



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 16, 2023

The Honorable Penny Schwinn
Commissioner
Tennessee Department of Education
Ninth Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243-0375

Dear Commissioner Schwinn:

I am writing in response to the Tennessee Department of Education's (TDOE) request on January 11, 2023, for a one-year extension of the State's 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). TDOE requested this waiver because, based on State data for the 2021-2022 school year, TDOE has concluded that it will assess more than 1.0 percent of students using an AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2022-2023 school year.

After reviewing TDOE's waiver request, I am declining to exercise my authority under section 8401(b) of the ESEA for a one-year (school year 2022-2023) 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 reading/language arts, mathematics, and science. I am declining the request because TDOE has not demonstrated sufficient progress in reducing the AA-AAAS participation rate in R/LA, mathematics, and science between the 2018-2019 and 2021-2022 school years.

TDOE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F). The revised waiver request must address how the requirements are met in 34 CFR § 200.6(c)(4), including the requirement of demonstrating substantial progress towards achieving each component of the prior year's plan and timeline. The revised waiver request must be submitted no later than 60 days from the date of this letter.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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.

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: Jennifer Jordan, Assistant Commissioner of Special Education and Intervention Programs



BILL LEE
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON
TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PENNY SCHWINN
COMMISSIONER

Patrick Rooney
Director, School Support and Accountability
Office of Elementary and Secondary Education | U.S. Dept of Education
400 Maryland Ave, SW | 3W118| Washington, DC 20202

Dear Director Rooney,

The *Every Student Succeeds Act* (ESSA) amended a 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 1.0 percent of their students participating in the alternate assessment. See 20 U.S.C. § 6311(b)(2)(D)(i)(I), -(b)(2)(D)(ii)(IV). The ESSA and its implementing regulations contain requirements for the participation of students with the most significant cognitive disabilities in the alternate assessment based on alternate academic achievement standards (AA-AAAS). See 20 U.S.C. § 6311(b)(1)(E); 34 C.F.R. § 200.6(c)-(d). 20 U.S.C. § 6311(b)(2)(D)(i)(I) limits the total number of students with the most significant cognitive disabilities who are assessed statewide with an AA-AAAS to 1.0 percent of the total number of students in the State who are assessed in that subject. As described in 34 C.F.R. § 200.6(c)(3), a State may not prohibit a Local Education Agency (LEA) from assessing more than 1.0 percent of its assessed students with an AA-AAAS. However, a State must require an LEA that assesses more than 1.0 percent of its assessed students in any subject with an AA-AAAS to submit information to the State justifying the need to exceed the 1.0 percent threshold. See 34 C.F.R. § 200.6(c)(3)(ii). States must provide appropriate oversight of each LEA that is required to submit such a justification and must make the justification publicly available, provided that it does not reveal personally identifiable information about an individual student. See 34 C.F.R. § 200.6(c)(3)(iii)-(iv).

The Tennessee Department of Education (TDOE) conducted an extensive review of data from the Tennessee statewide assessment system for the 2020-21 school year and determined that the anticipated participation rates of students taking the AA-AAAS exceeded one (1.0) percent of the total tested population. Specifically, Tennessee expected to assess 1.11% of students on the AA-AAAS for the 2020-21 school year based on enrollment data. Therefore, the TDOE applied for a waiver of 20 U.S.C. § 6311(b)(2)(D)(i)(I) for 2021-22 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 reading/language arts (R/LA) and mathematics. The waiver was granted on April 28, 2022. (*Attachment 1*)

The TDOE then reviewed actual participation rates from the 2021-22 school year. The purpose of the review was to determine if the participation rates of students taking the AA-AAAS exceeded 1.0 percent of the total tested population. Based on the data analyzed, the state, in fact, exceeded the one percent state cap enacted by the ESSA for school year 2020-21. In particular, Tennessee assessed 1.40 percent of students in English language arts, 1.40 percent in math, and 1.38 percent in science.

Analysis of current individualized education program (IEP) data specific to AA-AAAS eligibility and state enrollment data was completed to project the 2022-23 statewide AA-AAAS participation rate.

Tennessee anticipates a participation rate of 1.11% for the 2022-23 school year using enrollment data. This rate may be underestimated given LEAs reports of declining enrollment as students transfer to private schools, specifically, virtual schools. To mitigate the impacts on school enrollment and students, virtual schools have been approved in accordance with state and local policies. Furthermore, IEP teams have been diligent in meeting with parents during closures, completing evaluations/re-evaluations, and addressing learning loss and/or the need for compensatory services.

In accordance with 34 C.F.R. § 200.6(c)(4), a State waiver request must:

- 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 20 U.S.C. § 6311(c)(2)(A), (B), and (D) who took the alternate assessment aligned with alternate academic achievement standards; and
 - 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 20 U.S.C. § 6311(c)(2)(C) who are enrolled in grades for which the assessment is required under 34 C.F.R. § 200.5(a);
- i. Include assurances from the State that it has verified that 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 34 C.F.R. § 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 34 C.F.R. § 200.6(d), except paragraph (d)(6); and
 - B. Will address any disproportionality in the percentage of students in any subgroup under 20 U.S.C. § 6311(c)(2)(A), (B), or (D) taking an alternate assessment aligned with alternate academic achievement standards;
- ii. Include a plan and timeline by which -
 - A. The State will improve the implementation of its guidelines under 34 C.F.R. § 200.6(d), including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in 34 C.F.R. § 200.6(c)(2) in each subject for which assessments are administered under 34 C.F.R. § 200.2(a)(1) in future school years;
 - 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 34 C.F.R. § 200.6(c)(4)(ii)(A).

Additionally, the USDOE issued a memo for states, *Information Regarding the Requirements to Request a Waiver or Wavier Extension for the 2022-2023 School Year (SY) from the One Percent Cap on the Percentage of Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards (AA-AAAS)*, on September 20, 2022. States seeking extension of a wavier must:

1. Provide updated information regarding each requirement in 34 C.F.R. § 200.6(c)(4)(i)-(iv). Specifically, the State must provide the overall assessment participation rates for all students enrolled and for students with disabilities in the grades assessed in each subject for SY 2021-2022.
2. Assure that it has verified that 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 in that school year using an AA-AAAS followed each of the State's guidelines and will address any disproportionality in the percentage of students in any subgroup taking an AA-AAAS.
3. Report on the progress of its plan and timeline under 34 C.F.R. § 200.6(c)(4)(iv) including milestones achieved. As noted above, the Department strongly recommends that the plan and report of progress be posted on the State's website.
4. Have reduced the percentage of students taking an AA-AAAS in a content area in order to receive an extension of a waiver of the 1.0 percent cap for that content area.

34 C.F.R. § 200.6(c)(4)(i) Requirement 1: Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject

The Tennessee statewide alternate assessment testing window for 2022-23 is March 13-April 28, 2022. The draft waiver request must be posted for 30 days and then submitted 90 days prior to the assessment window. In a commitment to complete the waiver as expeditiously as possible, the draft was completed and posted for public comment on November 12, 2022.

34 C.F.R. § 200.6(c)(4)(ii) Requirement 2: 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 20 U.S.C. § 6311(c)(2)(A), (B), and (D) who took the alternate assessment aligned with alternate academic achievement standards;

Table 1

Group	Total Number in Grades 3-8 & HS	Num. Taking AA-AAAS in Grades 3-8 & HS	Percent Taking AA-AAAS in Grades 3-8 & HS
R/LA			

All Students	513,192	7,173	1.40%
Hispanic	69,017	780	1.13%
American Indian/Alaskan Native	2,241		
Asian	13,424	151	1.12%
Black	121,770	2,105	1.73%
Hawaiian/Pacific Islander	1,248		
White	304,861	3,677	1.21%
Two or More Races	N/A	N/A	N/A
Male	250,363	4,726	1.89%
Female	262,699	2,323	0.88%
English Learner	29,003	315	1.09%
Econ. Disadvantaged	154,853	2,781	1.80%
Mathematics			
All Students	511,406	7,172	1.40%
Hispanic	71,482	779	1.09%
American Indian/Alaskan Native	2,242		
Asian	12,613	151	1.20%
Black	122,465	2,104	1.72%
Hawaiian/Pacific Islander	1,227		
White	300,824	3,679	1.22%
Two or More Races	N/A	N/A	N/A
Male	262,456	4,722	1.80%
Female	248,821	2,326	0.93%
English Learner	31,520	314	1.00%
Econ. Disadvantaged	157,301	2,778	1.77%
Science			
All Students	510,226	7,047	1.38%
Hispanic	69,781	785	1.12%
American Indian/Alaskan Native	2,255		
Asian	13,149	185	1.41%
Black	121,214	2,281	1.88%
Hawaiian/Pacific Islander	1,232		
White	302,409	3,723	1.23%
Two or More Races	N/A	N/A	N/A
Male	261,484	4,708	1.80%
Female	248,737	2,339	0.94%
English Learner	30,076	318	1.06%
Econ. Disadvantaged	154,563	2,808	1.82%

Group	All Students Grades 3-8 and High School R/LA	Students with Disabilities Grades 3-8 and High School R/LA
Students Assessed	513,192	62,406
Students Enrolled	529,649	65,134
Assessment Participation Rate	96.89%	95.81%
Group	All Students Grades 3-8 and High School Math	Students with Disabilities Grades 3-8 and High School Math
Students Assessed	511,406	62,948
Students Enrolled	529,259	65,960
Assessment Participation Rate	96.63%	95.43%
Group	All Students Grades 3-8 and High School Science	Students with Disabilities Grades 3-8 and High School Science
Students Assessed	510,226	62,068
Students Enrolled	527,551	64,789
Assessment Participation Rate	96.72%	95.80%

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 20 U.S.C. § 6311(c)(2)(C) who are enrolled in grades for which the assessment is required under 34 C.F.R. § 200.5(a);

Tennessee follows the federal participation requirements for assessment and requires all students enrolled in public K-12 schools to be assessed with accommodations, without accommodations, or with AA-AAAS. The only exception to participation for any student is to receive a medical exemption due to a medical necessity.

34 C.F.R. § 200.6(c)(4)(iii) Requirement 3: Include assurances from the State that it has verified that 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 34 C.F.R. § 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 34 C.F.R. § 200.6(d), except paragraph (d)(6); and

B. Will address any disproportionality in the percentage of students in any subgroup under 20 U.S.C. § 6311(c)(2)(A), (B), or (D) taking an alternate assessment aligned with alternate academic achievement standards;

Using the 2021-22 assessment results, TDOE sent notices to each district that contributed to the state exceeding 1.0 percent participation in the AA-AAAS. The districts were required to submit a justification for their participation rate exceeding 1.0 percent and assurances that the district would adhere to the state guidelines for participation. In accordance with the September 20, 2022 memo, and the feedback during the wavier process in 2021-22, the state has revised the notification letter to include demographic data (Attachment 2). While the justification always asked LEAs to address disproportionality, the additional data will support LEAs in deeper analysis, particularly for the subgroups that are universally participating at rates above the state rate in Tennessee: black, male, and economically disadvantaged (Table 1). All districts contributing to the state exceeding one percent will be required to submit the justification by January 31, 2023. The justifications will be publicly available for a year in accordance with 34 C.F.R. § 200.6(c)(3)(iv) on the [Tennessee alternate assessment webpage](#).

For the 2021-22 school year, all districts that contributed to the state exceeding one percent were sent a notice (Attachment 3) and completed a justification (Attachment 4). The LEA responses are publicly available in accordance with 34 C.F.R. § 200.6(c)(3)(iv).¹

34 C.F.R. § 200.6(c)(4)(iv) Requirement 4: Include a plan and timeline by which -

- A. The State will improve the implementation of its guidelines under 34 C.F.R. § 200.6(d), including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in 34 C.F.R. § 200.6(c)(2) in each subject for which assessments are administered under 34 C.F.R. § 200.2(a)(1) in future school years;**

Guidelines for Participation on the AA-AAAS

The TDOE has consistently engaged stakeholders in training and technical assistance using the criterion guidance documents², file reviews, and technical assistance resources. A portion of the technical assistance provides additional in-depth guidance related to the difference between a significant cognitive disability and *the most* significant cognitive disability. The TDOE reviewed the criteria and determined that the criteria are appropriate; however more training is needed in the field in order to adhere to the criteria. Specifically, the technical assistance requires districts and IEP teams to consider the full body of data including but not limited to normative assessments when determining the student's eligibility. This requires the IEP team to engage in a full conversation. Despite the technical assistance, participation rates did not significantly lower. Therefore, the state completed a root cause analysis and found three contributing factors that will be addressed during the next year to reduce participation in the AA-AAAS. The root causes identified are:

1. A need for clear assessment provisioning independent of LRE placement decisions,

¹ 2020-21 Alternate Assessment Justifications <https://www.tn.gov/education/assessment/alternate-assessment.html>

² <https://www.tn.gov/education/assessment/alternate-assessment.html>
https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_1_Considerations.pdf
https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_2_Considerations.pdf
https://www.tn.gov/content/dam/tn/education/testing/alt/Criterion_3_Considerations.pdf

2. a need for increased expectations for postsecondary engagement of individuals with cognitive disabilities, and
3. incorrect assumptions of qualification based on the current alternate assessment design.

A need for clear assessment provisioning independent of LRE placement decisions

One of the critical foundations to increasing expectations for students is ensuring IEP teams fully understand LRE determinations and that assessment decisions are independent of LRE. In the state of Tennessee, assessments are provisioned from course codes. The prior year course code names and descriptions did not clearly communicate the flexibility of location for the course. The 2022-23 course codes were updated to ensure students may be scheduled into courses that align to the diploma pathway, IEP, and appropriate assessment. This is a part of larger work at the state to support schools in understanding the least dangerous assumption, LRE principles, and the rights of all students to general education.

One key work stream to support districts is through the state personnel development grant, Teaching All Students, (TAS). TAS is focused on increasing postsecondary outcomes for students with complex needs³ by changing the equity of instructional engagement of students. The TAS initiative is available to high schools and is currently engaged with 27 schools, across 21 districts. After one year, all schools have increased inclusionary education for all students previously taught exclusively within a separate setting. This work has only been in place for 16 months, yet it has had a significant impact. Districts with high AA-AAAS participation rates were targeted. (Additional information or the project can be made available upon request.)

Also, the state has issued guidance on the importance of providing students their LRE regardless of the assessment that is most appropriate or staffing shortages. This guidance has sparked a great deal of conversation, including the eligibility of students in the alternate assessment. (Attachment 5).

A need for increased expectations for postsecondary engagement of individuals with cognitive disabilities

One of the three department strategic goals is student readiness, meaning, Tennessee schools will be equipped to serve the academic and non-academic needs of all students by developing robust career pathway opportunities and connecting students to real-time support. The goal extends to our students with complex needs. The work on increasing postsecondary outcomes includes partnership with career and technical education, aligning standards and high-quality instructional materials, and training educators on using high-quality instructional materials to support all learners with access points and scaffolds. This work is challenging the current mindset and beliefs of educators and school leaders and will be integrated with the state technical assistance regarding alternate assessment eligibility and participation.

Technical assistance will continue to be provided to districts with the highest rates of participation but will be extended to address the root causes for the decisions within the IEP team meetings. Integrating

³ “Students with complex needs” refers to students with cognitive disabilities and students with multiple disabilities including cognitive or who present as having a cognitive disability. This definition includes both students who meet eligibility requirements for the alternate assessments and those who do not and are assessed on the general assessment.

training on diplomas, postsecondary options, and access to meaningful instruction has increased the IEP team ability to inform all IEP team members fully on the implications of participating in the alternate assessment.

Incorrect assumptions of qualification based on the current alternate assessment design

Continued analysis of the root cause revealed that the alternate assessment design may be incorrectly influencing teachers to advocate for students to participate in the alternate assessment even if they do not fully meet the eligibility requirements. Specifically, the Multi-State Alternate Assessment (MSAA) English language arts assessment is lengthy with complex reading passages of a length equivalent, and sometimes longer, than the general assessment. While the MSAA reading passages are reduced in the complexity of language and concepts, teacher perception is that it is developed for students below their peers, but not necessarily those within the one percent, or three or more standard deviations below the mean. Given that the assessment is delivered one-on-one by the teacher, the teacher has intimate knowledge of the assessment and is comparing it to the class expectations, thus recommending participation for more students than is appropriate.

The state acknowledges this disconnect between the eligibility requirements and the MSAA and will be analyzing options to the MSAA, potential for MSAA redesign, or other options such as additional eligibility requirements for IEP teams to consider. The state is fully committed to ensuring assessments are aligned to the state standards, provide critical instructional data to schools and families, and is aligned to the intent of the law. Furthermore, the state is committed to ensuring every student is participating in the most appropriate assessment.

It is equally egregious to deny a student access to the general assessment if that is most appropriate as it is to deny a student the access to an alternate assessment if it is most appropriate. Examining the MSAA student response check data indicates that we still have a large number of students for whom the alternate assessment is not accessible. In response, the state is working to develop an expanded contract with experts in assistive technology and augmentative alternate communication to further increase student access and meaningful participation. This will also be considered when analyzing options to the MSAA.

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; The participation rates in Tennessee had been reducing annually, however, due to a variety of factors, the rates did not decrease last year. Therefore, the plan to monitor, evaluate, and train school teams will be changed significantly this year. These changes will address the three root causes and include intensive data analysis on subgroup trends.

There will be four main work streams as outlined within the timeline below: population growth analysis, alternate assessment design analysis, comprehensive technical assistance, and resource tools aligned with IEP development.

Population growth analysis

In anticipation of continuing to exceed one percent, the state examined the population growth of the general population, students with disabilities, students whose primary eligibility is specific learning disability, and students whose primary eligibility is autism, intellectual disability, or multiple disabilities. The growth rate for each population was calculated over multiple years. The population of students whose primary eligibility is autism, intellectual disability, or multiple disabilities grew faster than any other population including the general population. One district conducted a similar analysis and asked if their findings were an anomaly or consistent with the state. After a cursory analysis, it appears this is a state-wide trend, however, further analysis needs to be completed.

The following are charts from the district that reached out to the state and illustrate a need for further analysis.

Figure 1

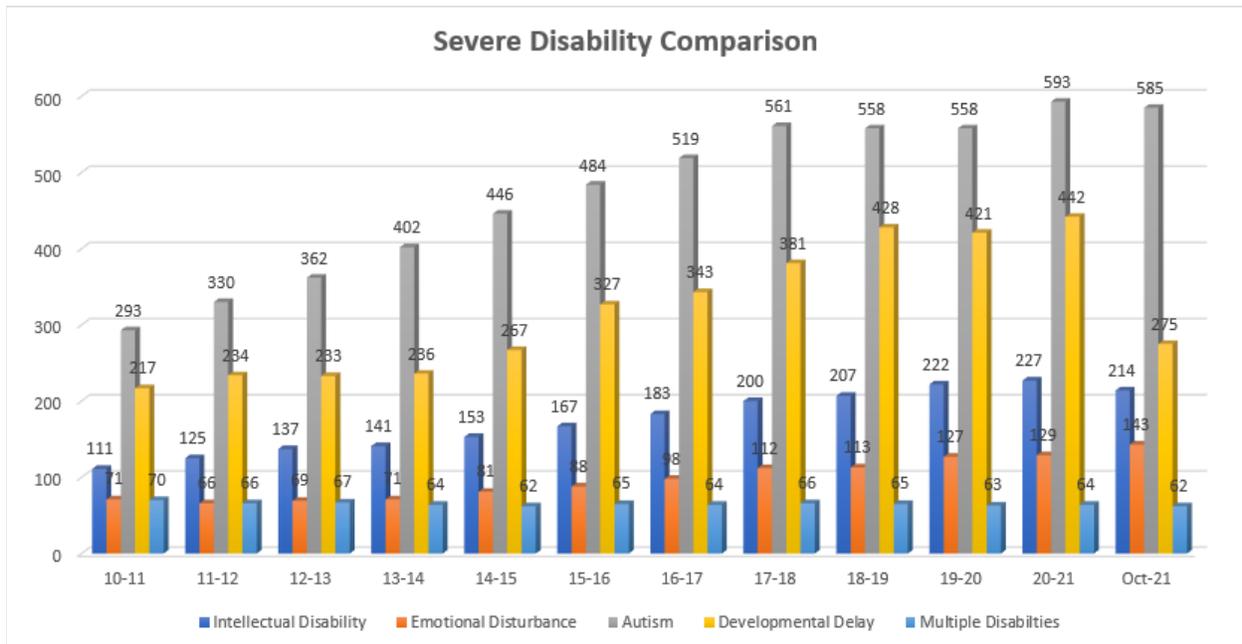
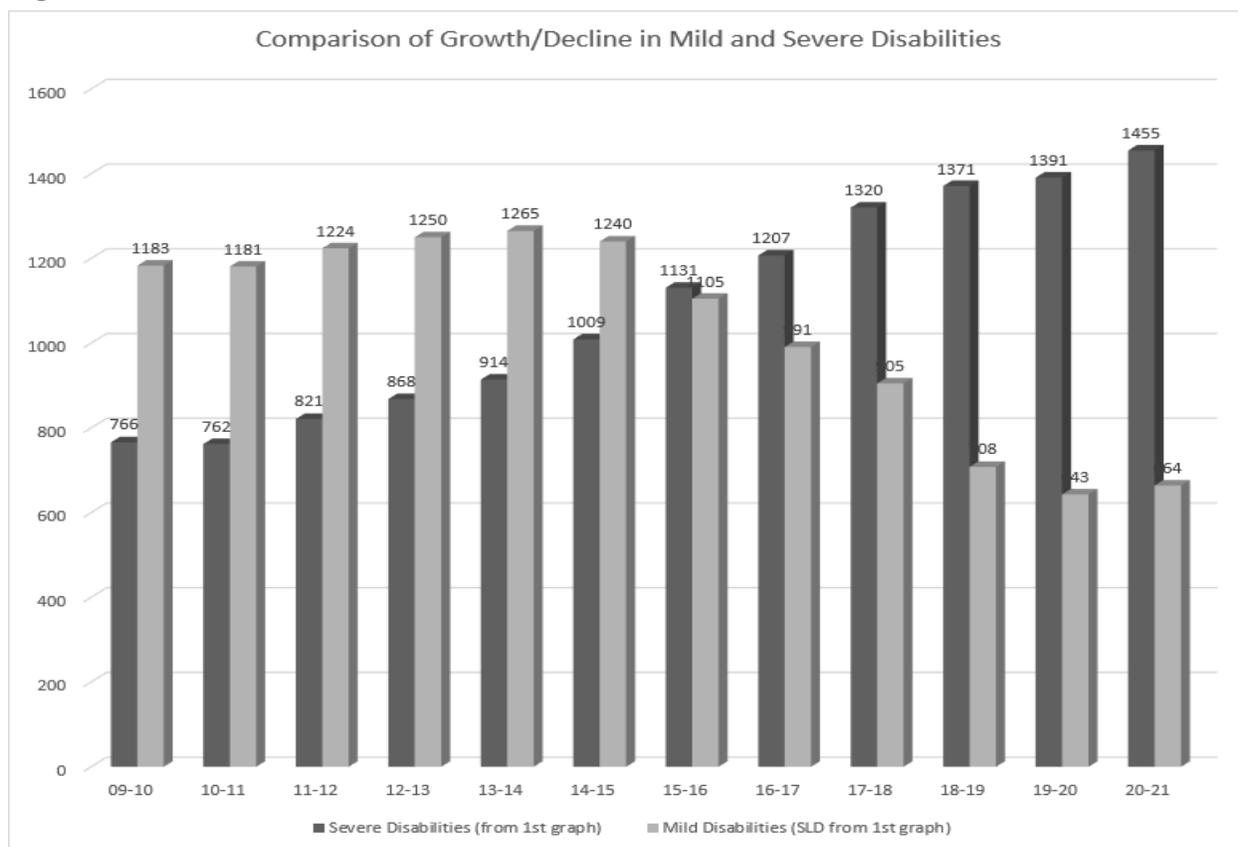


Figure 2



Alternate assessment design analysis

As discussed above, the MSAA assessment design may be leading educators to over identify students for eligibility and influence IEP teams to make decisions for eligibility even when the student does not meet criteria one, the student has the most significant cognitive disability.

Comprehensive technical assistance

The root cause analysis identified a need to integrate postsecondary outcomes, diploma options, career and technical education, and inclusive practices with alternate assessment eligibility and implications from participating. Connecting the decisions of IEP teams to the daily instructional opportunities of students is essential to equity. Specifically, educators need to learn to integrate the tools and resources available including high quality instructional materials and high leverage instructional practices.

Resource tools aligned with IEP development

IEP teams are charged with making critical decisions with implications beyond the annual plan. Alternate assessment eligibility is one of the decisions in the larger plan. Tennessee has funded a statewide

system for IEP development, and the contract is ending in June 2023. A competitive bid process has begun to identify a partner in expanding the IEP system to include tools and resources to increase the expertise of IEP teams and support additional monitoring at the district and state level. As this new system is developed, the low-incidence coordinator will assist in the development of tools for IEP teams and the development of additional resources. This may result in significant changes to the alternate assessment eligibility tools or guidance as informed by the population analysis.

Table 4

	Population Growth Analysis	Alternate Assessment Design Analysis	Comprehensive Technical Assistance	Resource Tools Aligned with IEP Development
November 2022		Analysis of reading passages in grade 2 (state developed assessment) using new validation data and student performance reliability test data	Training on LRE at statewide special educator institute	Meet internally to design an improved IEP template
December 2022	Begin analysis discussions with data team	Identify alternative alternate assessment options and set up times to review the product.	Develop new training and align current trainings to inform IEP team members. Deliver training on service delivery options and IEP development of service delivery plans at statewide legal conference.	Identify new IEP system vendor
January 2023	Data collected	Internal determination of most appropriate alternate assessment	Contact district with highest alternate assessment participation to set up professional development for their LEA	Meet with new vendor to share the new IEP template including alternate assessment worksheet for teams
February 2023	Data analysis internally including comparison to indicator 10 data	If MSAA is continued, develop new technical assistance and guidance to offset the current incorrect assumptions.	Coaching TAS schools and continuing professional development	Develop new guidance to support the implementation of the new IEP system and adherence to the alternate

		If a new assessment is selected, begin the procurement process.		assessment eligibility
March 2023	Prepare findings	If MSAA continues, launch new technical assistance. If there is a new assessment, begin communication to the field.	Coaching TAS schools and continuing professional development	Release new guidance. Develop decision-making tools to integrate with the new IEP.
April 2023	Share findings with stakeholder groups-family engagement and Governors Council for Students with Disabilities.	If MSAA continues, ongoing new technical assistance If new assessment, ongoing communication to the field	Professional development on alternate assessment with the family engagement partner and other family-focused stakeholders	Release decision-making tools and integrate into the new professional development. Develop K-4 course requirements for students who participate in the alternate assessment.
May 2023	Share findings with other states.	If MSAA continues, ongoing new technical assistance If new assessment, ongoing communication to the field	Refine professional development to create asynchronous options	Seek input from stakeholders for additional tools, guidance, or resources needed. Develop K-4 course requirements for students who participate in the alternate assessment.
June 2023	Share findings with USDOE	If MSAA continues, ongoing new technical assistance If there is a new assessment, begin training on the new assessment.	TAS intensive training cohort 1	Develop tools to meet the request from stakeholders. Release K-4 course requirements

July 2023		If MSAA continues, ongoing new technical assistance If new assessment, training on new assessment	TAS intensive training cohort 2	Develop tools to meet the request from stakeholders
August 2023		If MSAA continues, ongoing new technical assistance If new assessment, training on new assessment	Professional development by region leveraging asynchronous training and the virtual PLC model	Integrate tools and resources into professional development work stream.
September 2023		If MSAA continues, ongoing new technical assistance If new assessment, training on new assessment	Professional development by region leveraging asynchronous training and the virtual PLC model	

B. 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 34 C.F.R. § 200.6(c)(4)(ii)(A);

- 1. Provide updated information regarding each requirement in 34 C.F.R. § 200.6(c)(4)(i)-(iv). Specifically, the State must provide the overall assessment participation rates for all students enrolled and for students with disabilities in the grades assessed in each subject for SY 2021-2022.**

The 2020-21 data was analyzed to determine the risk ratio within student subgroups. TDOE uses a risk ratio of 2.0 to determine significant disproportionality. Given this threshold, no subgroup was determined disproportional, however, male, black, and educational disadvantage were consistently above the state participation rate. (See Table 1). Additionally, the TDOE provides each district contributing to the state exceeding the one percent with a table like the one below to identify potential disproportionality practices by disability including those that would be highly unexpected, such as specific learning disability. (Table 5)

Table 5

Disability Category	State Count	State Alt. Distribution	X District Count	X District Alt. Distribution
Autism	1978	24.67%		
Blind				
Deaf-Blindness				
Deafness				
Developmental Delay				
Emotional Disturbance				
Functional Delay	110	1.37%		
Hearing Impairments				
Intellectual Disability	4289	53.49%		
Language Impairments	130	1.62%		
Multiple Disabilities	906	11.30%		
Orthopedic Impairments	34	0.42%		
Other – Health Impairments	343	4.28%		
Specific Learning Disability				
Speech Impairments				
Traumatic Brain Injury	53	0.66%		
Visual Impairments				
(Incomplete or Error)				
(blank)				
Grand Total	8019	100%		

Assure that it has been verified that 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 in that school year using an AA-AAAS followed each of the State’s guidelines and will address any disproportionality in the percentage of students in any subgroup taking an AA-AAAS.

The state is fully committed to ensuring all districts that assess more than one percent of its assessed students on the alternate assessment followed the state guidance. Monthly reports from the statewide IEP system are monitored for significant increases within a district. Tennessee is also committed to ensuring the IEP team members are informed and work collaboratively with our family engagement partner as well as LEAs to provide training, guidance, and technical assistance. This will continue as outlined in Table 4 above.

- 2. Report on the progress of its plan and timeline under 34 C.F.R. § 200.6(c)(4)(iv) including milestones achieved. As noted above, the Department strongly recommends that the plan and report of progress be posted on the State’s website.**

The work outlined in this waiver is encompassed within the department project plan, Access for All. This project plan can be provided to the public upon request. The timeline above will also be added to the assessment Livebinder site so progress can be reported to the public.

3. **Have reduced the percentage of students taking an AA-AAAS in a content area in order to receive an extension of a waiver of the 1.0 percent cap for that content area.**

While Tennessee's participation rate did not decrease, this does not mean that more students participated in the assessment. In fact, the number of students participating in the AA-AAS did not increase, however, the number of students in Tennessee schools decreased. This means that the denominator decreased and thus, the data appears to indicate that the rate increased, but in fact, it stayed relatively stable, decreasing slightly more than the total population.

Table 6

	Number of students assessed in 2020-21	Number of students assessed in 2021-22	Percent change in population	Number of students assessed with the AA-AAS 2020-21	Number of students assessed with the AA-AAS in 2021-22	Change in AA-AAS population
ELA (R/La)	533313	513192	-0.96%	7212	7173	-0.10%
Math	530465	511406	-0.96%	7191	7172	-0.10%
Science	488014	510226*	1.05%	6503	7047*	1.08%

***Note, while this is an increase, Tennessee previously did not meet the 95% requirement in science and therefore, this increase is a result of accountability compliance.**

The changes in the technical assistance, analysis of the alternate assessment design, increased data to LEAs for justification, and changes to the IEP system are all aligned to further decreasing the Tennessee AAS-AAS participation rate. Furthermore, as schools continue to recover from the pandemic, they have been plagued with staff turnover, shortages, and parent hesitation to move from the alternate assessment to the general assessment. The state has released guidance to support schools in continuing to hold high expectations during staffing shortages (Attachment 6).

The state is committed to meeting the one percent threshold while also assuring that LEAs are not prohibited from assessing more than 1.0 percent of its assessed students with an AA-AAAS. To that end, the state will provide increased guidance and technical assistance aligned with and integrating postsecondary outcomes, high expectations, and LRE. Granting the waiver will give the state the time to implement this work and analyze the population growth data to further inform policy and guidance.

Information Regarding the Requirements to Request a Waiver or Wavier Extension for the 2022-2023 School Year (SY) from the One Percent Cap on the Percentage of Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards (AA-AAAS), on September 20, 2022. State seeking extension of a wavier must:

1. **Provide updated information regarding each requirement in 34 C.F.R. § 200.6(c)(4)(i)-(iv). Specifically, the State must provide the overall assessment participation rates for all**

students enrolled and for students with disabilities in the grades assessed in each subject for SY 2021-2022.

2. **Assure that it has verified that 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 in that school year using an AA-AAAS followed each of the State's guidelines and will address any disproportionality in the percentage of students in any subgroup taking an AA-AAAS.**
3. **Report on the progress of its plan and timeline under 34 C.F.R. § 200.6(c)(4)(iv) including milestones achieved. As noted above, the Department strongly recommends that the plan and report of progress be posted on the State's website.**

Have reduced the percentage of students taking an AA-AAAS in a content area in order to receive an extension of a waiver of the 1.0 percent cap for that content area. Requirements 1-3 have been met and addressed within the content of this waiver request. The state participation rate did not significantly change, but also, did not decrease to one percent. The state has completed a root cause analysis and developed a multi-faceted plan to reduce participation in the coming year.

In its request, the State must include:

- **information regarding each requirement in 34 C.F.R. § 200.6(c)(4) (see section B), and**
- **evidence that the State provided notice and a reasonable opportunity for the public and LEAs to comment and provide input on the request. This evidence must include:**
 - **evidence or a description of the manner in which that the State provided such notice to the public and interested LEAs;**
 - **copies of all comments that the State received from LEAs in response to this notice, with a description of how the State addressed the comments; and**
 - **evidence that the State also provided notice and a reasonable opportunity to comment to the public and LEAs in the manner in which the State customarily provides similar notice and opportunity to comment.**

Requirement 1: Information regarding each requirement in 34 C.F.R. § 200.6(c)(4) (see section B), and

The TDOE has met the requirements outlined in accordance with 34 C.F.R. § 200.6(c)(4) and provided the evidence in the narrative of this request.

Requirement 2: Evidence that the State provided notice and a reasonable opportunity for the public and LEAs to comment and provide input on the request. This evidence must include:

- **evidence or a description of the manner in which the State provided such notice to the public and interested LEAs;**
- **copies of all comments that the State received from LEAs in response to this notice, with a description of how the State addressed the comments; and**
- **evidence that the State also provided notice and a reasonable opportunity to comment to the public and LEAs in the manner in which the State customarily provides similar notice and opportunity to comment.**

The TDOE has posted the drafted request for a waiver on TDOE website for public comment for 30 days. No public comments were received. (Attachment 7)

Please contact Jennifer Jordan at Jennifer.Jordan@tn.gov or via phone (615) 238-1401 to discuss the content of this waiver request or to get any questions addressed. We look forward to working with the U.S. Department of Education staff to achieve a positive response to the request.

Sincerely,

Penny Schwinn
Commissioner of Education

Attachment 1



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

April 28, 2022

The Honorable Penny Schwinn
Commissioner of Education
Tennessee Department of Education
710 James Robertson Parkway
Nashville, TN 37243-0375

Dear Commissioner Schwinn:

I am writing in response to the Tennessee Department of Education's (TDOE's) request on December 22, 2021, 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), mathematics, and science.

After reviewing TDOE'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, mathematics, and science.

As part of this waiver, TDOE 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 2020-2021 at least 95 percent of all students and students with disabilities who are enrolled in grades for which an assessment is 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.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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

Under 34 CFR § 200.6(c)(4)(iii)(B), the State must require any LEA that will assess more than 1.0 percent of students on the AA-AAAS to address any disproportionality in the percentage of students in any subgroup (i.e., economically disadvantaged students, students from major racial and ethnic groups, and English learners) taking the AA-AAAS. TDOE must require LEAs to address disproportionality in LEA verifications and justifications moving forward for the Department to consider further extensions of this waiver.

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 TDOE, 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 been reduced in your State. Thank you for your hard work in achieving this reduction. Future requests for an extension of this waiver will continue to expect both continued progress implementing your plan and in particular, demonstrated 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.

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: Jennifer Jordan, TDOE Assistant Commissioner of
Special Education and Intervention Programs

Attachment 2

TO: Name(s) of Recipient
FROM: Jennifer Jordan, Assistant Commissioner of Special Education and Intervention Programs
DATE: January 13, 2022
SUBJECT: Notice of District Alternate Assessment Participation Exceeding One Percent

LEA NAME has contributed to the state exceeding the cap of one percent alternate assessment participation during the 2020-21 school year. The Every Student Succeeds Act (ESSA) limits statewide participation rates to one percent of the total students assessed. Tennessee's statewide alternate assessment participation rates for the 2020-21 school year were 1.35% in English language arts, 1.36% in math, and 1.33% in science. The alternate assessment participation rates for your district are as follows:

English language arts alternate assessment participation rate: ____%
Math alternate assessment participation rate: ____%
Science alternate assessment participation rate: ____%

As a result of contributing to the state exceeding the one percent cap, your district must submit a justification and assurances form to Alison.Gauld@tn.gov by **January 28, 2022**. Justification letters will be publicly posted in accordance with the Office of Special Education and Rehabilitative Services (OSERS) memo, [*Requirements for the Cap on the Percentage of Students who may be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards, May 16, 2017.*](#)

Department staff will review the data, completed district justification forms, and LEA policies and practices related to student eligibility and participation in the alternate assessment. After review, the department will provide differentiated technical assistance to identified districts. Technical assistance will be available to all districts through webinars, guidance documents, and regional trainings. Districts with the most intensive needs and/or highest rates of participation will be identified for onsite technical assistance including file reviews and will be notified by Alison Gauld.

Participation rate calculation rules

All students in grades 3-8 and high school are expected to participate in the state accountability assessments, TNReady/EOC or the alternate assessments (MSAA/TCAP-Alt). However, each year there are students who, while expected to participate, do not complete the assessments for a variety of reasons. Therefore, in order to calculate the participation rate, students who were assessed and received a score for their performance are included within the participation rate calculation.

English language arts participation rate calculation:

$$\frac{\text{\# of MSAA Tested Students (ELA)}}{\text{\# of students assessed in ELA TNReady, EOC, and MSAA grades 3-8 and ELA II}} \times 100$$

"MSAA tested students" is the number of students in grades 3-8 and 11 who were assessed on the MSAA and received a performance level score (1-4).

"Assessed in ELA TNReady" is the number of students in grade 3-8 who were assessed on the TNReady and received an ELA performance score.

"Assessed in ELA EOC" is the number of students who were assessed on the ELA II EOC and

received a performance score.

Math participation rate calculation:

$$\frac{\# \text{ of MSAA Tested Students (math)}}{\# \text{ of students assessed in math TNReady, EOC, and MSAA grades 3-8 and Algebra I or Integrated Math I}} \times 100$$

“MSAA tested students” is the number of students in grades 3-8 and 11 who were assessed on the MSAA **and** received a performance level score (1-4).

“Assessed in math TNReady” is the number of students in grade 3-8 who were assessed on the TNReady **and** received a math performance score.

“Assessed in math EOC” is the number of students who were assessed on the Algebra I **or** Integrated Math I EOC **and** received a performance score.

Science participation rate calculation:

$$\frac{\# \text{ of TCAP-Alt Tested Students (Science)}}{\# \text{ of students assessed in science TNReady, EOC, and TCAP-Alt grades 3-8 and Biology I}} \times 100$$

“TCAP-Alt tested students” is the number of students in grades 3-8 and 10 who were assessed on the TCAP-Alt **and** received a performance level score (1-3).

“Assessed in science TNReady” is the number of students in grade 3-8 who were assessed on the TNReady **and** received a science performance score.

“Assessed in science EOC” is the number of students who were assessed on the Biology I **and** received a performance score.

The statewide data and your district data are summarized in the following two charts. One is a disaggregation of the data by disability category and the other is the participation rate over time. This data should support you in the development of a plan for reducing participation rates to include only those students who meet the three eligibility criteria and for whom participation in the alternate assessment is the most appropriate assessment.

Disability Category	State Count	State Alt. Distribution	X District Count	X District Alt. Distribution
Autism	1978	24.67%		
Blind				
Deaf-Blindness				
Deafness				
Developmental Delay	76	0.95%		
Emotional Disturbance	37	0.46%		
Functional Delay	110	1.37%		
Hearing Impairments				
Intellectual Disability	4289	53.49%		
Language Impairments	130	1.62%		
Multiple Disabilities	906	11.30%		
Orthopedic Impairments	34	0.42%		
Other - Health Impairments	343	4.28%		
Specific Learning Disability				
Speech Impairments				
Traumatic Brain Injury	53	0.66%		
Visual Impairments				
(Incomplete or Error)				
(blank)				
Grand Total	8019	100%		

Longitudinal Data		
Assessment Year	State Rate	X District
2017-2018	ELA 1.42% Math 1.43% Science 1.36%	ELA x.xx% Math x.xx% Science x.xx%
2018-2019	ELA 1.45% Math 1.47% Science <i>*field test*</i>	ELA x.xx% Math x.xx% Science <i>*field test*</i>
2020-2021	ELA 1.35% Math 1.36% Science 1.33%	ELA _____ Math _____ Science _____

Attachment 3

TO: Name(s) of Recipient
FROM: Jennifer Jordan, Assistant Commissioner of Special Education and Intervention Programs
DATE: January 13, 2022
SUBJECT: **Notice of District Alternate Assessment Participation Exceeding One Percent**

LEA NAME has contributed to the state exceeding the cap of one percent alternate assessment participation during the 2020-21 school year. The Every Student Succeeds Act (ESSA) limits statewide participation rates to one percent of the total students assessed. Tennessee's statewide alternate assessment participation rates for the 2020-21 school year were 1.35% in English language arts, 1.36% in math, and 1.33% in science. The alternate assessment participation rates for your district are as follows:

English language arts alternate assessment participation rate: ____%
Math alternate assessment participation rate: ____%
Science alternate assessment participation rate: ____%

As a result of contributing to the state exceeding the one percent cap, your district must submit a justification and assurances form to Alison.Gauld@tn.gov by **January 28, 2022**. Justification letters will be publicly posted in accordance with the Office of Special Education and Rehabilitative Services (OSERS) memo, [Requirements for the Cap on the Percentage of Students who may be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards, May 16, 2017](#).

Department staff will review the data, completed district justification forms, and LEA policies and practices related to student eligibility and participation in the alternate assessment. After review, the department will provide differentiated technical assistance to identified districts. Technical assistance will be available to all districts through webinars, guidance documents, and regional trainings. Districts with the most intensive needs and/or highest rates of participation will be identified for onsite technical assistance including file reviews and will be notified by Alison Gauld.

Participation rate calculation rules

All students in grades 3-8 and high school are expected to participate in the state accountability assessments, TNReady/EOC or the alternate assessments (MSAA/TCAP-Alt). However, each year there are students who, while expected to participate, do not complete the assessments for a variety of reasons. Therefore, in order to calculate the participation rate, students who were assessed and received a score for their performance are included within the participation rate calculation.

English language arts participation rate calculation:

$$\frac{\text{\# of MSAA Tested Students (ELA)}}{\text{\# of students assessed in ELA TNReady, EOC, and MSAA grades 3-8 and ELA II}} \times 100$$

“MSAA tested students” is the number of students in grades 3-8 and 11 who were assessed on the MSAA and received a performance level score (1-4).

“Assessed in ELA TNReady” is the number of students in grade 3-8 who were assessed on the TNReady and received an ELA performance score.

“Assessed in ELA EOC” is the number of students who were assessed on the ELA II EOC and

received a performance score.

Math participation rate calculation:

$$\frac{\# \text{ of MSAATested Students (math)}}{\# \text{ of students assessed in math TNReady, EOC, and MSAA grades 3-8 and Algebra I or Integrated Math I}} \times 100$$

“MSAA tested students” is the number of students in grades 3-8 and 11 who were assessed on the MSAA **and** received a performance level score (1-4).

“Assessed in math TNReady” is the number of students in grade 3-8 who were assessed on the TNReady **and** received a math performance score.

“Assessed in math EOC” is the number of students who were assessed on the Algebra I **or** Integrated Math I EOC **and** received a performance score.

Science participation rate calculation:

$$\frac{\# \text{ of TCAP-Alt Tested Students (Science)}}{\# \text{ of students assessed in science TNReady, EOC, and TCAP_Alt grades 3-8 and Biology I}} \times 100$$

“TCAP-Alt tested students” is the number of students in grades 3-8 and 10 who were assessed on the TCAP-Alt **and** received a performance level score (1-3).

“Assessed in science TNReady” is the number of students in grade 3-8 who were assessed on the TNReady **and** received a science performance score.

“Assessed in science EOC” is the number of students who were assessed on the Biology I **and** received a performance score.

The statewide data and your district data are summarized in the following two charts. One is a disaggregation of the data by disability category and the other is the participation rate over time. This data should support you in the development of a plan for reducing participation rates to include only those students who meet the three eligibility criteria and for whom participation in the alternate assessment is the most appropriate assessment.

Disability Category	State Count	State Alt. Distribution	District X Count	District X Alt. Distribution
Autism	1978	24.67%	62	26.05%
Blind				
Deaf-Blindness				
Deafness				
Developmental Delay	76	0.95%		
Emotional Disturbance	37	0.46%		
Functional Delay	110	1.37%		
Hearing Impairments				
Intellectual Disability	4289	53.49%	143	60.08%
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Other - Health Impairments	343	4.28%		
Specific Learning Disability				
Speech Impairments				
Traumatic Brain Injury	53	0.66%		
Visual Impairments				
(Incomplete or Error)				
(blank)				
Grand Total	8019	100%	238	100%

Assessment Year	State Rate	District X Rate
2017-2018	ELA 1.42% Math 1.43% Science 1.36%	ELA x.xx% Math x.xx% Science x.xx%
2018-2019	ELA 1.45% Math 1.47%	ELA x.xx% Math x.xx%

⁵ Compensatory services are intended to elevate a student to the level expected had the services not been delayed or postponed.

Attachment 4

2020-21 Alternate Assessment Justification

The following must be completed by districts that contribute to the state exceeding the 1% cap for students participating in the alternate assessment and will be posted on the department website upon receipt.

District Name: _____

	% of Alternative Assessments 2017-18 Administration	% of Alternate Assessments 2018-19 Administration	% of Alternate Assessments 2020-21 Administration	Projected % of Alternate Assessments 2021-22 Administration
MSAA ELA				
MSAA Math				
TCAP-Alt Science		<i>*Field test year, no data available</i>		

1. **Eligibility Determination Process:** Describe the policies, training and supports in place to ensure IEP teams appropriately identify students for participation on the alternate assessments related to each of the three criteria. *Completing the form in EasyIEP is not sufficient justification. The description should include training or processes to ensure the IEP team is carefully considering both the student's data and the implication of participation in the alternate assessment.*
 - a. Criterion One: The student has a significant cognitive disability. Only students with the most significant cognitive disabilities should be considered for the alternate assessment.
 - b. Criterion Two: The student is learning content linked to (derived from) state content standards.
 - c. Criterion Three: The student requires extensive direct individualized instruction and substantial supports to achieve measurable gains in the grade- and age-appropriate curriculum.

2. **Disproportionality:** Using your data by primary eligibility, describe your district data, including disproportionate participation on the alternate assessment and a plan for reducing/eliminating disproportionality.

3. **Informed Parent Participation:** Describe the process and practices used to adequately inform parents of the eligibility requirements and implications of participation to ensure active parent participate in the IEP team discussion.

4. **Support Requested:** Please detail any support needed from the department. (All reasonable requests for supports will be considered.)

Assurance: The district is committed to ensuring all students are participating in the most appropriate assessments. Students determined eligible for the alternate assessment will meet the three criteria.

Signed: _____
Date: _____

Course Code Guidance and FAQs for Students with Disabilities

Understanding Course Codes

Planning student schedules and access to the courses needed to obtain their diploma is one of the most important ways schools can ensure student success. Planning student schedules and access to the courses needed to obtain their diploma is one of the most important ways schools can ensure student success. [High school policy 2.103](#) allows for additional flexibility and consideration when planning for students with disabilities. This document is intended to support schools in understanding course codes, endorsements, and the provision of IEP services.

Course codes identify the content, aligned to standards, that should be taught during the duration of the course.

Teacher endorsements, high quality instructional materials (HQIMs), and assessments (if any) are aligned to the content to ensure the content is effectively taught with fidelity.

Course Codes vs. IEP Services

Example: The least restrictive environment (LRE) for many students with disabilities may be the general education environment with “push-in” services. In a “push-in” model, the special education teacher, related services provider, and/or paraprofessional are providing the student with IEP services within the general education classroom, concurrent with the student receiving their general education content instruction. The general education teacher, whose endorsement correlates to the course code, is the teacher of record. The special education teacher, related services provider or paraprofessional are not indicated on the SIS report.

The student’s schedule in the student information system (SIS) lists the courses, therefore, the schedule indicates the content the student will be taught within the semester. The schedule is not intended to be an accounting of the student’s IEP service(s). IEP services are provided to ensure the student is able to access the content.

The example illustrates that a student’s schedule may not include the special education services even when the student is receiving those services in accordance with the IEP. The student’s schedule communicates the content instruction the student will receive.

Ensuring Access

It is critical that schools ensure students receive both grade-level, rigorous instruction and **the special education and related services needed to provide** access to that instruction. Course codes have been developed to ensure students have full access to their LRE ***and*** to the content.

[08]

Some students require highly modified instruction. There are course codes to clearly articulate that the content is modified. These include the Alternate Academic Diploma (AAD) codes or comprehensive codes in all the core subjects (English language arts (ELA), math science, and social studies).

General Education Course Codes	Comprehensive Program (Modified Replacement of Grade Level Instruction) Course Codes	Alternate Academic/Assessment Course Codes
All students should be considered for this course first. Only if the team agrees this is not the most appropriate option, should they consider one of the other options.	Students who have an IEP and require modified instruction as a replacement to general education core instruction <u>and</u> participate in <i>TNReady</i> or <i>End of Course (EOC)</i> assessments may be considered for a modified replacement of grade level instruction (comprehensive) course code.	Students who have an IEP and require <i>significantly</i> modified instruction <u>and</u> participate in the <i>alternate assessments</i> (TCAP-Alt and MSAA).

Summary

The student's enrollment in the course reflects their instruction, not their special education services. The student must also receive their special education and related services from the appropriate professional(s) in order to access their instruction, as outlined in the student's IEP. This means the course schedule may not sufficiently describe the student's day.

Additionally, the student needs a transcript that clearly articulates the student's skills and strengths. Use the course codes that most accurately reflect the instructional expectations to facilitate the appropriate needed supports in postsecondary education and training programs, employment, or other postsecondary adult services or programs.

Frequently Asked Questions:

1. Why do the course codes designed for students who will participate in the alternate assessment include correlations to both special education teachers and general education teachers?

Students with the most significant cognitive disabilities who are eligible for participation in the alternate assessment must be provided the full continuum of services, including access to instruction in their LRE. The inclusion of both special education and general education endorsements ensures access to both content and LRE.

2. What is the difference between the interventionist (144/145) endorsement, comprehensive (461), and modified (460)?

The Special Education Interventionist Endorsements (144 and 145) provide teachers with a foundation in special education content and pedagogy for high-incidence disabilities. This is important to ensure each student receives individualized service according to the IEP.

This endorsement is specific to the teacher, not a setting. For example, educators with these endorsements might work in general education settings supporting students by providing inclusive services (i.e. coteaching) or in a special education setting (i.e. skills-based intervention).

The Special Education Comprehensive Program (461) indicates the teacher has specialized content and pedagogy expertise for serving students with the most significant disabilities. Again, this endorsement is specific to the teacher, not a setting. This is important so that each student receives individualized service according to the IEP. For example, educators with this endorsement may provide inclusive services within general education settings, intervention in a variety of pull-out and push-in models, and/or highly modified instruction in a separate setting.

The Special Education Modified K-12 (460) endorsement is retired. The educator preparation program for the modified program most resembles the interventionist preparation programs. Teachers who currently hold a 460 endorsement will continue to hold this endorsement as long as their license remains active. If the educator's license expires, they may be eligible to apply for one or both of the interventionist endorsements (144/145).

3. Why do the alternate assessment or alternate academic diploma courses include a note that students should receive services from personnel qualified to deliver highly specialized services? (See example below.)

Excerpt from an Alternate Assessment Course Code Note:

The 144/145/190/191 endorsement describes the educator with the specialized training to provide instruction aligned to comprehensive courses (commonly referred to as extended resource). While this setting may be the LRE for a student who is assessed on the alternate assessment, the course code only refers to the content. The student must also receive their special education services provided by personnel qualified to deliver highly specialized services specifically for students with significant cognitive disabilities.

The course code indicates the content taught, not the IEP services. Districts need to ensure that they have staff who are experts in teaching the content **and** staff with the expertise to adequately support student needs and IEP services. The Special Education Comprehensive Program (461) indicates the teacher has specialized content and pedagogy expertise for serving students with the most significant disabilities. This note on the alternate academic courses is a reminder that students will require services from qualified personnel beyond their course assignments.

4. How do we determine which personnel are "qualified to deliver highly specialized services specifically for students with a significant cognitive disability?"

District leadership should be engaging with their educator preparation program (EPP) partners to understand how programming is or is not aligned to the specific needs of students. The following are a few suggestions for consideration when determining the best personnel to meet the needs of students with a significant cognitive disability/

- How do we ensure students are taught appropriately modified content using research-based strategies for students with significant cognitive disabilities?
- Which educator(s) have specialized training in selection and use of extensive, substantially adapted materials and strategies?
- Which endorsements had training and preparation in the use of age-appropriate, highly modified literacy and mathematical strategies including adaptation, accessibility, and foundational literacy? Does their training align to the ages/grades of students in the school (i.e., high school, late-teen/early twenty-year-old)?
- Which educator(s) have an in-depth understanding of the relationship between language acquisition and learning?
- Which endorsements included preparation and training in the use and fading of physical, pictorial, and verbal prompting?
- Which educator(s) know how to support and integrate augmentative assistive communication and assistive technology?
- Which educator(s) are prepared to support students with self-help and independence skills, social skills, developing sustained relationships, and complex behavioral needs?

5. Can an educator who currently holds a modified (460) endorsement acquire a comprehensive (461) endorsement?

Yes, adding a comprehensive (461) endorsement is possible through a test only option. The teacher would need to submit qualifying scores on the required content assessments, including any required literacy assessment. For more information, review the [Educator Licensure and Preparation Operating Procedures](#) guide.

6. Is there a free option to help teachers who are not eligible to add a comprehensive (461) through a "test-only" option?

Yes, the department is providing a Special Education Additional Endorsement Grant in partnership with Trevecca Nazarene University and University of Tennessee, Knoxville. For more information, contact Amy.Galloway@tn.gov.

7. Why do we need to use the alternate assessment or AAD course codes if the student's LRE is the general education setting?

Course codes indicate the content taught and are used by the department to populate, the state assessments (i.e., order and prefill demographic information). The general education course codes are correlated with the TNReady and End of Course (EOC) assessments. The alternate assessment or AAD course codes are correlated with the alternate assessments TCAP-Alt and MSAA. If a student is enrolled in the wrong course code, they will receive the wrong statewide assessment.

8. Should we use the comprehensive course codes for students who are receiving all or a majority of their core content instruction in a special education setting?

The course code indicates the content taught, not the setting. The courses with "comprehensive" in the course name are intended for students who require highly modified instruction but are also participating in the general education assessments, TNReady or EOC.

9. Can a teacher be assigned two course codes at the same time?

Yes, teachers may have more than one course code assigned to them at the same time. For example, if a student earning the AAD is receiving instruction in the general education classroom, the teacher would have the general education course code and the AAD code assigned to them at the same time.

10. How do we help our students earn the AAD if our school does not offer all 17 of the high school AAD courses?

The 17 AAD courses are available to support students in achieving the AAD; however, it is not required that students complete the AAD courses. Students must earn 22 credits in accordance with the high school policy 2.103, and the credits may be a combination of general education and special education credits. An AAD Course Planning Guide is available at the end of this document

11. How do we determine which of the three Work-Based Learning (WBL) course codes is most appropriate for a student?

The regular education course should always be the first consideration for students. If that is not the most appropriate course, then teams may consider the two special education course codes. The table below provides considerations to guide the selection of the most appropriate WBL course.

C25H16 Work-Based Learning: Career Practicum	S25H05 AAD Work-Based Learning	S25H01 Work-Based Learning: Special Education Transition
1 credit	1 credit	0 credit
<p>All students should be considered for this course first. Only if the team agrees C25H16 is not the most appropriate option, should they consider one of the other WBL courses.</p>	<p>Students who participate in the alternate assessment may be considered for S25H05. Review the course requirements to ensure students complete the capstone project as needed to earn course credit.</p>	<p>This course is available to any student who has a current IEP and for whom participation in C25H16 is not appropriate even when provided accommodations and/or modifications in accordance with their IEP.</p>

12. Where can I find more information?

Information is available on the [low incidence webpage](#), or you may contact Alison.Gauld@tn.gov.

Alternate Academic Diploma Planning Guide

Total Credits Required: 22

Math: 4 credits required

Algebra I, II, Geometry and a fourth higher level math course (Students must be enrolled in a mathematics course each school year.)

Date completed		(Indicate one)		Replacement Course (review policy for options)
	Algebra I	(General or AAD)	or	
	Geometry I	(General or AAD)	or	
	Algebra II	(General or AAD)	or	
	Applied Math	(General or AAD)	or	

Science: 3 credits required

Biology, Chemistry or Physics (or a replacement lab science), and a third lab course

Date completed		(Indicate one)		Replacement Course (review policy for options)
	Biology I	(General or AAD)	or	
	Chemistry or Physics	(General or AAD)	or	
	Additional Lab Science	(General or AAD)		

English Language Arts (ELA): 4 credits required

Date completed		(Indicate one)
	ELA I	(General or AAD)
	ELA II	(General or AAD)
	ELA III	(General or AAD)
	ELA IV	(General or AAD)

Social Studies: 3 credits required + Personal Finance: 0.5 credit required

Date completed		(Indicate one)
	U.S. History and Geography	(General or AAD)
	World History and Geography	(General or AAD)
	U.S. Government and Civics	(General or AAD)
	Economics	(General or AAD)
	Personal Finance	(General or AAD)

PE and Wellness: 1.5 credits required		
Date completed		<i>(Indicate course name and credits earned)</i>
	Wellness	
	PE	

World Language: 2 credits required (policy allows waiving world language for electives)		
Date completed		<i>(Indicate course name and credits earned)</i>

Fine Arts: 1 credit required (Policy allows waiving fine arts for elective(s))		
Date completed		<i>(Indicate course name and credits earned)</i>

Assessment and Additional Requirements	
Date completed	
	Alternate Assessment—Biology <i>(grade 10)</i>
	Alternate Assessment—ELA <i>(grade 11)</i>
	Alternate Assessment—Math <i>(grade 11)</i>
	Civics assessment <i>(must score ≥70%)</i>
	Transition assessment—employment
	Transition assessment—education and training
	Transition assessment—community involvement
	Transition assessment—independent living

Elective Focus: 3 credits required Math and Science, Career and Technical Education, Fine Arts, humanities, Advanced Placement (AP) or International Baccalaureate (IB)		
Date completed		<i>(Indicate course name and credits earned)</i>

Attachment 6

Introduction

Individualized education program (IEP) teams should carefully consider the needs of the student when developing an IEP. As the team reviews the data and determines services are necessary, the team should clearly communicate services within the service delivery plan (refer to the service delivery guidance for more info). The IEP team's decisions should be driven by the data and needs of the student. Staffing availability or shortages should not influence or impact IEP team decisions, even when there is a known shortage or vacancy. This guidance is intended to provide schools with considerations and strategies for providing IEP services in the event of staffing shortages.

Considerations

Section 300.317 of the Individuals with Disabilities Education Act (IDEA) implementing regulations defines a free and appropriate public education (FAPE) as special education and related services that:

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

The IDEA does not have any provisions that alter FAPE requirements during widespread staffing shortages. IEP team decisions should be based on student data, not on staffing or resources. Therefore, there may be times that the IEP team knows one or more of the services needed may not be provided until the additional staff is hired. Yet, *the IEP service delivery plan should still reflect the needed services.*

Typically, during the IEP meeting, the team determines the necessary services and then plans how and when to meet the services. When the team has identified a needed service and knows that there is currently no provider available, they should clearly and transparently communicate with the parent(s). Furthermore, the IEP team should plan to reconvene once a provider is hired or within a reasonable and agreed-upon timeframe to discuss the impact of the missed services and the potential need for compensatory services⁵.

Strategies

Providing FAPE may be difficult in the event of widespread shortages of qualified personnel and service providers. *Staffing shortages do not permit districts or schools to use unqualified staff to*

⁵ Compensatory services are intended to elevate a student to the level expected had the services not been delayed or postponed.

perform functions for which they are not qualified. There are multiple efforts at the state, teacher preparations program, and district levels to reduce and eliminate shortages. Despite these efforts, some IEP services may be impacted by staffing shortages.

Clear communication to families about current shortages and the plans for hiring can mitigate misunderstandings or stress. The following are additional strategies to help mitigate the effect of staffing shortages.

<p>Partner with educator preparation programs to secure interns, student teachers, and/or graduate students. The licensed educator should be the person overseeing and facilitating the interventions; however, interns and student teachers can provide additional practice and support within the class so the staff can prioritize intervention services.</p>	<p>Revise the master schedule to create grade band schedules. For example, kindergarten through third will teach English language arts during the same 90-minute block of the day. The ability to group students across multiple grades reduces the number of small groups a special education professional is facilitating each week, thus increasing capacity.</p>	<p>Offer incentives or different pay schedules for hard-to-fill positions. Districts may want to consider incentives that reduce the workload or increase employee satisfaction. For example, providing classroom space for itinerant teachers, flexible schedules, yearly stipends, or different pay schedules.</p>
<p>Partner with neighboring districts. Specialized services that do not require a full-time professional are often a challenge. Creating a partnership with blended funds to provide the benefits of full-time employment can be a strong incentive for applicants.</p>	<p>Contract for services while seeking quality applicants or completing hiring processes. Private agencies may be able to provide interim IEP services to students to mitigate regression. When considering a third-party provider, or alternative delivery model, such as virtual services, LEAs must ensure that the services are provided in the student's least restrictive environment.</p>	<p>Leverage Grow Your Own Programs or educator preparation program partnerships to provide current staff with the professional training needed to secure licensure in a needed area of expertise. Also, a district may choose to begin a new Grow Your Own Program. <i>For more information, visit the Grow Your Own webpage and Educator Preparation webpage.</i></p>
<p>Plan IEP services monthly instead of weekly. Monthly service delivery is one option for creating increased service delivery flexibility throughout the week for staff to attend meetings, evaluate students, or address crisis situations. While consistent and</p>	<p>Provide compensatory education as a remedy for missed services or denial of FAPE. A district faced with a staff shortage is making the right decision to include the needed services on an IEP even when it is impossible to provide the services</p>	<p>Recruit retired, qualified staff to work up to a 120-day schedule. Leveraging retired staff to provide services while recruiting or engaging staff in a licensure program can ensure students receive the services without delay or disruption. The contracted</p>

<p>predictable services is best, finding options for providing services at least monthly may mitigate the impact. This decision should be individualized based on the student's needs.</p>	<p>immediately. Compensatory services can be provided once the professionals are hired, or outside the school day.</p>	<p>individual does not have to commit to a full-time or consistent schedule, but rather can be adjusted to meet the needs of both the district and the retired personnel.</p>
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Staffing shortages are a complex and widespread concern. Clear, timely communication with families can reduce stress and frustration. Compensatory services or other efforts to compensate for services missed while hiring are equitable, honest approaches to supporting students within the confines of the district's resources. *More information on compensatory services can be found ([here](#)).*