



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 4, 2025

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 (VT AOE's) request on December 9, 2024 (with additional information provided on February 20, 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). VT AOE requested this waiver because, based on State data for the 2023-2024 school year, VT AOE concluded that it may exceed the 1.0 percent cap on AA-AAAS in reading/language arts (R/LA), mathematics, and science in the 2024-2025 school year.

First, I want to note that VT AOE has reported AA-AAAS rates below 1.0 percent in science in three of the last four years. Congratulations on successfully meeting this requirement. However, after reviewing VT AOE's waiver request, I am declining to exercise my authority under section 8401(b) of the ESEA for a one-year waiver (the 2024-2025 school year) of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of students with an AA-AAAS in R/LA, mathematics, and science. I am declining the request for R/LA, mathematics, and science because VT AOE has not demonstrated that it has assessed at least 95 percent of all students with disabilities, as required by 34 CFR § 200.6(c)(4)(ii)(B).

Because the State exceeded the 1.0 percent cap on AA-AAAS participation in R/LA and mathematics without a waiver in the 2023-2024 school year, the Department is placing a condition on VT AOE's Title I, Part A grant award until the State assesses less than 1.0 percent of students in R/LA and mathematics on the AA-AAAS. If the State fails to make progress reducing the AA-AAAS participation rate in future years, the Department may take additional action. To remove this condition, VT AOE must:

1. Within 60 days of receiving this letter, submit an updated plan for reducing the rate of AA-AAAS participation in future years in order to come into compliance with the 1.0 percent requirement. Please submit Vermont's plan to ESEA.Assessment@ed.gov.
2. Submit evidence that the plan and timeline are made publicly available on the State's website when the plan is provided to the Department.

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.

3. Demonstrate progress in reducing the percentage of students tested on the AA-AAS in the 2024-2025 school year as validated by the State’s ED Facts assessment participation data submission.

If VT AOE can demonstrate that it has assessed at least 95 percent of all students with disabilities in R/LA, mathematics, and science during the 2023-2024 school year, VT AOE may revise its request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under 8401(b)(1)(C) and (F) and 34 CFR § 200.6(c)(4)(ii). The revised waiver extension request must be submitted no later than 60 days from the date of this letter.

I appreciate the work you are doing 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/

Ruth E. Ryder
Deputy Assistant Secretary for Policy and Programs
and Acting Assistant Secretary
Office of Elementary and Secondary Education

cc: Danielle Dupuis, Director of Assessment and Accountability



State of Vermont 1% Threshold Waiver Request

December 9, 2024

Issued by the Vermont Agency of Education

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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 11 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 2024-25 1 percent waiver request, Vermont will be using participation data from the 2022-23 school year as data from the 2023-24 school year is not publicly available at this time.

For the following reasons, Vermont is requesting a 1 percent waiver for the 2024-25 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.

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. The VT AOE reached out to stakeholders via the agency's Weekly Field Memo, through direct contact to the Special Education Directors, District Test Coordinators at each LEA, and to the Vermont Council of Special Education Administrators (VCSEA). Additionally, VT AOE met with the VT Special Education Advisory Panel (SEAP) to inform them of this waiver.

VT AOE allowed two weeks for public comment and input starting on Wednesday, November 20, 2024, until Wednesday, December 4, 2024.

We received public comment from four sources, including VCSEA, administrators, Special Education Directors, literacy interventionists, and data management and assessment coordinators.

Public comment included an understanding of meeting federal requirements for the 1 percent threshold, but also supported requesting the 1 percent threshold waiver based on past and projected data trends. In addition, public comment detailed a need for more frequent eligibility training to better understand who is eligible for the alternate assessment.

Due to public comment, the AOE will host alternate assessment eligibility training in the fall and before the testing window opens. In addition, we will review data on students with IEPs within the state, analyzing changes in population size, disability category, students' educational environment, and other demographics. VT AOE will also provide training on accommodation and adaptations of the general assessment for IEP teams can consider the VTCAP as a possibility.

Requirement 2: 90 days before testing

Vermont's [testing window](#) for all academic assessments, including the MSAA, is from March 10, 2025 to April 25, 2025. VT AOE submits this waiver on or before December 10, 2024, 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 2024-25 1 percent waiver request. Table 1 shows the overall assessment participation rates to demonstrate that Vermont had assessed 95 percent of all students and 95 percent of all students with disabilities during school year 2022-23 in R/LA and Math. Table 2 shows the number and percentage of students in each required student group who took the MSAA during school year 2022-23 in R/LA and Math. 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 and Math. At the time of the creation of this

waiver, VT AOE does not yet have publicly available assessment data for school year 2023-24.

Table 1: Overall Rates of Assessment Participation for school year 2022-23

Group	All Students Grades 3-8 and High School R/LA	Students with Disabilities Grades 3-8 and High School R/LA
Student Assessed	39,385	7,663
Student Enrolled	40,526	8,055
Assessment Participation Rate	97.18%	95.13%
Group	All Students Grades 3-8 and High School Math	Students with Disabilities Grades 3-8 and High School Math
Student Assessed	39411	7,650
Student Enrolled	40525	8,054
Assessment Participation Rate	97.25%	94.98

Table 2: MSAA Participation Rates by Subgroup for school year 2022-23

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	39,385	438	1.11%
Hispanic	1,177	18	1.53%

American Indian/Alaskan Native	104	3	2.88%
Asian	763	10	1.31%
Black	978	16	1.64%
Hawaiian/ Pacific Islander	42	1	2.38%
White	34,719	368	1.06%
Two or More Races	1,602	22	1.37%
Male	20,415	282	1.38%
Female	18,970	156	0.82%
English Learner	896	13	1.45%
Econ. Disadvantage	13,104	220	1.68%
Math			
All Students	39,411	437	1.11%
Hispanic	1,197	17	1.42%
American Indian/Alaskan Native	103	3	2.91%
Asian	773	10	1.29%
Black	1001	16	1.60%
Hawaiian/ Pacific Islander	42	0	0.00%
White	34,688	370	1.07%
Two or More Races	1,607	21	1.31%
Male	20,417	282	1.38%
Female	18,994	155	0.82%

English Learner	956	13	1.36%
Econ. Disadvantage	13,110	218	1.66%

Table 3: Alternate Assessment Rates by Subject, by Year

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

Note: Assessment data for the school year 2023-24 has not been 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 Student Eligibility Criteria, which includes Vermont’s definition of a significant cognitive disability, excluded considerations not allowed in determinations and completed the criterion checklist as part of the Learner Characteristic Inventory (LCI) embedded within the test.
- 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, have 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 three 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 carryover 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 will be providing new and improved assessment guidance regarding students with disabilities who are also learning English, which includes guidance regarding students potentially eligible for the MSAA.

Requirement 4: 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 5: Plan and Timeline

VT AOE will work to ensure 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.

Every year, VT AOE will host two eligibility trainings in the fall and before the testing window to ensure IEPs teams understand the eligibility criteria for the Alt Asses. Secondly, VT AOE will 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 host a training on the accommodations and adaptability on the VTCAP so more students have access to that assessment.

VT AOE implements a tiered approach to LEAs' responsibility to remain under 1 percent participation in the MSAA. Under this approach, LEAs that go over 1 percent participation in the alternate assessment either receive targeted or intensive monitoring and support to ensure that all students identified to be assessed by alternate achievement standards are eligible for that assessment. Three tiers will be used to determine if LEAs are assessing only students with the most significant cognitive disability using the alternate assessment. Through this model, LEAs will have their justification reviewed no matter what percentage of students they test, but those who identify over 1.0 percent of their students for this test will undergo more intensive monitoring and receive a higher level of support from the VT AOE. We recognize that LEAs in VT are small and that having even one student take the alternate assessment can put them over the 1 percent threshold at a district level. VT AOE takes small n-size into account when assigning the tiered response. The three tiers are as follows:

- Tier 1 - Universal: All LEAs will submit data annually on their demographics and assurance that they stayed under 1.0%
- Tier 2 - Targeted: LEAs who go over 1.0% will need to submit responses to the 1.0 % threshold survey justification questions and may be subjected to on-site visits from the VT AOE.
- Tier 3 - Intensive: LEAs with excessively high rates of MSAA participation are required to submit responses to the 1.0 percent threshold survey justification questions via the survey link. These LEAs will also work directly with a VT AOE representative to complete an intensive review protocol including submission of

required IEPs. These LEAs are also subject to on-site visits and/or additional file reviews as determined by the VT AOE.

LEAs who fall under Tier 2 or Tier 3 will be notified that they are requiring additional support from VT AOE and a plan will be set to review individual decisions. This tiered approach is laid out for Vermont given the small number of students of each LEA.

For school year 2024-25, the VT AOE will implement the following plan:

- November 2024 – Review final participation rates from school year 2023-24 and identify LEAs who exceeded 1%. Implement monitoring plan described above accordingly.
- December 2024 – Provide alternate assessment eligibility training, including what type of student could qualify, what criteria need to be fulfilled to be eligible, and who is involved in making the decision to take the alternate assessment. Training to be provided on December 9 and 10. Training will be recorded and posted.
- December 2024 – Publish the participation and accommodations guidance for the general and alternate assessment.
- January 2025 – General assessment test administrator training which includes participation and accommodations guidelines for students on IEPs.
- February 2025 – MSAA test administrator training, LCI completion, justification submission opens.
- March to April 2025 – Test administration window
- May 2025 – LEA justifications due

For future school years, the VT AOE will implement:

- Alternate Assessment Eligibility training in September and February.
- Review and provide guidance on accommodations and adaptability for the VTCAP.

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](#)