



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 22, 2022

The Honorable Angelica Infante-Green  
Commissioner of Education  
Rhode Island Department of Education  
255 Westminster Street  
Providence, RI 02903-3400

Dear Commissioner Infante-Green:

I am writing in response to the Rhode Island Department of Education's (RIDE's) request on January 4, 2022, 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 using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State who are assessed in the subjects of reading/language arts (R/LA) and mathematics.

After reviewing RIDE's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for school year 2021-2022, a one-year 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 and mathematics.

As part of this waiver, RIDE 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 2018-2019 at least 95 percent of all students and students with disabilities who are enrolled in grades for which an assessment is required. I note that while the State did not assess at least 95 percent of all students and students with disabilities in 2020-2021 due to disruptions caused by the COVID-19 pandemic, it assessed students with disabilities at about the same rate as all students in 2020-2021. Therefore, consistent with information provided in the guidance to States on October 29, 2021,<sup>1</sup> I am also approving a one-year waiver of the requirement in 34 CFR § 200.6(c)(4)(ii)(B) that a State must have assessed at least 95 percent of students in the prior year.
- 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.

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<sup>1</sup> See: <https://oese.ed.gov/files/2021/10/Memo-to-States-re-One-Percent-Waiver-Requirements-2021-2022.pdf>.

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

I want to remind you of the requirement in 34 CFR § 200.6(c)(3)(iv) that the State must make publicly available the information submitted by an LEA justifying the need of the LEA 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 and timeline and your progress to date in reducing the percentage of students taking the AA-AAAS. I would also like to remind you that this waiver does not alleviate any of the State’s obligations in meeting all of the requirements found in section 612(a)(16) of the Individuals with Disabilities Education Act (IDEA) which address assessment participation, assessment accommodations, alternate assessments, and reporting for children with disabilities.

Given the workplan submitted by RIDE, I expect to see positive results of this plan in the 2021-2022 school year and beyond. I note that the rate of AA-AAAS participation has remained the same in your State. Future requests for an extension of this waiver will continue to expect both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS in all tested subjects.

I appreciate the work you are doing to improve your 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,

/s/

James F. Lane, Ed.D.  
Senior Advisor, Office of the Secretary  
Delegated the Authority to Perform the  
Functions and Duties of the Assistant Secretary  
Office of Elementary and Secondary Education

cc: Phyllis Lynch, RIDE Director of Instruction, Assessment, & Curriculum

**R.I. DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION**

Shepard Building  
255 Westminster Street  
Providence, Rhode Island 02903-3400



**RIDE** Rhode Island  
Department  
of Education

January 4, 2022

Office of State Support  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C., 20202

RE: Rhode Island "One Percent" ESSA Waiver Request

To Whom It May Concern:

The Rhode Island Department of Education (RIDE) is formally requesting a waiver for mathematics and English Language Arts, pursuant to 34 C.F.R. §200.6(c)(4) of the Every Student Succeeds Act (ESSA), from the following statutory provision:

34 C.F.R. 200.6(c)(2): For each subject for which assessments are administered under § 200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

Additionally, pursuant to 34 C.F.R. 200.6(c)(4)(ii)(B), Rhode Island is requesting a waiver for the 95 percent participation rate requirement for 2020-21. The participation rates for last year's assessment cycle were below the 95 percent threshold in all content areas, for all students and for students with disabilities. As requested, participation rate data from 2018-19 that shows federal participation rates were met for all content areas for all students is included in Table 4 of this waiver. Participation rates were met for students with disabilities for ELA and mathematics as well.

In 2019, Rhode Island submitted a waiver of the one percent requirement that was subsequently rescinded because Rhode Island received a waiver of the requirement to administer state assessments due to the COVID-19 pandemic. The state assessments were not administered in spring 2020. Our 2021-22 waiver request includes totals and percentages using testing data from the 2020-21 assessments. These data show that the number of students who participated in the Rhode Island State Assessment Program (RISAP) decreased dramatically from 2018-19. In some cases, the decrease in the number of students who participated exceeded 9%. Since this drop in participation is across all state assessments, not just the alternate assessments. The percent of students who took the alternate assessment last year was above the 1% cap.

Rhode Island maintained our regular test administration and participation policies throughout the 2020-21 testing year, including requiring students to test in their home schools, in person. With guidance from RIDE and the RI Department of Health, the LEAs implemented additional safety and healthcare measures to ensure that families knew their child was safe during testing. Despite the safety measures put in place to bring students who were distance learning into schools for state testing many families chose to keep their children home during the 2020-2021 school year. For the 2021-2022 school year, all but a small number of students with medical approvals are back in school buildings and schools are slowly

increasing enrollment, but RI is still not back to pre-pandemic enrollment levels. Given that all schools are fully in person aside from a small number of students, we do not expect to see low participation rates during the upcoming testing year.

Prior to submitting this waiver extension request, RIDE prepared and disseminated its waiver application and FAQ document. A communication sharing these documents were included in the Commissioner Weekly Field Memo, presented for discussion during the December Test Coordinator Monthly Webinar, posted on the RIDE website, and distributed via email to various stakeholder groups. The document was posted for public comment for 16 days and a survey tool was utilized to collect public comment on the waiver request. These approaches provided ample opportunity for public comment on this waiver extension request. Public feedback received during this comment period is attached.

You will find that our waiver demonstrates RIDE's efforts at ensuring the following:

- Multiple training opportunities, provided by RIDE, to ensure all LEAs understand and apply the eligibility criteria accurately and fairly to all students under consideration.
- Multiple opportunities to receive technical assistance from RIDE to support understanding of the eligibility criteria, develop processes that support the use of appropriate evidence to make eligibility decisions, and to understand the Essential Elements in order to develop appropriate and challenging academic goals for students who take the alternate assessments.
- All LEAs over the 1% will continue to implement their approved action plans.
- That all parents are notified that their child's achievement will be measured using alternate achievement standards, that participation in the alternate assessment may affect their ability to fulfill graduation requirements.
- That RIDE conducts analysis of state and LEA data to identify areas over-identification for the alternate assessment.

I look forward to your consideration of our request for a waiver of the ESSA One Percent Cap. Please contact Phyllis Lynch, Director, Office of Curriculum, Instruction, and Assessment ([Phyllis.lynnch@ride.ri.gov](mailto:Phyllis.lynnch@ride.ri.gov) or 401-222-4693) with any questions you may have.

Thank you,



Angélica Infante-Green  
Commissioner, Rhode Island Department of Education

# RHODE ISLAND

ESSA waiver extension for 2021-22 regarding the 1%  
threshold on assessing students using the alternate  
assessment



**RIDE** Rhode Island  
Department  
of Education

255 Westminster Street, Providence, Rhode Island, 02903

## Rhode Island: Initial Waiver Request

**Requirement 1 – (§200.6(c)(4)(i)):** Submit the waiver request at least 90 days before testing window starts for the relevant subject.

	Examples of Evidence
<p>The State indicated the dates of its alternate assessment testing window, and confirmed that the waiver request was being submitted 90 days prior to the beginning of the testing window.</p> <p><i>For multiple testing windows during the year:</i> The State indicated the testing window that is considered to be its summative assessment, and then confirmed that the waiver request was being submitted 90 days prior to the summative assessment testing window.</p>	<p>Rhode Island’s assessment window for the Alternate Assessment for Students with Significant Cognitive Disabilities is from April 4, 2022, to May 27, 2022.</p> <p>Ninety days prior to the start of Rhode Island’s testing window (January 4, 2022), Rhode Island Department of Education (RIDE) will submit a waiver request to the United States Department of Education for English language arts (ELA) and mathematics.</p>

**Requirement 2 (A) - (§200.6(c)(4)(ii)(A)):** Provide State-level data from the current or previous year that shows the number and percent in each subgroup who took the alternate assessment in the subject area.

	Examples of Evidence
<p>The State provided detailed data on alternate assessment participation for all ESSA required subgroups.</p>	<p>Tables 1-2 provide the number and percent of students tested in each content area at the state level and in each subgroup for both general and alternate assessments in 2020-21.</p>

**Table 1: Percent of students who took the alternate assessment overall and by subgroup, mathematics, grades 3-8, and 11 for 2020-21.**

Percent of students who took the alternate assessment overall and by subgroup, mathematics, 2020-21			
Subgroup	Total number of students assessed, grades 3-8, 11 (RICAS, SAT, DLM)	Total number of students assessed, grades 3-8, 11 alternate assessment (DLM)	% of students assessed, grades 3-8, 11, alternate assessment (DLM)
STATE	64,575	815	1.26%
Female	31,404	245	0.78%
Male	33,165	570	1.72%
Students with Disabilities	10,045	814	8.10%
Low Income	28,148	411	1.46%
Migrant	22		
English Language Learners	7,270	115	1.58%
American Indian	450	10	2.22%
Asian	2,162	31	1.43%
Black or African American	5,802	92	1.59%
Hispanic or Latino	17,653	199	1.13%

Pacific Islander	102		
White	35,336	433	1.23%
Two or More Races	3,070	50	1.63%

**Table 2: Percent of students who took the alternate assessment overall and by subgroup, English language arts, grades 3-8, and 11 for 2020-21.**

<b>Percent of students who took the alternate assessment overall and by subgroup, English language arts, 2020-21</b>			
<b>Subgroup</b>	<b>Total number of students assessed, grades 3-8, 11 (RICAS, SAT, DLM)</b>	<b>Total number of students assessed, grades 3-8, 11 alternate assessment (DLM)</b>	<b>% of students assessed, grades 3-8, 11, alternate assessment (DLM)</b>
STATE	64,907	817	1.26%
Female	31,616	245	0.77%
Male	33,285	572	1.72%
Students with Disabilities	10,113	816	8.07%
Low Income	28,355	411	1.45%
Migrant	19		
English Language Learners	7,123	115	1.61%
American Indian	456	10	2.19%
Asian	2,154	31	1.44%
Black or African American	5,844	92	1.57%
Hispanic or Latino	17,712	200	1.13%
Pacific Islander	104		
White	35,543	434	1.22%
Two or More Races	3,094	50	1.62%

**Requirement 2 (B) - (§200.6(c)(4)(ii)(B)): Provide State-level data from the current or previous year on the overall assessment participation rate for all students and for students with disabilities.**

	Examples of Evidence
<p>The State provided detailed data on overall assessment participation rates for all students and for students with disabilities to show that 95% of all students and 95% of students with disabilities participated in state assessments.</p>	<p>Rhode Island received a waiver for 2019-20 state assessments due to the COVID-19 pandemic and all state assessments were cancelled.</p> <p>In April 2020, all students were moved to a distance learning model in response to the COVID-19 pandemic. The following school year (2020-21), most LEAs implemented multiple instructional models to keep students safe and healthy. These included a hybrid model where students attended school in-person some days and then were distance learning other days. Students engaged in full distance learning did not attend school in-person at all.</p> <p>Table 4 below shows participation rates for 2018-19 and 2020-21. Rhode Island met or exceeded the federal guideline of 95% for all students for each content area tested. The participation rate for students with disabilities was over 95% for both ELA and mathematics.</p> <p>In 2020-21, Rhode Island did not meet the federal guideline of 95% participation rate for in any content area. During the 2020-2021 school year, all LEAs had students whose families chose to have their child participate in distance learning due to COVID related health issues. To support engaging as many students as possible in state assessments, RIDE extended all state assessment administration windows, added additional flexibility in assessment procedures where appropriate (e.g., testing after school hours or in locations other than schools), and provided guidance to LEAs on scheduling sessions while still meeting the health and safety requirements. While LEAs worked with schools and families to develop creative and solutions and provide safe environments for students to participate in state assessments, some families still chose not to have their children participate in state assessments in schools.</p> <p>At the start of this school year (2021-22), schools returned to in-person learning and have largely phased out distance and hybrid learning plans. Provided that this continues, we expect to see participation rates increase for the upcoming testing cycle.</p>

**Table 4:** State participation rates for all students and for students with disabilities (2019-18 and 2020-21)

Content Area	Total Number of students	Number of students assessed	% Participation: all students	Number of students with disabilities	Number of students with disabilities assessed	% Participation: students with disabilities
<b>MATH</b>						
<b>2018-19</b>	75,343	73,981	98.19%	11,807	11,375	96.34%
<b>2020-21</b>	73,676	64,575	87.65%	11,965	10,045	83.95%
<b>ELA</b>						
<b>2018-19</b>	76,062	74,669	98.17%	11,800	11,369	96.35%
<b>2020-21</b>	73,459	64,907	88.36%	11,963	10,113	84.54%



**Requirement 3 (A) – (§200.6(c)(4)(iii)(A)): Provide assurance that districts over 1.0 percent participation in the alternate assessment followed the state’s participation guidelines.**

	<b>Examples of Evidence</b>
<p>The state provided an assurance that it has verified that each district with more than 1.0% participation in the alternate assessment followed the state’s guidelines for participation.</p>	<p>RIDE required LEAs identified as being over 1.00% to agree to the Assurances below which are now included as part of their Consolidated Resource Plan (CRP) application.</p> <p>The number of LEAs over 1% increased from 2019 given that the number of students who participated in state assessments, in general, declined dramatically. Rhode Island initially reduced the number of districts over one percent from 48% (2019) to 35% (2020), this year we see an increase to 39% of districts over the one percent threshold. We believe that this is not necessarily due to over-identification but due to the drop in participation. Our overall state rate remains at 1.26%.</p> <p>Each LEA assures that:</p> <ul style="list-style-type: none"> <li>• IEP teams are trained by the LEA on the Rhode Island Eligibility Criteria for the alternate assessments.</li> <li>• IEP teams correctly identify students with the most significant cognitive disabilities and follow the state criteria and participation guidelines found in the <i>IEP Team Guidance on Eligibility for the Alternate Assessment</i>.</li> <li>• families of students with the most significant cognitive disabilities are informed that the student will participate in the DLM and informs parents of the implications of participation in the DLM as outlined in the IEP Team Assurances Form.</li> <li>• a signed Participation Criteria for Alternate Assessments Form, which includes IEP Team Assurances, is included in the student’s record. This form is posted on <a href="http://www.ride.ri.gov/dlm">www.ride.ri.gov/dlm</a> on page 7 of the <i>IEP Team Guidance for Eligibility for Alternate Assessment</i>.</li> </ul>

**Requirement 3 (B) – (§200.6(c)(4)(iii)(B)): Provide assurance that any disproportionality in students taking the alternate assessment will be addressed.**

	<b>Examples of Evidence</b>
<p>The state provided an assurance that it has verified that each district with more than 1.0% participation in the alternate assessment will address any disproportionality in participation in the alternate assessment.</p>	<p>At the height of the COVID-19 pandemic, RIDE completed their review of the LEA Action Plans and provided feedback. However, given that these plans were developed and submitted just prior to the pandemic, LEAs have not yet been able to fully implement them. RIDE is expecting that LEAs will continue with their approved Action Plans because they did not get adequate opportunities to implement them. RIDE feels it is in the best interest of the LEAs and their students to allow them time to fully implement the plans that were approved now that students are back to school in-person and attendance is getting back to pre-pandemic levels.</p> <p>RIDE will continue with its plan to address disproportionality in the percentage of students in any subgroup, using 2020-21 data, to take the alternate assessments through the multiple activities described in the</p>

	<p>tiered support system below and in consultation with each LEA. In particular, the following steps address disproportionality concerns:</p> <ul style="list-style-type: none"> <li>• Identifying subgroups over-represented in the alternate assessment participation counts at the state level.</li> <li>• Providing technical assistance and training to LEA teams in the following areas: <ul style="list-style-type: none"> <li>• understanding and applying eligibility criteria correctly</li> <li>• using and identifying evidence to make accurate eligibility determinations</li> <li>• analyzing LEA data to identify areas of disproportionality</li> <li>• improving the accuracy of enrollment and special education census data</li> <li>• reviewing and providing guidance on LEA-developed training and resource materials</li> <li>• reviewing and providing guidance on LEA-developed policies concerning various aspects of the eligibility process</li> </ul> </li> <li>• Analyzing subgroup data over time to identify trends in subgroup participation.</li> <li>• Providing and posting the <i>IEP Team Guidance on Eligibility for the Alternate Assessment</i>.</li> <li>• Maintaining and updating alternate assessments resources (<a href="http://www.ride.ri.gov/dlm">www.ride.ri.gov/dlm</a>).</li> <li>• Providing updates and answering questions during the monthly test coordinator webinars (recordings and materials posted at <a href="http://www.ride.ri.gov/tc">www.ride.ri.gov/tc</a>).</li> </ul>
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**Requirement 4 (A) – (§200.6(c)(4)(iv)(A)): Submit a plan and timeline by which the State will improve the implementation of its participation guidelines, including if necessary, revising its definition of “students with the most significant cognitive disabilities” in future school years.**

	<b>Evidence</b>
<p>The state provided a plan and timeline for future school years for improving its guidelines, including its definition of students with the most significant cognitive disabilities.</p>	<p>Below is Rhode Island’s definition of a student with significant cognitive disabilities as published in the <i>IEP Team Guidance on Eligibility for the Alternate Assessment</i>. This definition has been in place in Rhode Island since 2015-16.</p> <p style="padding-left: 40px;">The term “significant cognitive disability” is not a separate category of disability. It is a designation given to a small number of students with disabilities for purposes of their participation in the statewide student assessment program. For a student to be considered to have a significant cognitive disability for purposes of participation in the alternate assessment, ALL of the criteria found on page 9 of this document must be true as determined by the evidence collected and considered by all members of the student’s IEP team. (<i>IEP Team Guidance on Eligibility for Alternate Assessments, page 3</i>)</p> <p>Rhode Island requires that students who take the alternate assessments meet three criteria. See Attachment 1 for eligibility criteria.</p> <p>Rhode Island’s 2021-22 Plan and Timeline to Improve the Implementation of Participation Guidelines:</p>

	<p><b>October 2021 – April 2022:</b></p> <ul style="list-style-type: none"> <li>• Webinars covering the following topics: <ul style="list-style-type: none"> <li>• analysis of the state-level 1% data, including disproportionality</li> <li>• analysis of LEA-level data over years, including LEAs that have made progress in reducing the percent of students on the alternate assessment and those who have made changes in processes or policies</li> <li>• understanding the eligibility criteria</li> <li>• using appropriate evidence such as psychological assessments, behavioral assessments, learning inventories, etc., to make accurate eligibility decisions</li> <li>• using the Documentation of Evidence Form, or an LEA-developed equivalent, to ensure that all evidence supporting the eligibility decision is documented</li> <li>• using evidence to select and evaluate accommodations for the classroom and during state assessments</li> </ul> </li> </ul> <p><b>October 2021 – June 2022:</b> technical assistance provided to LEAs.</p> <p><b>October 2022:</b> Release of state alternate assessment data. Release of training opportunities addressing relevant topics pertaining to students with significant cognitive disabilities.</p> <p><b>November 2021:</b> Beginning of Year 2 of the SETTT for Success OSEP grant (Special Educator Technology-Based Training of Trainers). Rhode Island is participating in a grant administered by the University of Kansas ATLAS Center to train and develop a cadre of trainers who can provide targeted professional development to teachers of students with significant disabilities. This grant is specifically targeted at improving instructional strategies used by teacher to teach academics to our students who participate on the alternate assessment. Year 2 will focus on trainers receiving one-on-one coaching to develop their professional development opportunities and improve their training skills.</p>
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**Requirement 4 (B) – (§200.6(c)(4)(iv)(B)): Submit a plan and timeline by which 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 with the alternate assessment.**

	<b>Examples of Evidence</b>
The state provided a plan and timeline for additional steps it will take to support and provide appropriate oversight of districts expected to assess more than 1.0%.	<p>RIDE will take the following steps to support and provide monitoring for each LEA that exceeds the one percent cap:</p> <ul style="list-style-type: none"> <li>• RIDE will use alternate assessment data and the LEA’s approved action plan to ensure that each LEA is implementing the assurances appropriately.</li> <li>• RIDE will provide additional, targeted training for any LEA and their teachers on the eligibility criteria, using evidence to make a viable decision, and any other topics deemed relevant to the alternate assessment (see Requirement 4A) throughout the 2021-22 school year.</li> </ul>

**Requirement 4 (C) – (§200.6(c)(4)(iv)(C)): Submit a plan and timeline by which the State will address any disproportionality in the percentage of students taking the alternate assessment**

	<b>Examples of Evidence</b>
<p>The state provided a plan and timeline for addressing any disproportionality.</p>	<p>LEAs significantly over the 1% cap are required to analyze the data by subgroup to determine whether disproportionality exists for students participating in the alternate assessment. LEAs provided this analysis in their CRP application.</p> <p>Analysis consists of reviewing multiple years’ worth of alternate assessment participation rates to determine if eligibility determinations are consistent regardless of race, gender, economic status, and English Learner status. RIDE also required LEAs to provide analysis by disability category as a way to identify students who may not meet the eligibility criteria.</p> <p>RIDE compared past years’ alternate assessment data participation rates, overall and by subgroup with 2020-21 assessment data and determined that disproportionality exists for English Language Learner students participating in the alternate assessment. The number of EL students overall increased from approximately 6,700 (2018) to 7,700 (2019), to 7,200 last year. The number of EL students taking the alternate assessments increased from 76 students in 2018 to 115 last year. This is the only subgroup where we see such an increase.</p> <p><b>November 2021 – June 2022:</b> To further understand the increase in the identification of EL students for alternate assessment, we will partner with the state multi-lingual learner specialists to answer these questions:</p> <ul style="list-style-type: none"> <li>• Which LEAs/schools are the students attending?</li> <li>• When were they found eligible for the alternate assessments?</li> <li>• What was the eligibility process?</li> <li>• What evidence was collected to make this determination?</li> <li>• How did the LEA discern the effect of the student’s disability without taking into account their lack of English language proficiency?</li> </ul> <p><b>November 2021 – April 2022:</b> Technical assistance plans will be implemented for LEAs who are significantly over the 1% cap and whose data indicate disproportionate representation.</p> <ul style="list-style-type: none"> <li>• RIDE will require LEAs to provide evidence that supports their continued implementation of the assurances and the activities they outlined in their 2019-20 Action Plan, including evidence of how they are addressing disproportionality.</li> </ul> <p><b>December 2021:</b> Annual LEA team training workshops that address eligibility for alternate assessment, disproportionality, and using data to make eligibility decisions.</p> <p><b>March - June 2022:</b> Active monitoring of LEAs administration and analysis of alternate assessment data.</p>

## Section 2: Waiver Continuation Requests

**Requirements 1, 2(A), 2(B), 3(A), 3(B), 4(A), 4(B), 4(C) [see SECTION 1] – Meet the requirements in paragraph (c)(4)(i) through (c)(4)(iv).**

	Examples of Evidence
<p>The state showed that it met each of the requirements 1-4.</p>	<p><i>Requirement 3 (A) – (§200.6(c)(4)(iii)(A)): Provide assurance that districts over 1.0 percent participation in the alternate assessment followed the state’s participation guidelines.</i></p> <ul style="list-style-type: none"> <li>• RIDE included the required assurances in the 2021-22 IDEA Consolidated Resource Plan (CRP) submission, including that they followed the state eligibility guidelines when making decisions about participation in the alternate assessment. The CRP submission opened to districts in April 2021 and all districts submitted CRPs with the assurances completed.</li> </ul> <p><i>Requirement 3 (B) – (§200.6(c)(4)(iii)(B)): Provide assurance that any disproportionality in students taking the alternate assessment will be addressed.</i></p> <ul style="list-style-type: none"> <li>• Prior to the COVID-19 pandemic and its effect on the educational system in Rhode Island, LEAs were required to submit an Action Plan. The action plans will continue to be implemented by LEAs this year and contain the following information: <ul style="list-style-type: none"> <li>• Use two years of data to identify trends in disproportionality.</li> <li>• Provide evidence of that they trained LEA representatives and teachers on the eligibility criteria,</li> <li>• Provide evidence that information provided to families explains the ramifications of their child being on the alternate assessment.</li> <li>• Provide a description and evidence that the LEA has a coherent plan to review IEPs prior to an IEP Team meeting to discuss eligibility and that they are using a variety of evidence to support each eligibility criteria.</li> </ul> </li> <li>• RIDE embedded these questions into the CRP (a process by which each LEA outlines its IDEA budget and goals for students with disabilities) and during Special Education Site Visits.</li> <li>• RIDE addressed disproportionality in the percentage of students in any subgroup taking the alternate assessments by providing technical assistance in the areas below. In particular, the following steps address disproportionality concerns: <ul style="list-style-type: none"> <li>• Identifying subgroups over-represented in the alternate assessment participation counts at the state-level.</li> <li>• Technical assistance and training for LEA Special Education Directors and LEA teams were provided in the following areas: <ul style="list-style-type: none"> <li>• Understanding and applying eligibility criteria correctly</li> <li>• Using and identifying evidence to make accurate eligibility determinations</li> <li>• Developing action plans</li> <li>• Analyzing LEA data to identify areas of disproportionality</li> <li>• Improving the accuracy of enrollment and special education census data</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>Analyzing subgroup data over time to identify trends in subgroup participation.</li> <li>The 2021-22 <i>IEP Team Guidance on Eligibility for the Alternate Assessments</i> document posted to <a href="http://www.ride.ri.gov/dlm">www.ride.ri.gov/dlm</a></li> <li>Alternate assessment resources posted to <a href="http://www.ride.ri.gov/dlm">www.ride.ri.gov/dlm</a>.</li> <li>Assessment and participation data are publicly reported on the Rhode Island Assessment Data Portal: <a href="http://www.ride.ri.gov/assessment-results">www.ride.ri.gov/assessment-results</a>.</li> <li>Assessment Results webpage includes multiple resources for understanding individual score reports <a href="http://www.ride.ri.gov/assessment-results">www.ride.ri.gov/assessment-results</a></li> <li>Rhode Island Report Card website contains information on participation and accountability results for Rhode Island schools: <a href="https://reportcard.ride.ri.gov/">https://reportcard.ride.ri.gov/</a></li> </ul> <p><i>Requirement 4 (A) – (§200.6(c)(4)(iv)(A)): Submit a plan and timeline by which the State will improve the implementation of its participation guidelines, including if necessary, revising its definition of “students with the most significant cognitive disabilities” in future school years.</i></p> <ul style="list-style-type: none"> <li>Rhode Island published a definition of students with the most significant cognitive disabilities in 2016.</li> </ul>
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**Requirement 5 - (§200.6(c)(4)(v)): Demonstrate substantial progress toward each component of the prior year’s plan and timeline, which was required under Requirement 4 (C).**

	<b>Examples of Evidence</b>
<p>The state showed that it made progress toward its prior year’s plan and timeline.</p>	<ul style="list-style-type: none"> <li>Prior to the pandemic, Rhode Island reduced the number students taking the alternate assessments. In 2017-18, Rhode Island had 996 (1.32%) students take ELA and mathematics. In the 2018-19 school year, that number dropped by 64 students to 933 (1.26%) and in 2020-21, that number was further reduced to 817 students. It is not clear if this reduction will be maintained as students return to the classroom full time and attendance improves. Even with a reduction in the number of students taking DLM, the percent of students assessed remains at 1.26%. This speaks to the significant decreases in participation in the RI State Assessment Program tests.</li> <li>Rhode Island notes reductions in the number of students taking the alternate assessment in 2020-21 with the largest reductions in the following LEAs: <ul style="list-style-type: none"> <li><i>Westerly</i>: from 23 (1.61%) in 2018-19 to 15 (1.20%) in 2020-21.</li> <li><i>Woonsocket</i>: from 72 (2.30%) students in ELA/Math in 2017-18 to 61 (1.92%) in 2018-19, and to 48 (2.13%) students in 2020-21. We attribute the increase in percentage to overall decline in participation in the district, in spite of the district further reducing the number of students taking DLM.</li> <li><i>Pawtucket</i>: from 52 (1.04%) students in ELA/Math in 2017-18 to 48 (0.98%) in 2018-19, to 32 (0.75%) in 2020-21.</li> <li><i>Newport</i>: from 28 (2.78%) students in ELA/Math in 2018-19 to 14 (1.56%) in 2020-21.</li> </ul> </li> <li>Five districts are below the one percent cap for 2020-21: <ul style="list-style-type: none"> <li>Exeter-West Greenwich: from 1.31% (2018-19) to 0.92%</li> </ul> </li> </ul>

- Gloucester: from 1.40% (2018-19) to 0.79%
- East Greenwich: from 1.16% (2018-19) to 0.59%
- North Smithfield: from 1.13% (2018-19) to 0.58%
- South Kingstown: from 1.09% (2018-19) to 0.54%
- RIDE will provide a webinar for the state in early 2022. It will address the following:
  - Understanding the eligibility criteria; using appropriate evidence such as psychological assessments, behavioral assessments, learning inventories, etc., to make accurate eligibility decisions; using the Documentation of Evidence Form to ensure alignment between evidence, the IEP, and instructional goals.
- Through the action plan approval process, we have seen more attention paid to eligibility decision processes overall and this is seen in the data for 2020-21 in the reduction of the number of students taking the alternate assessment by 118 students statewide. Despite that progress, some LEAs still do not have a process in place to review eligibility determinations to ensure the criteria were accurately interpreted and applied. Some LEAs still do not have a process to support teachers as they reviewed evidence for the criteria or wrote IEP goals. In addition, some LEAs do not have a working knowledge of the Essential Elements so they could not adequately review evidence for Criteria 2. Identification of these challenges led RIDE to refocus efforts to help LEAs address some of these other issues and as a result RIDE is offering the following this year:
  - **March 2022** RIDE will offer statewide training on the Essential Elements for teachers and administrators
  - **November 2020 to present:** RIDE began and will continue to partner with ATLAS at the University of Kansas (who develop and maintain the DLM) to develop and pilot a train-the-trainer model of providing tailored professional development for teachers with students who participate on the DLM alternate assessments. We believe that building capacity in this area will increase educators' access to high-quality professional development designed specifically for them. This will help us begin to address the need for greater understanding of both the Essential Elements and developing effective instructional plans for students. Two LEAs, Pawtucket and Woonsocket, will continue to participate in this opportunity alongside RIDE and the Rhode Island Parent Information Network (RIPIN), an agency dedicated to providing assistance to parents of students with disabilities. The **Providence School Department** recently joined for Year 2 of this grant.
- **Technical Assistance for 2021-22:** As Rhode Island begins to return to a more normal school year, with more students attending school in-person, RIDE continues to provide technical assistance via Zoom calls and hopes to provide in-person training in the future. This year, RIDE will concentrate on providing the bulk of the technical assistance to the Providence Public School Department (PPSD). PPSD is Rhode Island's largest district and has the majority of the state's students who take the alternate assessment.

	<p>This year, RIDE will be working closely with PPSD to train LEA representatives and classroom teachers on understanding the eligibility criteria and making eligibility decisions using appropriate evidence. PPSD, with RIDE support, will also refine existing policies to create clearer expectations for making eligibility determinations. LEA policies include what evidence is appropriate to use to make eligibility decisions, how to complete the Documentation of Evidence Form, when and how LEA representatives review the IEPs and Documentation of Evidence Forms prior to IEP Team meetings, and how to include families in providing additional evidence and data to inform the eligibility process.</p>
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## Attachment 1: Rhode Island Eligibility Criteria for Alternate Assessment

The following is an excerpt from the *IEP Team Guidance on Eligibility for Alternate Assessments* (page 6)

The following three eligibility criteria must be met before a student can participate in the alternate assessments:

1. **Student has a disability, or disabilities, that significantly impacts cognitive function and adaptive behavior.** Review of student records and other evidence indicate a disability or multiple disabilities that prevent the student from meaningful participation in the standard academic core curriculum or achievement of the standards at their enrolled grade level. Additionally, the student's disability causes dependence on others for many, and sometimes all, daily living needs, and the student is expected to require extensive, ongoing support in adulthood.
2. **As documented in the IEP, the student's present levels of academic achievement indicate their ability to make progress through the alternate achievement standards (EEs) and the short term objectives include skills and concepts reflected in the steps found in the alternate achievement standard (EEs) learning maps, and the annual academic goals are closely aligned to grade-level alternate achievement standards.** IEP teams should review the student's present levels of performance, short-term goals and objectives, and the performance targets for the student to ensure that the concepts and skills the student is working on not only reflect the skills and concepts in the EEs but that the short-term goals closely align with the learning maps that will lead to grade-level performance targets.
  - a) The **present levels of performance** described in the IEP:
    - What are the levels of support required by the student in order to make progress through the alternate achievement standards?
  - b) The **short-terms goals and objectives** reflect the skills and concepts contained in the learning map steps.
  - c) The **annual academic goals** are closely aligned to the alternate achievement standards for the student's current grade level.
3. **The student is unable to apply academic, life, and job skills in home, school, and community without intensive, frequent, and individualized instruction and supports in multiple settings.** The student's demonstrated cognitive functioning and adaptive behavior across these settings is significantly below age expectations, even with program modifications, adaptations, and accommodations. This covers the three aspects of learning:
  - a) *What the student needs in order to learn.* In other words, the student **requires** extensive, repeated, individualized instruction and supports from teachers and other professionals.
  - b) *The types of materials required in order for the student to learn.* Materials are significantly modified, customized, and adapted in order to facilitate understanding.
  - c) *How the student demonstrates their learning.* His or her need for substantial supports to achieve gains in the grade-and-age-appropriate curriculum requires substantially adapted materials and customized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings.

Attachment 2: Eligibility Presentation and Resources for LEAs.

*These resources can be found at*

<https://www.ride.ri.gov/InstructionAssessment/Assessment/OnePercentRule.aspx>

- One Percent Requirements and Eligibility Criteria Presentation and recording (2020-21)
- Link to recording of DLM Score Report presentation (2018-19)
- Documentation Form
- IEP Team guidance for Eligibility for the Alternate Assessments (2020-21)
- Eligibility Criteria for Alternate Assessments Form (2020-21)



## Rhode Island seeks waiver extension from the U.S. Department of Education to exceed alternate assessment 1% Cap

Angélica Infante-Green  
Commissioner

### What are the alternate assessments?

The alternate assessments are part of the Rhode Islands' state assessment system. The alternate assessments are designed for students with significant cognitive disabilities. The structure of these assessments is designed around the student's physical and cognitive disabilities in a way that allows them to answer test questions and participate in the test as independently as possible. Students eligible for the alternate assessment take the Dynamic Learning Maps alternate assessments in lieu of RICAS, SAT, and/or the NGSA. More information on the criteria a student must meet in order to be eligible for the alternate assessments can be found at [www.ride.ri.gov/dlm](http://www.ride.ri.gov/dlm).

### From what is Rhode Island seeking a waiver?

The Rhode Island Department of Education (RIDE) is formally requesting a waiver, pursuant to 34 C.F.R. §200.6(c)(4) of the Every Student Succeeds Act (ESSA), from the following statutory provision in English language arts and mathematics:

34 C.F.R. 200.6(c)(2): For each subject for which assessments are administered under § 200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

### Why is Rhode Island requesting an extension to the waiver?

Rhode Island applied for, and received, approval of a waiver to test more than 1.00% of students using the DLM alternate assessments in previous years. Rhode Island received a waiver allowing RIDE to cancel the 2019-20 administration of state assessments due to the COVID-19 pandemic. This year, RIDE is seeking a waiver for English Language Arts and mathematics. Using participation data from the 2021 state assessments, we anticipate that Rhode Island will assess more than 1.00% of students using the alternate assessment in 2021-22.

Receiving this flexibility will allow RIDE and LEAs to continue to review and refine procedures regarding eligibility for the alternate assessment specifically examining areas of disproportionality.

### How can I find out what Rhode Island's plan is to meet the 1% cap on students participating in the alternate assessment?

More information on the alternate assessment and Rhode Island's plan to address the 1% cap can be found at [www.ride.ri.gov/InstructionAssessment/Assessment/OnePercentRule.aspx](http://www.ride.ri.gov/InstructionAssessment/Assessment/OnePercentRule.aspx)

### How can I give feedback on this flexibility request?

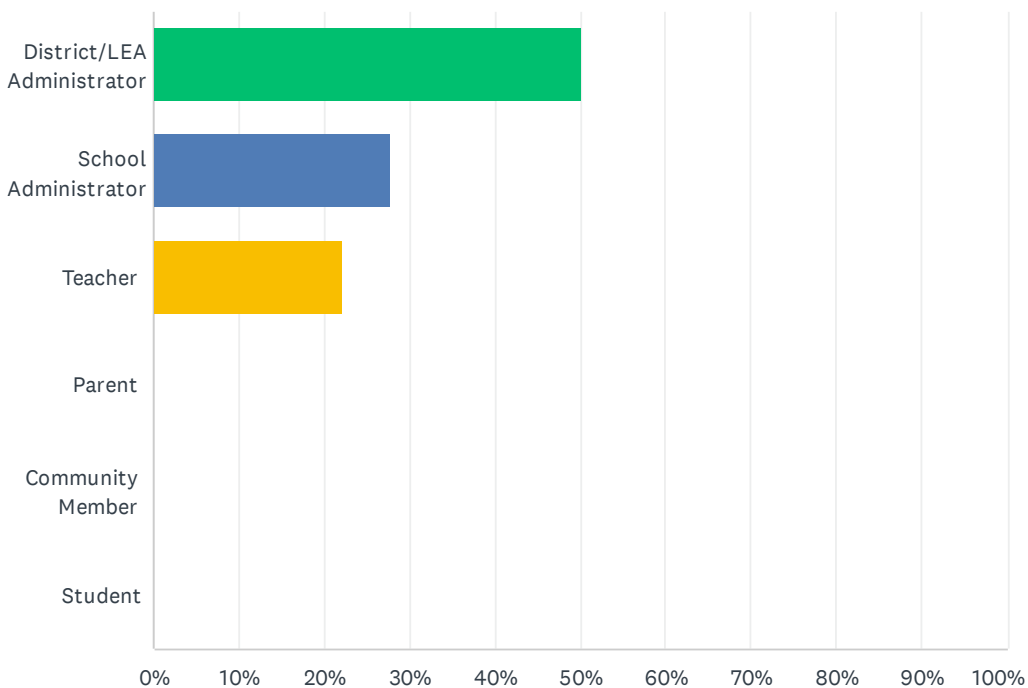
Enter your feedback on this short survey (<https://www.surveymonkey.com/r/OnePercent>) or email [assessment@ride.ri.gov](mailto:assessment@ride.ri.gov) by January 4, 2022.

## Q1 District/LEA name:

Answered: 40 Skipped: 0

## Q2 Title or role:

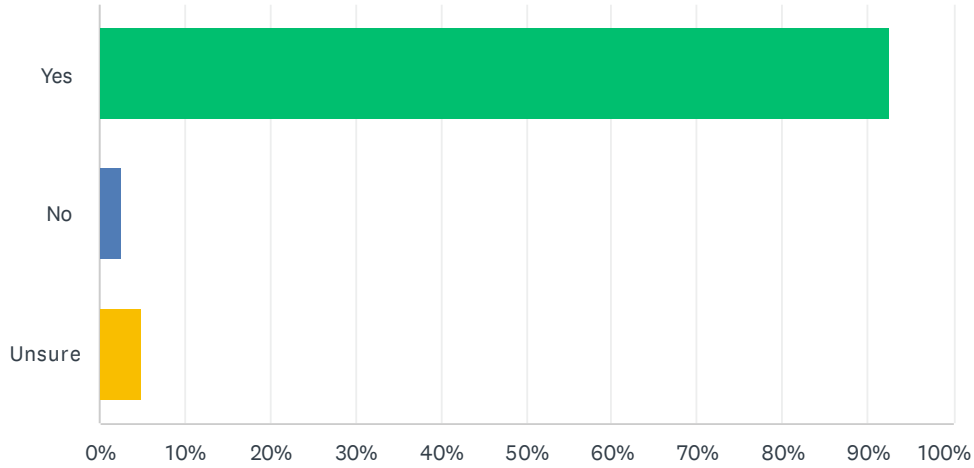
Answered: 36 Skipped: 4



ANSWER CHOICES	RESPONSES	
District/LEA Administrator	50.00%	18
School Administrator	27.78%	10
Teacher	22.22%	8
Parent	0.00%	0
Community Member	0.00%	0
Student	0.00%	0
Total Respondents: 36		

### Q3 Do you agree with the waiver that Rhode Island is seeking for exceeding the one percent threshold for English language arts, mathematics, and science DLM alternate assessments?

Answered: 40 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	92.50%	37
No	2.50%	1
Unsure	5.00%	2
<b>TOTAL</b>		<b>40</b>

## Q4 Additional comments:

Answered: 10 Skipped: 30