AA of Nebraska's statewide assessments existed, the NDE used the risk ratio methodology. Data were analyzed to determine risk ratios for the following subgroups: 1) seven race/ethnicity categories, 2) socio-economic status (determined by free or reduced lunch), 3) English Language Learners, 4) homelessness, and 5) gender. The SEA will also examine the percentage by disability category participating in the NSCAS-AA (when data are available). These data analysis techniques provide the NDE the information on student subgroups to focus initiatives on reducing the percentage of students participating in the NSCAS-AA.

To determine risk ratios for the subgroups listed above, the NDE ascertained the risk of each subgroup participating in the 2016-2017 NSCAS-AA, compared to the risk of assessed students not in a given subgroup. The risk ratio analysis identified subgroups that are more likely to participate in NSCAS-AA. For example, a risk ratio of 1.0 represents an equal likelihood of participation in the NSCAS-AA between students in a particular subgroup and students not in that subgroup. Moreover, a risk ratio of 2.0 indicates students in a subgroup are twice as likely to participate in the NSCAS-AA as students not in that subgroup. Any risk ratio above 1.5 indicates disproportionality; the higher the risk ratio, the greater the degree of disproportionality.

Seen in the Table 2 below, the risk ratio analysis identified disproportionality in four (4) subgroups: Male, American Indian/Alaska Native, Black/African American, Two or More Races (Science only), Socio-economic status, and Homeless.

Table 2: Disproportionality by Sub-Groups of Students Participating the NE Alternate Summative Assessments: SY 2017

SUB-GROUP	ELA (Grades 3-8 & 11)	MATHEMATICS (Grades 3-8 & 11)	SCIENCE (Grades 5, 8, & 11)
All Students	1.27	1.27	1.30
Female	0.94	0.94	0.96
Male	1.59	1.58	1.62
American Indian or Alaska Native	1.99	2.03	1.60
Asian	1.19	1.11	1.25
Black or African American	1.97	1.94	2.21
Hispanic	1.32	1.31	1.27
Native Hawaiian or Other Pacific Islander	0.43	0.44	0.00
White	1.17	1.18	1.20
Two Or More Races	1.44	1.44	1.52
English Learners	0.38	0.38	0.28
Socio-Economic Status	1.67	1.65	1.71
Homeless	1.95	1.82	2.38

Note: Red print denotes values that exceed Nebraska's established threshold.

The NDE believes its plan of:

- Identifying districts with more than 1% of its students participating in NSCAC-AA;
- Providing technical assistance to districts to ensure appropriate decisions for participation in NSCAS-AA are made by IEP teams;
- Identifying districts with subgroups that disproportionately participate in NSCAS-AA;
- Providing support to districts with more than 1% of their students participating in NSCAS-AA; and
- Monitoring districts with more than 1% of their students participating in the NSCAS-AAS;

will act to reduce the percentage of Nebraska students participating in NSCAS-AA to the 1% limit required by ESSA.

Please contact Jeremy Heneger, jeremy.heneger@nebraska.gov to discuss the content of this waiver request or address questions. We look forward to working with U.S. Department of Education staff to achieve a positive response to the request.

Sincerely,

Matthew L. Blomstedt Ph.D.
Commissioner of Education