



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 3, 2026

The Honorable Zoie Saunders
Interim Secretary of Education
Vermont Agency of Education
1 National Life Drive
Montpelier, VT 05620-2501

Dear Interim Secretary Saunders:

I am writing in response to the Vermont Agency of Education's (AOE's) request on December 8, 2025, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), which stipulates that a State may not assess more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). Vermont requested this waiver extension because, based on State data for school year (SY) 2024-2025, AOE concluded that it may exceed the 1.0 percent cap on AA-AAAS participation in reading/language arts (R/LA), mathematics, and science.

After reviewing AOE's waiver extension request, I am declining to exercise my authority under section 8401(b) of the ESEA for a one-year waiver for the 2025-2026 school year 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 students in R/LA, mathematics, and science. I am declining the request because AOE did not meet the requirement in 34 CFR § 200.6(c)(4)(ii) to assess at least 95 percent of students with disabilities in R/LA, mathematics, and science during the 2024-2025 school year. In addition, the rate of AA-AAAS participation increased in the subject areas of R/LA and mathematics in SY 2024-2025 when compared to both SYs 2023-2024 and 2017-2018. I note that Vermont's AA-AAAS rates in science have been below 1.0 percent for the past two years.

If AOE can demonstrate that the rate of participation on the AA-AAAS has in fact declined and how granting this waiver would contribute to improved student achievement and is in the public interest, AOE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under ESEA section 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii) and (iii). 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/>

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Page 2 – The Honorable Zoie Saunders

I appreciate your work to improve Vermont's schools and provide a high-quality education for your students. If you have any questions, please contact my staff at ESEA.Assessment@ed.gov.

Sincerely,

/s/

Kirsten Baesler
Assistant Secretary
Office of Elementary and Secondary Education

cc: Danielle Dupuis, Director of Assessment and Accountability



State of Vermont 1% Threshold Waiver Request

December 8, 2025

Issued by the Vermont Agency of Education

Table of Contents

Introduction 3

Requirement 1: Public Comment 4

Requirement 2: 90 days before testing 4

Requirement 3: Participation Rates 4

Requirement 4: Assurances 7

 (A) State’s guidelines for participation in the MSAA 8

 (B) Addressing Disproportionality in students taking the MSAA 8

Requirement 5: LEA Justifications 9

Requirement 6: Plan and Timeline 9

Requirement 7: Reduced AA-AAAS Participation Rates 11

Requirement 8: Addressing Denial of Waiver for SY2024-25 12

Appendix 13

Introduction

Title 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) of 2015 [\[ESEA §111\(b\)\(2\)\(D\) and 34 CFR 200.6 \(c\) and \(d\)\]](#), modifies the provision that students with the most significant cognitive disabilities may participate in alternate assessments based on alternate academic achievement standards. ESSA places a 1 percent threshold statewide on the number of students who may participate in alternate assessments. States that anticipate exceeding the 1 percent threshold must submit a waiver request to the U.S. Department of Education.

The Vermont Agency of Education's (VT AOE) alternate assessment is designed to assess students' proficiency in the Common Core State Standards (CCSS) for Reading/Language Arts (R/LA), mathematics, and the Next Generation Science Standards (NGSS) for science. The Vermont State Board of Education formerly adopted the CCSS in 2010 and the NGSS in 2013. Soon after adoption, Vermont joined the Dynamic Learning Maps (DLM) and administered the first operational DLM assessment in 2015. At that time, NGSS was not represented in DLM's assessment, so Vermont kept the legacy Vermont Alternate Assessment Portfolio (VTAAP) for science. In 2017, Vermont was unable to remain with DLM, and in 2018, administered an alternate portfolio assessment as a place holder for reporting while the new Vermont Alternate Assessment (VTAA) was being developed. In 2019, Vermont administered, as an operational field test, the newly developed VTAA, which assessed R/LA and mathematics in grades 3-9, and science in grades 5, 8 and 11. In 2023, Vermont joined the Multi-State Alternate Assessment (MSAA) Consortium, which administers the MSAA in R/LA, mathematics, and science as a part of a partnership with 10 other states/entities within the United States.

As a consequence of administering multiple versions of an alternate assessment for 2015-2017 (DLM), 2018 (Alternate Portfolio), 2019 (VTAA operational field test), and now 2023-2025 (MSAA), Vermont's alternate assessment participation numbers have been unstable. For the purpose of the 2025-26 1 percent waiver request, Vermont will be using participation data from the 2023-24 school year as data from the 2024-25 school year is not publicly available at this time.

For the above and the following reasons, Vermont is requesting a 1 percent waiver for the 2025-26 academic school year:

1. Vermont exceeded the 1 percent state threshold in R/LA during the 2021-2022 school year and submitted a plan to U.S. Department of Education on November 23, 2023.
2. Vermont exceeded the 1 percent state threshold in R/LA and Math during the 2022-23 school year.
3. Vermont exceeded the 1 percent state threshold in R/LA and Math during the 2023-24 school year.

Requirement 1: Public Comment

VT AOE provided the public and any interested local education agency (LEA) in Vermont notice and a reasonable opportunity to comment and provide input on the entire waiver request including the plan to meet the 1 percent threshold. VT AOE allowed four weeks for public comment and input starting on Thursday, November 6, 2025, until Wednesday, December 3, 2025. VT AOE did not receive any public comment related to this waiver request.

Requirement 2: 90 days before testing

Vermont's testing window for all academic assessments, including the MSAA, is from March 9, 2026, to April 24, 2026. VT AOE submits this waiver on or before December 9, 2025, which is 90 days before the start of the statewide assessment testing window.

Requirement 3: Participation Rates

The VT AOE submits the following data as part of the school year 2025-26 1 percent waiver request. At the time of the creation of this waiver, VT AOE does not yet have publicly available assessment data for school year 2024-25; therefore, we are using the overall assessment participation rates from school year 2023-24 in R/LA, Math, and Science (Table 1). Table 2 shows the number and percentage of students in each required student group who took the MSAA during school year 2023-24 in R/LA, Math, and Science. Table 3 shows the alternate assessment participation rates for school years 2017-18 through 2023-24 (including estimates for school year 2024-25) in R/LA, Math, and Science.

Table 1: Overall Rates of Assessment Participation for school year 2023-24

Group	All Students Grades 3-8 and High School R/LA	Students with Disabilities Grades 3-8 and High School R/LA
Student Assessed	38864	7770
Student Enrolled	40113	8223
Assessment Participation Rate	96.86%	94.49%
Group	All Students Grades 3-8 and	Students with Disabilities

	High School Math	Grades 3-8 and High School Math
Student Assessed	38985	7761
Student Enrolled	40110	8224
Assessment Participation Rate	97.20%	94.37%
Group	All Students Grades 3-8 and High School Science	Students with Disabilities Grades 3-8 and High School Science
Student Assessed	16186	2949
Student Enrolled	17030	3246
Assessment Participation Rate	95.04%	90.85%

Table 2: MSAA Participation Rates by Subgroup for school year 2023-24

Group	Total # in Grade 3-8 & HS	Num. Taking AA-AAAS in Grades 3-8 & HS	% Taking AA-AAAS in Grades 3-8 & HS
Reading/Language Arts			
All Students	38864	421	1.08%
Hispanic	1264	17	1.34%
American Indian/Alaskan Native	100	***	4.00%
Asian	778	11	1.41%
Black	972	22	2.26%

Hawaiian/ Pacific Islander	26	***	3.85%
White	34028	343	1.01%
Two or More Races	1696	23	1.36%
Male	20195	274	1.36%
Female	18669	147	0.79%
English Learner	961	16	1.66%
Econ. Disadvantage	18478	297	1.61%
Math			
All Students	38985	422	1.08%
Hispanic	1313	18	1.37%
American Indian/Alaskan Native	99	***	4.04%
Asian	800	11	1.38%
Black	1024	24	2.34%
Hawaiian/ Pacific Islander	25	***	4.00%
White	34028	342	1.01%
Two or More Races	1696	22	1.30%
Male	20252	277	1.37%
Female	18733	145	0.77%
English Learner	1093	19	1.74%
Econ. Disadvantage	18581	295	1.59%
Science			
All Students	16194	136	0.84%
Hispanic	559	***	1.61%

American Indian/Alaskan Native	36	***	2.78%
Asian	346	***	0.58%
Black	417	***	1.44%
Hawaiian/ Pacific Islander	12	0	0%
White	14155	109	0.77%
Two or More Races	669	***	1.35%
Male	8401	85	1.01%
Female	7793	51	0.65%
English Learner	393	***	1.53%
Econ. Disadvantage	7370	102	1.38%

*Note: Due to small N-size, some numbers must be suppressed and those are designated by an asterisk (***)*.

Table 3: Alternate Assessment Rates by Subject, by Year

School Year	R/LA	Math	Science
2017-2018	1.05%	1.04%	0.76%
2018-2019	1.04%	1.05%	1.02%
2020-2021	0.99%	0.98%	0.79%
2021-2022	1.01%	1.00%	1.00%
2022-2023	1.11%	1.11%	1.04%
2023-2024	1.08%	1.08%	0.84%
2024–2025 (Estimate)	1.08%	1.08%	0.84%

Note: Assessment data for the school year 2024-25 has not been made publicly available at this time.

Requirement 4: Assurances

(A) State's guidelines for participation in the MSAA

VT AOE has developed and continues to refine a plan to ensure that each LEA will be accountable for monitoring its eligibility process and account for any disproportionate representation in socio-economic status, race/ethnicity and English learner status of those students taking the MSAA.

VT AOE puts forth the following assurances that each LEA will follow eligibility criteria in identifying students who are eligible to take the MSAA:

- All Individualized Education Program (IEP) teams followed [Vermont's Alternate Assessment Participation Decision Making Tool](#), which includes Vermont's definition of a significant cognitive disability, excluded considerations not allowed in determinations, and instructions on gathering evidence to review and document a student's characteristics that may make them eligible for the alternate assessment, such as a student's disability categories, adaptive functioning in specific domains, and levels of instruction needs.
- Student's program includes extensions from grade-level standards in Reading/ Language Arts, Mathematics and Science.
- Student requires extensive direct individualized instruction and supports to make measurable gains in grade and age-appropriate curriculum.
- The IEP team, which includes the parent, has identified a need for an alternate assessment. VT AOE recognizes that there is great diversity among those serving in the critical role of parent, caregiver, guardian, etc. and the term "parent" may not fully align with each family's dynamic and configuration. However, for consistency across our documents and guidance, the VT AOE utilizes how "parent" is defined in the Individuals with Disabilities Education Act (IDEA) regulations, and who can act as parent according to the IDEA.
- The students participating in the MSAA have been instructed in the MSAA Alternate Academic Achievement Standards derived from the Common Core State Standards and the Next Generation Science Standards.
- Parents of students who will be taking the MSAA have been informed participants in the decision-making process and any consequences of taking the state alternate assessment have been disclosed. Additionally, any parent whose primary language is not English will have this information provided to the parent in the family's primary language.

(B) Addressing Disproportionality in students taking the MSAA

VT AOE also investigates and seeks to remedy any disproportionality in the percentage of students taking the alternate assessment. Disproportionate representation seeks to measure whether certain student groups are identified for the MSAA at a higher rate than other groups. Student groups include racial and ethnic minorities, English learners, and students from economically disadvantaged backgrounds.

A challenge for VT AOE and Vermont LEAs in identifying disproportionate representation is the homogeneity of Vermont's student population. For example, in

both regular education and special education settings, more than 90 percent of the total student population has historically been reported as white. In addition, Vermont has many small schools, which can make disproportionality difficult to define statistically. As can be seen in Table 2 above, Native American students participated in the MSAA at a rate that is almost four times higher than White students; however, that disproportionality is driven by the relatively small number of Native American students relative to White students.

Further, disproportionate representation in MSAA participation is to some extent driven by disproportionate representation in students' identification for IEPs. That is, Vermont observes disproportionate representation of some racial and ethnic student groups among students on IEPs, which can carry over into MSAA participation rates.

VT AOE seeks to address potential disproportionality by highlighting in all relevant trainings and guidance documents that membership in one of the above groups is not a valid criterion for determining MSAA participation. VT AOE recently created a new position – Assessment Coordinator for English learners. Through this new role and the expertise required of the position, VT AOE has provided new and improved assessment guidance regarding students with disabilities who are also learning English, which includes guidance regarding students potentially eligible for the MSAA.

Additionally, in response to the waiver being denied for SY2024-25, VT AOE has created a new internal working group focused on dually identified English Learner and Special Education students. This group meets monthly to generate ideas on providing guidance on this group of students, as well as bringing in community partners to help provide more resources to IEP teams, parents, and special educators.

Requirement 5: LEA Justifications

VT AOE implements a tiered approach to LEAs' responsibility to remain under 1% participation in the MSAA. Under this model, all LEAs submit data annually on their demographics and assurance that they stayed under 1.0%. LEA justifications are reviewed no matter what percentage of students they test, but those who identify over 1.0% of their students will undergo more intensive monitoring and receive a higher level of support from the VT AOE (described in more detail below).

Requirement 6: Plan and Timeline

VT AOE works to foster appropriate participation in the MSAA with the goal of ensuring that only eligible students are participating in the MSAA and reducing the number of students participating to less than 1 percent. Further, VT AOE works to ensure that students with disabilities participate in state assessments (general or alternate) at a rate of 95% or higher statewide.

To achieve these goals, VT AOE will continue to host two eligibility trainings in the fall and before the testing window to ensure IEP teams understand the eligibility criteria for the MSAA. Further, VT AOE will continue to analyze the population of students on IEPs

for changes year over year as it relates to disability categories, LREs, and other demographics. VT AOE will also continue to host a training on the universal tools, designated supports, and accommodations available to students on Vermont’s general assessment (VTCAP) to increase the participation of all students with disabilities in state assessments.

Additionally, VT AOE implements a tiered approach to LEAs’ responsibility to assess no more than 1% of students on the MSAA, and to assess all students with disabilities at a rate of 95% or higher. Under this approach, LEAs that go over 1 percent participation in the alternate assessment or fall below 95% participation for all students with disabilities may receive targeted or intensive monitoring and support to ensure students with disabilities are appropriately participating in state assessments. We recognize that LEAs in VT are small and that having even one student take the alternate assessment can put them over the 1% or under the 95% thresholds at a district level. VT AOE takes small n-size into account when monitoring state assessment participation rates. The three tiers are as follows:

- Tier 1 - Universal: Before testing each year, all LEAs will: a) Assign one or more staff member(s) to attend the MSAA Eligibility Trainings hosted by AOE; b) Assign one or more staff member(s) to attend the VTCAP Accessibility Features Training hosted by AOE; and c) complete the Pre-Administration 1% Survey certifying that IEP teams have reviewed the criteria and indicating the number of students expected to participate in the alternate assessment during the coming test administration. After testing each year, all LEAs will provide an assurance that all students participated in the appropriate assessment and that all accommodations were appropriately applied as documented in students’ IEPs.

After testing each year, AOE will calculate final participation rates and place LEAs into one of three tiers as outlined in the table below.

Participation tiers	Alternate assessment: 1% or fewer	Alternate assessment: More than 1%
All students with disabilities: 95% or more	Tier 1	Tier 2
All students with disabilities: less than 95%	Tier 2	Tier 3

- Tier 2 - Targeted: LEAs that assess more than 1% of students with the alternate assessment or fewer than 95% of students with disabilities overall, will also complete the LEA Justification Form, indicating why these thresholds were not met and steps the LEA will take to remedy known issues before the next test

administration. Depending on LEA responses, AOE may request additional information or ask the LEA to take additional actions.

- Tier 3 - Intensive: LEAs that fail to meet both thresholds will complete the same additional activities as Tier 2 but will also work directly with an AOE representative to complete an intensive review protocol including submission of relevant IEPs. These LEAs may also be subject to on-site visits during or after testing by AOE's Special Education and Assessment Teams if deemed appropriate.

For each school year, AOE will implement the plan outlined above under the following timeline.

Month	Tier	Activity
September	All LEAs	Alternate Assessment Eligibility Training (1 of 2)
September	All LEAs	VTCAP Accessibility Features Training
November/December	All LEAs	LEAs placed into Tiers Using Prior Year Participation Rates
December/January	Tier 2 and 3	Submit LEA Justification Form
December/January	Tier 3	Complete Participation Review Protocol
January	All LEAs	VTCAP Accessibility Features Training
February	All LEAs	Alternate Assessment Eligibility Training (2 of 2)
February	All LEAs	MSAA Administration Training
February	All LEAs	Pre-Administration 1% Survey Due
March-April/May	All LEAs	VTCAP and MSAA Test Windows
May	All LEAs	Assurance of Appropriate Assessment and Accommodations Due

Requirement 7: Reduced AA-AAAS Participation Rates

As seen in Table 3, we have reduced our alternate assessment participation rate from SY2022-23 to SY2023-24. We also have this plan and timeline posted on Vermont's [Alternate Assessments](#) webpage, which can also be accessed directly [here](#).

Requirement 8: Addressing Denial of Waiver for SY2024-25

VT AOE was denied a waiver for SY2024-25 due to assessing fewer than 95 percent of all students with disabilities in R/LA, Math, and Science. As such, VT AOE worked to address the assessment participation rate for all students with disabilities in each subject. VT AOE has provided multiple trainings on accommodations and accessibility features available on the general and alternate assessments in Vermont, as well as multiple trainings on determining what students are eligible to take the alternate assessment. Additionally, VT AOE has increased its communication with educators and administrators in Vermont by instituting a monthly newsletter with updates and reminders related to procedures and policies in assessment.

Appendix

1. [State of Vermont, Agency of Education, Alternate Assessments Webpage](#)
2. [Comprehensive Assessment Program Portal](#)
3. [Multi-State Alternate Assessment Webpage](#)
4. [MSAA Assessment Portal](#)
5. [Data Collection and Reporting Knowledge Base: Participation of Students with Disabilities](#)