

Florida Department of Education

1% Cap on Alternate Assessment Participation
Waiver Extension Request

November 30, 2021



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Current Situation

Florida is the third-largest state in the country, with approximately 2.7 million students in 4,017 public schools. In 2020-2021, the number of Florida students with disabilities (SWD) was 406,944, or 14.6% in 2020-2021.

Table 1: Student Enrollment

Category	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
Number of Students Enrolled	2,756,944	2,792,234	2,817,076	2,833,115	2,846,857	2,858,949	2,791,687
Number of Students Identified as SWD	357,965	367,293	377,272	385,447	401,627	414,353	406,944
Percentage of Students Identified as SWD	13.0%	13.2%	13.4%	13.6%	14.1%	14.5%	14.6%

The mission of the Florida Department of Education (FDOE) is to increase the proficiency of all students within one seamless, efficient system by providing them with the opportunity to expand their knowledge and skills through learning opportunities valued by students, parents and communities, and to maintain an accountability system that measures student progress.

Florida maintains high expectations for all students. These high expectations have resulted in an increased level of student performance. Florida's high school graduation rate had risen from 76.1% in 2013-2014 to 90% in 2019-2020, and the high school graduation rate for SWD has increased during the same time period from 55.1% to 82.6%. Although the graduation gap between SWD and all students was 21 percentage points in 2013-2014, this number decreased to 7.4 percentage points in 2019-2020.

Request for the Extension of the 1% Waiver

Florida's alternate assessment based on alternate academic achievement standards (AA-AAAS) is the Florida Standards Alternate Assessment (FSAA). FSAA participation rates for 2020-2021 were 1.4% for English language arts (ELA), 1.5% for mathematics, and 1.6% for science. Based on these data and the course enrollment data from 2020-2021, the FDOE anticipates exceeding the 1.0% cap for the 2021-2022 FSAA administration in ELA, mathematics and science.

The FDOE has made information and resources available to all of Florida's local educational agencies (LEAs) and provided targeted and intensive support and technical assistance based on commitments made as part of our previously approved waiver requests. Through a combination of improved policy guidance and targeted technical assistance, LEA course enrollment data (Survey 2) indicates that 97.1% of all LEAs either reduced or maintained their percentages of

students enrolled courses aligned with Florida’s alternate assessment in at least one content area from 2019-2020 to 2020-2021. This progress is particularly noteworthy given the fact that Florida transitioned to new ELA and mathematics standards, implemented new policy guidance on the appropriate use of the alternate assessment, and navigated the COVID-19 pandemic simultaneously.

FDOE staff worked with school district exceptional student education (ESE) directors to discuss discrepancies in primary exceptionalities not indicative of the most significant cognitive disabilities. Trends were identified in the 2019-2020 and 2020-2021 school year FSAA participation and access course enrollment data unique to each LEA. The FDOE is seeking a waiver extension from the requirement as detailed in 34 C.F.R., § 200.6(c)(3), for all content areas assessed via the FSAA. Receiving this waiver extension would allow time for Florida to fully implement the newly developed policy guidance and to continue to provide technical assistance and support to its LEAs to ensure that the most appropriate instruction is delivered and that the most appropriate assessment is administered to every student.

Florida Standards Alternate Assessment (FSAA)

As required under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), all Florida students participate in the state’s assessment and accountability system. The FSAA is designed for students whose participation in the general statewide assessment program (Florida Standards Assessments [FSA], Statewide Science Assessment and Next Generation Sunshine State Standards End-of-Course [EOC] assessments) is inappropriate, even with accommodations. The FSAA is fully aligned with Florida’s alternate academic achievement standards, otherwise known as access points. Only students with the most significant cognitive disabilities, who are eligible under the Individuals with Disabilities Education Act (IDEA) with an individual educational plan (IEP), and who are enrolled in courses and receiving instruction on access points, Florida’s alternate academic achievement standards, may participate in the FSAA.

Requirement 1, 34 C.F.R. § 200.6(c)(4)(i)

States are required by 34 C.F.R. § 200.6(c)(4)(i) to submit the alternate assessment waiver request at least 90 days before the start of the relevant subject testing windows. The FSAA testing window will be open from February 28 to April 15, 2022 for elementary and middle school (grades 3-8) and civics EOC assessments. The FSAA testing window will be open from March 14 to April 29, 2022, for FSAA high school ELA I, ELA II, Algebra I, Geometry, Biology I and U.S. History EOC assessments. Since the earliest start of the testing window occurs on February 28, 2022, to meet the 90-day requirement, FDOE’s waiver extension request must be submitted by November 30, 2021.

Requirement 2, 34 C.F.R. § 200.6(c)(4)(ii)

In submitting a waiver extension request, states are required by 34 C.F.R. § 200.6(c)(4)(ii) to provide the number and percentage of students in each subgroup defined in section 1111(c)(2)(A), (B) and (D) of ESSA who were assessed using an AA-AAAS. Florida has measured the achievement of at least 95% of all students and 95% of students in the children

with disabilities subgroup under section 1111(c)(2)(C) of ESSA who are enrolled in grades for which the assessment is required under 34 C.F.R. § 200.5(a).

Number, Percentage and Risk Ratio of Students who Took the FSAA During the 2020-2021 School Year

The percentage of students assessed using the alternate assessment during the 2020-2021 administration of the FSAA was 1.4% in ELA, 1.5% in math, and 1.6% in science. Table 2 provides the number, percentage and risk ratio of each student subgroup, as defined in ESSA, section 1111(c)(2)(A), (B) and (D), during the 2020-2021 school year. This is a measure of disproportionality among FSAA participants based on membership in the target group. Risk ratios that exceed 1.0 indicate that the target group is over represented among the population of students participating in the alternate assessment when compared to participation rates of students who are not members of the target group.

Table 2: FSAA Participation by Student Subgroup

Target Group	Target Group			Comparison (Non-Target) Group			Risk Ratio (Target Group % Divided by Non Target Group %)
	Number of Students Taking FSAA	Number of Students Taking FSAA or EOCs	Percentage Taking FSAA	Number of Students Taking FSAA	Number of Students Taking FSA, FSAA or EOCs	Percentage Taking FSAA	
English Language Arts							
American Indian/Native Alaskan	59	4,230	1.39	22,817	1,633,673	1.40	0.99866133
Asian	471	47,069	1.00	22,405	1,590,834	1.41	0.710502895
Pacific Islander	29	2,987	0.97	22,847	1,634,916	1.40	0.694750771
Black/African American	6,994	349,019	2.00	15,882	1,288,884	1.23	1.626242096
White	7,088	589,709	1.20	15,788	1,048,194	1.51	0.797995615
Multiracial	818	61,116	1.34	22,058	1,576,787	1.40	0.956765
Hispanic	7,417	583,773	1.27	15,459	1,054,130	1.47	0.866357323
Economically Disadvantaged	15,655	926,552	1.69	7,221	711,351	1.02	1.664446635
English Language Learners	2,628	280,429	0.94	20,248	1,357,474	1.49	0.628277961
Math							
American Indian/Native Alaskan	58	3,914	1.48	22,865	1,488,919	1.54	0.96495495
Asian	473	40,049	1.18	22,450	1,452,784	1.55	0.764282943
Pacific Islander	29	2,683	1.08	22,894	1,490,150	1.54	0.70353488
Black/African American	6,905	323,931	2.13	16,018	1,168,902	1.37	1.555539285
White	7,208	528,955	1.36	15,715	963,878	1.63	0.835802631
Multiracial	796	55,520	1.43	22,127	1,437,313	1.54	0.931306058
Hispanic	7,454	537,781	1.39	15,469	955,052	1.62	0.855753557
Economically Disadvantaged	15,577	856,383	1.82	7,346	636,450	1.15	1.575901791

Target Group	Target Group			Comparison (Non-Target) Group			Risk Ratio (Target Group % Divided by Non Target Group %)
	Number of Students Taking FSAA	Number of Students Taking FSA or FSAA or EOCs	Percentage Taking FSAA	Number of Students Taking FSAA	Number of Students Taking FSA, FSAA or EOCs	Percentage Taking FSAA	
English Language Learners	2,573	270,588	0.95	20,350	1,222,245	1.66	0.571117028
Science							
American Indian/Native Alaskan	21	1,499	1.40	8,965	575,962	1.56	0.900038732
Asian	177	17,191	1.03	8,809	560,270	1.57	0.654851587
Pacific Islander	17	1,068	1.59	8,969	576,393	1.56	1.022945138
Black/African American	2,678	118,423	2.26	6,308	459,038	1.37	1.645627241
White	2,893	214,057	1.35	6,093	363,404	1.68	0.806078846
Multiracial	309	20,919	1.48	8,677	556,542	1.56	0.947427326
Hispanic	2,891	204,304	1.42	6,095	373,157	1.63	0.866341473
Economically Disadvantaged	6,092	315,887	1.93	2,894	261,574	1.11	1.743107567
English Language Learners	2	721	0.28	165	15,846	1.04	0.26639768

Ninety-Five Percent Participation Requirement

States are also required to provide data showing that 95% of all students, including the SWD subgroup, as identified in section 1111(c)(2)(C), were assessed. However, as noted in its October 29, 2021 letter to SEAs, the United States Department of Education (ED) provided states with the opportunity to request a one-time waiver to the 95% tested requirement due to “COVID-related testing disruptions.” Florida requested, and was granted, a waiver for this requirement. Though Florida did not meet the 95% tested requirement, the vast majority of students did participate in the state’s assessment program. More than 93% of all students in tested grades participated in a statewide-standardized assessment via the FSA or the FSAA. During 2020-2021, the total percentage of students assessed via the FSA or FSAA was 96% in ELA, 93% in mathematics and 92% in science. The percentage of eligible SWD students assessed were 93% in ELA, 90% in mathematics and 88% in science.

Due to the cancellation of assessment data in the Spring of 2020, last year ED recommended that SEAs base waver requests on other factors, such as course enrollments, that may provide insight into progress toward meeting the 1% participation requirement in the absence of direct assessment participation data. When looking at course enrollment data for 2020-21, Florida shows a reduction in access course enrollments from 2019-20 in all three subject areas. It is therefore possible that Florida’s progress toward reducing alternate assessment participation is understated due to lower-than-usual assessment participation.

Table 3.2: Assessment Eligibility

Year	ELA			Mathematics			Science		
	Count of Students Eligible to be Tested	Count of Students Eligible to be Tested Enrolled in Access Courses	Percentage of Eligible Students Enrolled in Access Courses	Count of Students Eligible to be Tested	Count of Students Eligible to be Tested Enrolled in Access Courses	Percentage of Eligible Students Enrolled in Access Courses	Count of Students Eligible to be Tested	Count of Students Eligible to be Tested Enrolled in Access Courses	Percentage of Eligible Students Enrolled in Access Courses
2018-2019	1,746,167	26,084	1.49%	1,660,806	27,047	1.63%	677,067	10,369	1.53%
2019-2020	1,758,947	27,201	1.55%	1,663,788	28,253	1.70%	689,639	11,005	1.60%
2020-2021	1,736,192	26,226	1.51%	1,634,156	26,855	1.64%	664,423	10,594	1.59%

Requirement 3, 34 C.F.R. § 200.6(c)(4)(iii)

Definition of “Most Significant Cognitive Disabilities”

Consistent with guidance resulting from Florida’s participation in the National Center for Educational Outcomes (NCEO) 1% Cap Community of Practice and the request of local school districts, Florida revised rule and law to include increased guidance specific to the definition of “most significant cognitive disabilities.” Per these revisions to Rule 6A-1.0943, Florida Administrative Code (F.A.C.), Statewide Assessment for Students with Disabilities, “most significant cognitive disability” is now defined as a global cognitive impairment that adversely impacts multiple areas of functioning across many settings, is a result of a congenital, acquired or traumatic brain injury or syndrome, and is verified by either:

1. A statistically significant below-average global cognitive score that falls within the first percentile rank (i.e., a standard, full-scale score of 67 or under); or
2. In the extraordinary circumstance when a global, full-scale intelligent quotient score is unattainable, a school district-determined procedure that has been approved by the FDOE under paragraph (5)(e) of this rule.

In determining whether a student has a cognitive disability that is among the most significant cognitive disabilities, IEP teams must carefully consider and remain cognizant that qualifying a student for standards-based instruction via Florida Standards Access Points – Alternate Academic Achievement Standards (AP-AAAS) can significantly affect the extent of a student’s access to postsecondary opportunities. Furthermore, IDEA, the ED Office of Special Education Programs and the state educational agency provide clear expectations that the general education curriculum is the first consideration for providing educational services to SWD.

Districts Over 1% Threshold

The requirement to conduct statewide, standardized assessments was waived by ED due to the COVID-19 pandemic during the 2019-2020 school year. Therefore, data regarding the percentage of students who participated in the FSAA are not available for 2019-2020. As a proxy, Florida calculated the participation percentage based on course enrollment in general education courses and access courses during the 2019-2020 school year. Identical calculations for the 2018-2019 and 2020-2021 school years were completed for comparison purposes. These data, represented in Table 4, illustrate that 97.1% (67 of 69) of LEAs improved or remained the same in the percentage of students enrolled in at least one of the three content area (ELA, math and science) courses eligible for an alternate assessment. The 2020-2021 percentages that improved or remained the same from 2019-2020 are highlighted green.

Table 4: Percentage of Students Enrolled in Courses Eligible for the FSAA

District	ELA Access Course Enrollment			Math Access Course Enrollment			Science Access Course Enrollment		
	2018-2019	2019-2020	2020-2021	2018-2019	2019-2020	2020-2021	2018-2019	2019-2020	2020-2021
Alachua	0.9%	0.9%	1.1%	1.2%	1.3%	1.2%	1.3%	1.2%	1.3%
Baker	2.4%	2.9%	2.9%	2.8%	3.0%	3.3%	2.3%	2.6%	3.3%
Bay	1.4%	1.5%	1.4%	1.4%	1.5%	1.7%	1.9%	1.4%	1.6%
Bradford	2.4%	2.9%	2.7%	2.5%	3.1%	2.9%	2.2%	2.2%	2.9%
Brevard	1.1%	1.2%	0.9%	1.2%	1.4%	0.9%	1.1%	1.4%	0.8%
Broward	1.3%	1.3%	1.3%	1.3%	1.3%	1.3%	1.5%	1.4%	1.3%
Calhoun	2.5%	2.9%	3%	3.3%	2.6%	3%	1.2%	5.3%	2.2%
Charlotte	2.5%	2.4%	2.3%	2.7%	2.4%	2.3%	3.0%	2.7%	2.1%
Citrus	2.0%	2.0%	1.9%	2.3%	2.1%	2%	2.1%	2.1%	2%
Clay	1.7%	1.7%	1.6%	1.7%	1.8%	1.7%	1.6%	1.8%	1.4%
Collier	1.5%	1.6%	1.7%	1.7%	1.8%	2.1%	1.7%	1.8%	1.8%
Columbia	1.8%	1.9%	1.8%	1.9%	2.1%	2%	2.2%	2.0%	1.8%
Dade	1.5%	1.6%	1.6%	1.6%	1.7%	1.8%	1.4%	1.5%	1.6%
Desoto	2.2%	2.1%	2.1%	2.1%	2.3%	1.8%	1.3%	1.9%	3.3%
Dixie	1.9%	1.9%	2%	2.1%	2.1%	2.4%	1.6%	1.4%	1.5%
Duval	1.9%	2.0%	1.9%	2.1%	2.1%	2%	2.2%	2.7%	1.9%
Escambia	1.9%	2.0%	1.9%	1.9%	2.2%	2.1%	1.8%	3.9%	2.5%
Flagler	1.0%	1.2%	1.2%	1.3%	2.1%	1.8%	2.1%	2.1%	1.2%
Franklin	3.1%	3.0%	2.6%	2.6%	3.0%	3.3%	3.5%	2.7%	2.4%
Gadsden	3.2%	3.3%	3%	3.2%	3.1%	2.9%	3.9%	2.6%	3.3%
Gilchrist	1.1%	1.3%	1.4%	1.6%	1.4%	1.3%	0.3%	1.5%	2.1%
Glades	2.1%	2.2%	1.7%	2.5%	2.1%	1.6%	2.9%	2.7%	2.6%
Gulf	1.9%	2.4%	2.3%	1.9%	1.9%	2%	2.1%	2.6%	3.4%
Hamilton	1.3%	1.1%	1.1%	2.1%	1.5%	1.5%	1.4%	1.5%	2.1%
Hardee	2.2%	2.2%	2.3%	2.6%	2.2%	2.4%	1.5%	4.0%	1.7%
Hendry	1.8%	1.8%	1.4%	2.1%	1.8%	1.5%	1.7%	1.7%	1.2%
Hernando	1.2%	1.2%	1.2%	1.3%	1.3%	1.2%	1.3%	1.1%	0.8%
Highlands	1.9%	2.3%	2.4%	2.6%	2.7%	2%	1.3%	2.8%	2.8%
Hillsborough	1.6%	1.6%	1.6%	1.7%	1.8%	1.7%	1.7%	1.8%	1.6%
Holmes	1.6%	1.9%	2.1%	2.3%	1.9%	2.1%	2.2%	2.1%	1.9%
Indian River	1.3%	1.2%	1.1%	1.6%	1.4%	1.3%	1.9%	1.6%	1.5%
Jackson	2.0%	2.5%	2.5%	2.0%	2.5%	2.8%	2.5%	2.6%	2.9%
Jefferson	1.9%	2.8%	2.7%	2.7%	2.8%	3%	0.6%	5.6%	1.3%
Lafayette	2.4%	2.7%	2%	2.6%	2.6%	2%	0.7%	2.4%	4.2%
Lake	1.8%	2.0%	1.8%	1.7%	2.1%	2%	1.9%	1.8%	1.8%
Lee	1.3%	1.3%	1.2%	1.5%	1.4%	1.4%	1.4%	1.2%	1.3%
Leon	1.9%	2.0%	2.1%	2.2%	2.1%	2.2%	2.4%	2.0%	2.6%

District	ELA			Math			Science		
	Access Course Enrollment			Access Course Enrollment			Access Course Enrollment		
	2018-2019	2019-2020	2020-2021	2018-2019	2019-2020	2020-2021	2018-2019	2019-2020	2020-2021
Levy	2.0%	1.8%	2.1%	2.0%	2.1%	2.2%	2.1%	2.4%	2.1%
Liberty	3.1%	3.8%	2.9%	2.9%	3.5%	3.2%	5.1%	2.9%	2.3%
Madison	2.7%	2.6%	2.7%	2.5%	2.8%	2.7%	2.5%	2.7%	3.6%
Manatee	0.9%	0.9%	0.9%	1.0%	1.1%	1%	1.1%	1.1%	1%
Marion	1.6%	1.6%	1.6%	1.7%	2.0%	1.8%	1.4%	1.3%	2.9%
Martin	1.2%	1.3%	1.2%	0.8%	1.6%	1.1%	0.7%	0.7%	2.3%
Monroe	1.4%	0.6%	1.7%	1.5%	1.7%	2.1%	1.2%	1.6%	1.3%
Nassau	1.2%	1.1%	1%	0.9%	1.3%	1.3%	1.1%	1.1%	0.5%
Okaloosa	2.4%	2.3%	1.8%	2.6%	2.6%	1.8%	2.4%	3.0%	1.7%
Okeechobee	1.5%	1.4%	1.4%	2.0%	1.7%	1.5%	2.2%	0.7%	1.3%
Orange	1.2%	1.2%	1.2%	1.4%	1.3%	1.3%	1.2%	1.2%	1.4%
Osceola	2.0%	2.0%	2.1%	2.0%	2.2%	2.2%	1.5%	2.1%	2.6%
Palm Beach	1.5%	1.6%	1.6%	1.8%	1.7%	1.7%	1.6%	1.6%	1.8%
Pasco	1.5%	1.4%	1.4%	1.3%	1.7%	1.8%	0.9%	2.4%	1%
Pinellas	1.6%	1.7%	1.6%	1.7%	1.9%	1.6%	1.7%	1.4%	1.5%
Polk	1.6%	1.8%	1.7%	1.8%	1.8%	1.7%	1.5%	1.9%	1.7%
Putnam	3.5%	3.5%	3.4%	3.8%	4.2%	3.5%	4.2%	4.7%	3%
St. Johns	1.2%	1.3%	1.2%	1.3%	1.3%	1.4%	1.2%	1.2%	1.2%
St. Lucie	1.4%	1.5%	1.5%	1.6%	1.5%	1.6%	1.7%	1.3%	1.3%
Santa Rosa	1.4%	1.4%	1.3%	1.5%	1.4%	1.4%	1.1%	1.6%	1.4%
Sarasota	1.2%	1.2%	1.1%	1.0%	1.1%	1.4%	0.9%	1.3%	0.9%
Seminole	1.1%	1.2%	1.3%	1.1%	1.5%	1.4%	1.5%	1.6%	1.2%
Sumter	1.4%	1.4%	1.4%	1.6%	1.4%	1.5%	1.3%	1.5%	1.5%
Suwannee	2.1%	2.2%	2%	2.1%	2.3%	2%	2.6%	2.3%	2.4%
Taylor	3.1%	1.3%	2.6%	2.9%	3.1%	2.8%	3.3%	2.6%	3.4%
Union	2.0%	2.3%	2.1%	1.9%	3.3%	2.9%	3.5%	1.8%	2.9%
Volusia	1.4%	2.3%	1.2%	1.9%	1.9%	1.6%	0.9%	0.5%	2.3%
Wakulla	2.2%	2.2%	2.1%	2.1%	2.8%	2%	1.1%	4.0%	1.2%
Walton	1.2%	1.3%	1.4%	1.3%	1.6%	1.6%	1.1%	1.8%	1.3%
Washington	2.4%	3.3%	3.7%	2.5%	3.0%	4%	3.3%	3.4%	4.1%
Florida School for the Deaf and the Blind	9.3%	10.7%	7.3%	13.1%	14.7%	14.8%	13.7%	16.3%	7.9%
FAU Lab School	1.3%	1.0%	0.9%	1.5%	1.3%	1.1%	0.06%	1.1%	1.2%

34 C.F.R. § 200.6(c)(4)(iii) Evidence That Districts Followed the State’s Participation Guidelines

Florida verifies that each LEA that exceeds the 1% cap understands and has adopted the FDOE’s guidelines in this area by reviewing and approving their policies. Section 1003.57(1)(b)4., Florida Statutes (F.S.), requires that district school boards submit to the FDOE proposed ESE policies and procedures (SP&P) for the provision of special instruction and services for exceptional students once every three years. Approval of this document by the FDOE is required by Rule 6A-6.03411, F.A.C., as a prerequisite for a district’s use of weighted cost factors under the Florida Education Finance Program. This document also serves as the basis for the identification, evaluation, eligibility determination and placement of students to receive ESE services and is a component of the district’s application for funds available under the IDEA. All approved SP&Ps are posted for public view at <https://BESEgsw.org/#/spp/institution/public/>. The following is the required AA-AAAS assurance component for the 2021-2022 SP&P.

Alternate Assessment Based on Alternate Academic Achievement Standards

The decision that a student with a most significant cognitive disability will participate in the statewide alternate assessment as defined in section 1008.22(3)(d), F.S., is made by the IEP team and recorded on the IEP. The provisions with regard to parental consent for participation in the FSAA per Rule 6A-6.0331(10), F.A.C., must be followed and the student must meet the following criteria per Rule 6A-1.0943, F.A.C.:

- a. The student must receive ESE services as identified through a current IEP and be enrolled in the appropriate and aligned courses using alternate achievement standards for two consecutive full-time equivalent reporting periods prior to the assessment;
- b. The student must be receiving specially designed instruction, which provides unique instruction and intervention support that is determined, designed and delivered through a team approach, ensuring access to core instruction through the adaptation of content, methodology or delivery of instruction and exhibits very limited to no progress in the general education curriculum standards;
- c. The student must be receiving support through systematic, explicit and interactive small-group instruction focused on foundational skills and instruction in the general education curriculum standards;
- d. Even after documented evidence of exhausting all appropriate and allowable instructional accommodations, the student requires modifications to the general education curriculum standards;
- e. Even after documented evidence of accessing a variety of supplementary instructional materials, the student requires modifications to the general education curriculum standards;
- f. Even with documented evidence of the provision and use of assistive technology, the student requires modifications to the general education curriculum standards;
- g. Even with direct instruction in all core academic areas (i.e., ELA, mathematics, social studies and science), the student exhibits limited or no progress on the general education curriculum standards and requires modifications;
- h. Unless the student is a transfer student, the student must have been available and present for grade-level general education curriculum standards instruction for at least 70 percent of the school year before the assessment;
- i. Unless the student is a transfer student, the student must have been instructed by a certified teacher for at least 80 percent of the school year before the assessment;
- j. The assessment instrument used to measure the student's global level of cognitive functioning was selected to limit the adverse impact of already-identified limitations and impairments (e.g., language acquisition, mode of communication, culture, hearing, vision, orthopedic functioning, hypersensitivities and distractibility); and
- k. The student has a most significant cognitive disability as defined in paragraph (1)(f) of Rule 6A-1.0943, F.A.C.

A student is not eligible to participate in the statewide, standardized alternate assessment if any of the following apply:

- a. The student is identified as a student with a specific learning disability or as gifted;
- b. The student is identified only as a student eligible for services as a student who is deaf or hard of hearing or has a visual impairment, a dual sensory impairment, an emotional or

behavioral disability, a language impairment, a speech impairment, or an orthopedic impairment; or

- c. The student scored a level 2 or above on a previous statewide, general education curriculum standardized assessment administered according to Section 1008.22(3)(a) and (b), F.S., unless there is medical documentation that the student experienced a traumatic brain injury or other health-related complications subsequent to the administration of that assessment that led to the student having the most significantly below-average global cognitive impairment.

District and IEP Team Requirements

If the IEP team determines that the student will participate in the statewide assessment through the AA-AAS, the IEP must contain a statement of why the general assessment is not appropriate and why the AA-AAAS is appropriate. The IEP must also indicate that notification was made to the parent or guardian and that the implications of the student's nonparticipation in the statewide, standardized assessment program were provided. The Checklist for Course and Assessment Participation may be accessed at <https://info.fldoe.org/docushare/dsweb/Get/Document-7301/dps-2014-208.pdf>.

Administration of the AA-AAAS

The student's ESE teacher will administer the assessment individually. If this is not possible, the test administrator will be a certified teacher or other licensed professional who has worked extensively with the student. All individuals who administer the AA-AAAS must be trained in administration procedures and receive annual updated training.

Course Instruction and Participation in Statewide, Standardized Assessment

IEP teams are responsible for determining whether SWD will be instructed in the general education curriculum standards or access points and, subsequently, assessed through the administration of the general statewide, standardized assessment (with or without accommodations) or AA-AAAS based on criteria outlined in Rule 6A-1.0943(5)(c) and (d), F.A.C. IEP teams will also have to determine whether students participating in the FSAA should be assessed via the FSAA—Performance Task (FSAA—PT) or FSAA—Datafolio.

STEP 1—Checklist for Course and Assessment Participation

To facilitate informed and equitable decision making, IEP teams, should answer each of the following questions, which align with Rule 6A-1.0943, F.A.C., when determining the appropriate course of instruction and assessment:

1. Is the student identified only as eligible for services as a student who is deaf or hard of hearing or has a visual impairment, a dual sensory impairment, an emotional or behavioral disability, a language impairment, a speech impairment, or an orthopedic impairment?
2. Does the student receive ESE services as identified through a current IEP, and has the student been enrolled in the appropriate and aligned courses using alternate achievement standards for two consecutive full-time equivalent reporting periods before the assessment?

3. Does the student receive specially designed instruction which provides individualized instruction and intervention supports that is determined, designed and delivered through a team approach, ensuring access to core instruction through the adaptation of content, methodology, or delivery of instruction and is exhibiting very limited to no progress in the general education curriculum standards?
4. Does the student receive support through systematic, explicit and interactive small-group instruction focused on foundational skills and instruction in the general education curriculum standards?
5. Even after documented evidence of exhausting all appropriate and allowable instructional accommodations, does the student require modifications to the general education curriculum standards?
6. Even after documented evidence of accessing various supplementary instructional materials, does the student require modifications to the general education curriculum standards?
7. Even with documented evidence of the provision and use of assistive technology, does the student require modifications to the general education curriculum standards?
8. Even with direct instruction in all core academic areas (i.e., ELA, mathematics, social studies and science), is the student exhibiting limited or no progress on the general education curriculum standards and requires modifications?
9. Does the student have a most significant cognitive disability, defined as a global cognitive impairment that adversely impacts multiple areas of functioning across many settings and is a result of a congenital, acquired, or traumatic brain injury or syndrome that is verified by either:
 - A statistically significant below-average global cognitive score that falls within the first percentile rank (i.e., a standard, the full-scale score of 67 or under); or
 - An evaluation process with procedures to identify students with the most significant cognitive disabilities when a global, full-scale intelligent quotient score is unattainable this procedure must be approved by the FDOE and documented in the district's ESE Policies and Procedures, as required by Section 1003.57, F.S.
10. Was the student available and present for grade-level general education curriculum standards instruction for at least 70 percent of the prior school year? (Not applicable for transfer students.)
11. Did a certified teacher instruct the student for at least 80 percent of the prior school year? (Not applicable for transfer students.)
12. Was the assessment instrument used to measure the student's global level of cognitive functioning selected to limit the adverse impact of already-identified limitations and impairments (e.g., language acquisition, mode of communication, culture, hearing, vision, orthopedic functioning, hypersensitivities and distractibility)?
13. Was the assessment instrument used to measure the student's global level of cognitive functioning selected to limit the adverse impact of already-identified limitations and impairments (e.g., language acquisition, mode of communication, culture, hearing, vision, orthopedic functioning, hypersensitivities and distractibility)?

Once the IEP team has determined that a student will be instructed in access points and participate in the FSAA, the next step is to determine how the student will be assessed, via the FSAA—PT or FSAA—Datafolio. The FSAA—Datafolio is an alternate achievement standards-

based assessment explicitly designed for students with the most significant cognitive disabilities who have limited to no formal mode of communication.

Parental Consent Form

Per Rule 6A-6.0331(10)(b), F.A.C., if the IEP team decides that the student will participate in access courses and be assessed via the FSAA, the parents or guardians of the student must give signed consent to have their child instructed in access points. Their child’s achievement is measured based on alternate academic achievement standards. This decision must be documented on the Parental Consent Form — Instruction in the State Standards Access Points Curriculum and Statewide, Standardized Alternate Assessment, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-04779>. In the event the parents or guardians fail to respond after reasonable efforts by the school district to obtain consent, the school district may provide instruction in the state standards access points curriculum and administer the FSAA. The IEP must include why the student cannot participate in the general assessment and why the alternate assessment is appropriate.

STEP 2—Datafolio Participation Guidelines

After carefully reviewing the “Checklist for Course and Assessment Participation,” the IEP team determined that the most meaningful evaluation of the student’s current academic achievement is through participation in the FSAA. Next, the IEP team should answer the following questions when determining how the student will participate in the FSAA. Check all that apply.

Questions to Guide the Decision-Making Process to Determine How the Student Will Participate in the FSAA	YES	NO
1. Does the student primarily communicate through cries, facial expression, eye gaze and change in muscle tone that requires interpretation by listeners/observers?		
2. Does the student respond/react to sensory (e.g., auditory, visual, touch, movement) input from another person BUT requires actual physical assistance to follow simple directions?		
3. Does the student react primarily to stimuli (e.g., student only communicates being hungry, tired, uncomfortable and sleepy)?		
Previous FSAA—PT Performance (If Applicable)		
4. Has the student’s previous performance on the FSAA—PT provided limited information and reflected limited growth within Level 1?*		

*For a student in grade 3 or 4 or a student who does not have previous FSAA—PT scores, question 4 does not apply.

If “NO” is selected for each of the first three questions, the IEP team should conclude that the FSAA—Performance Task is the more appropriate statewide assessment.

If “YES” is selected for any of the first three questions and “YES” is also selected for fourth question (when applicable), then the IEP team should conclude that the FSAA—Datafolio is the

appropriate method to provide meaningful evaluation of the student’s current academic achievement.

Requirement 4, 34 C.F.R. § 200.6(c)(4)(iv)

Florida’s 2020-2021 Activity Report

To decrease the percentage of students who participate in a modified curriculum and the FSAA, the FDOE has modified some of the components and activities in the AA-AAAS Participation Plan, approved 2019-2020. Listed under each activity heading below is a report of progress made on that activity during the 2019-2020 school year.

The FDOE has developed, implemented and delivered supports to LEAs to ensure that guidelines are followed, and disproportionality issues are addressed.

Participation Plan

Improving the Implementation of State Guidelines

The FDOE has reviewed the definition of students with the “most significant cognitive disabilities” and revised the FSAA participation guidelines, as required by 34 C.F.R. § 200.6(c)(4)(iv)(A), to ensure that the FDOE has adequately addressed all guidelines included in 34 C.F.R. § 200.6(d). The FDOE has reviewed and updated supporting resources and documentation that all LEAs are provided.

- The FDOE actively participates in the 1% Community of Practice to learn with and from other states, continues to use guidance provided by national technical assistance centers, and incorporates resources and information gained. For example, when considering the LEA justifications submitted in the SP&Ps, FDOE staff referenced the *NCEO Tool 4 District Dialogue Guide: Addressing the Percentage of Students Participating in the Alternate Assessment* to help districts consider data sources, methods of analysis, and other information about the percentage of students participating in the FSAA.
- The State Board of Education approved revisions to Rule 6A-1.0943, F.A.C., Statewide Assessment for Students with Disabilities, at the State Board of Education meeting on June 10, 2021. Rule 6A-1.0943, F.A.C., was revised to establish a definition for “most significant cognitive disability” and specify the exclusionary and inclusionary criteria required for a student to participate in the administration of the statewide, standardized alternate assessment.

Support and Oversight of LEA Implementation

In addition to updated FSAA participation guidelines, the FDOE provides oversight, technical assistance, and supports, as required by 34 C.F.R. § 200.6(c)(4)(iv)(B), to promote the proper implementation of the guidelines by LEAs. Florida provides a multi-tiered system of support (MTSS) to assist all LEAs in problem-solving and data-based decision making. Tier 1 (universal supports) includes general, statewide support designed to inform, assist and improve results for all districts. Tier 2 (supplemental supports) includes more focused, targeted, frequent support aligned with universal support provided to districts’ subgroups in response to identified needs. Tier 3 (intensive supports) is the most focused, targeted, frequent support in addition to and

aligned with universal supports provided to individual districts in response to identified needs. Based on the FSAA participation data, districts with the highest number and the highest percentage of students participating in the FSAA are provided universal, targeted and individualized supports. Professionals within the FDOE Bureau of Exceptional Student Education (BESE) and the Bureau of K-12 Assessment and staff of several discretionary projects, including the ACCESS Project, the Florida Inclusion Network, and the Florida Diagnostic & Learning Resources System, are dedicated to supporting all LEAs in the appropriate instruction and assessment of SWD, including students with the most significant cognitive disabilities.

The following is based on the FDOE AA-AAAS Participation Plan.

Universal Professional Development and Supports (Tier 1)

The FDOE provides universal technical assistance and supports all LEAs to improve the implementation of participation guidelines.

1. Rule 6A-1.0943, F.A.C., Statewide Assessment for Students with Disabilities outlines specific inclusionary and exclusionary criteria and a clear definition for the “most significant cognitive disability.”
 - The State Board of Education approved revisions to Rule 6A-1.0943, F.A.C., Statewide Assessment for Students with Disabilities, at the State Board of Education meeting on June 10, 2021. Rule 6A-1.0943, F.A.C., was revised to establish a definition for “most significant cognitive disability” and specify the exclusionary and inclusionary criteria required for a student to participate in the administration of the statewide, standardized alternate assessment.
2. The FDOE hosts an annual meeting for FSAA Alternate Assessment Coordinators (AAC) and District Assessment Coordinators (DAC). During this meeting, eligibility for FSAA is reviewed.
 - This meeting was held on August 23-24, 2021.
3. The FDOE reviews student-level FSAA participation data and provides professional development, technical assistance and support. This includes addressing disproportionality in the percentage of students taking the FSAA and assisting with strategies to move students from access points and the FSAA to the general education standards and assessments.
 - Sixty-six districts participated in these activities during the 2020-2021 school year and the summer following. Of these LEAs, 97.1% of districts decreased or maintained the percentage of students eligible to take the FSAA in at least one of the three content areas. This was determined by comparing the 2019-2020 and 2020-2021 course enrollment (Survey 2).
4. All LEAs’ SP&Ps are reviewed, approved and posted online by the FDOE at <https://BESEgsw.org/#/spp/institution/public/>.
 - Each LEA’s SP&Ps include a section (Part 2, Section E) on the LEA’s participation in state and district assessments, including information on the FSAA, parental consent

- documentation, the percentage of students on the alternate assessment, a description of how the LEA is adhering to the definition of “most significant cognitive disability,” and the inclusionary and exclusionary criteria in Rule 6A-1.0943, F.A.C. This section also includes justification for identifying specific programs or circumstances within the district that may contribute to a higher enrollment of students in access courses, thus exceeding the 1% of students participating in the FSAA. Justifications are reviewed and approved by the FDOE prior to being published for public view. In the event any of the sections need revisions, after the FDOE review, BESE staff provides technical assistance to support the LEAs.
5. Guidance and specific technical assistance is provided at annual intellectual disabilities, autism spectrum disorder, and an other health impairment state and regional contacts’ meetings.
 - Contact meetings take place annually.
 6. LEAs are required to submit yearly FSAA Assurances. The FSAA Assurances assure that each student scheduled to be assessed via the FSAA meets the inclusionary and exclusionary criteria of Rule 6A-1.0943, F.A.C., which includes the most significant cognitive disability conditions. This includes a review of each student, including primary exceptionality, verification of signed parental consent, IEP justification for placement on the alternate assessment, the last IEP review date, and the courses that the student is enrolled in. FSAA Assurances are submitted to the FDOE via a secure protocol by the end of February. FDOE staff reviews these data in length with LEA personnel during the District Data Discussions.
 - In reflection of the 2019-2020 assurance process, the BESE Instructional Support Services (ISS) unit collaborated with the BESE Dispute Resolution and Monitoring (DRM) unit to adopt the assurances process in the monitoring and compliance procedure.
 - In 2020-2021, Florida districts completed a Level 1 – 1% self-assessment (also known as the FSAA Assurances). From this information, districts reviewed the appropriateness of each student’s participation in the FSAA. The FDOE reviewed a sample of randomly selected records.
 - The DRM and ISS units worked collaboratively to create a data collection system to serve multiple purposes. The FSAA Assurances have evolved into an activity included in the 1% Monitoring and Compliance-Self Assessments during the 2020-2021 school year.
 - To improve this monitoring component, BESE revised the FSAA Self-Assessment Protocol. During the revision, districts gave feedback via email. The received feedback was compiled and incorporated in the 2022 FSAA Self-Assessment Protocol for Compliance and will be utilized during the 2022 spring monitoring cycle.
 7. LEAs with FSAA participation rates above 1% are required to submit a justification to the FDOE. Justifications must include a reason for the overage and address disproportionality as part of the annual ESE SP&P update process. This information is reviewed and approved by the FDOE before being published online for public access.

- All LEA justifications are reviewed. When revisions are required, FDOE staff helps districts engage in thoughtful conversations tailored to their unique contexts about participation in the FSAA. Discussions help identify how LEAs could examine various data sources and use strategic methods and other information to understand why more than 1% of students participated in the FSAA. Districts are encouraged to look at data outside of the educational realm (i.e., Florida Department of Law Enforcement arrest records, Florida Department of Health reports and Florida Department of Transportation population forecasts).
8. Databased Validation for Alternate Assessment Administered and Course Enrollment is embedded in the Student Information Systems (SIS) database. Each SIS compares the course enrollment to the one-digit alpha indicator used to identify whether the student will be participating in the FSAA—Datafolio or FSAA—Performance Task. The validation ensures that only students with the most significant cognitive disabilities take the FSAA and enroll in the aligned courses. A validation message appears in the Student Course Schedule if codes do not align. If the Alternate Assessment Administered is equal to D or P, and the student is enrolled in at least one access course, no validation message will appear.

Alternate Assessment Administered Code Key:

D - The student will be assessed using the FSAA-Datafolio.

P - The student will be assessed using the FSAA-Performance Tasks.

9. During Surveys 2 and 3, the database validation for alternate assessment is administered, and primary exceptionality occurs. A validation message appears in the Student Course Schedule if codes do not align. With this validation, if a student's primary exceptionality is not an L or Z; and other exceptionality is not L, U, D, E, X, Y or Z and Alternate Assessment Administered is not Z, then at least one of the course numbers, on the student's course schedule, must be an access course.

Exceptionality Code Key:

L - Gifted

Z - Not applicable

U - Established Conditions

D - Occupational Therapy

E - Physical Therapy

X - Speech Therapy

Y - Language Therapy

Alternate Assessment Administered Code Key:

Z - The student will take FSA, or other district assessment, or student is in a grade/course where FSA and other districtwide assessment are not administered.

Targeted Technical Assistance and Supports (Tier 2)

The FDOE provides additional technical assistance, support, targeted professional development/intervention, and supplemental support, in addition to the core universal professional development and supports.

Based on the FSAA participation data, districts with the highest number and the highest percentage of students participating in the FSAA are targeted to participate in the Level 2 – 1% Monitoring and Compliance Self-Assessment. After submitting the FSAA Assurances and a completed Student Data Tool, the FDOE selects a predetermined number (dependent on the district size) of students for the district to self-assess. Once these students are selected, their IEPs, class schedules, support facilitator schedules, parental permission documents, MTSS/response to intervention (RtI) data, progress monitoring, and state assessment data will be reviewed. From this information, the district self-assessment will determine the appropriateness of each student’s participation in the FSAA. The FDOE will also check a sample of randomly selected records. LEAs identified for Level 2 monitoring received the following:

- Initial correspondence and introduction to the monitoring cycle were sent to each district.
- The FDOE disseminated a notification of monitoring for compliance activities letter to school district superintendents.
- BESE collected feedback from districts to improve the FSAA Self-Assessment Monitoring Protocol.

Intensive Individualized Interventions and Supports (Tier 3)

The FDOE provides additional, more frequently focused, targeted instruction/intervention and supplemental support in addition to and aligned with the core universal professional development, interventions, and supports.

1. Districts with over 1% of their students participating in the FSAA provide a justification, which includes a reason for the overage to the FDOE. Each LEA’s justification is a part of the annual ESE Policies and Procedures update process. This information will be reviewed and approved by the FDOE before publishing online.
2. Districts identified as non-compliant through the 1% monitoring and compliance activity for AA-AAAS participation must engage in frequent technical assistance and the submission of documentation indicating the completion of a corrective action plan within one year of the findings of noncompliance related to AA-AAAS participation.

Addressing Disproportionality

The FDOE will address any disproportionality issues, as required by 34 C.F.R. § 200.6(c)(4)(iv)(C). LEA-level relative risk ratios will be calculated for all student subgroups included in 1111(c)(2)(A), (B) and (D) of ESSA for all four content areas.

The FDOE will determine the need for improvements at the state and LEA levels following thorough data analysis of these relative risk ratios. Technical assistance and supports will be provided to LEAs as deemed appropriate.

Reporting: The FDOE requires the following FSAA participation reporting

The FDOE Reporting to LEAs

The FDOE provides annual data reports to LEAs that identify trends and patterns in FSAA participation at the district and school levels. These reports are used to inform and, if necessary, improve local FSAA implementation efforts.

- During the 1%, District Data Discussion this information was reviewed and compared to the 2021 FSAA Assurances. Districts were able to identify data entry errors and trends that were taking place (i.e., primary exceptionalities identified not being the most educationally relevant and students enrolled in the incorrect courses).

LEA Reporting to the FDOE

Any LEA above 1% FSAA participation will be required (34 C.F.R. § 200.6(c)(3)(ii)) to submit information to the FDOE with a justification of exceeding the 1% threshold of students taking the FSAA.

The FDOE Reporting to the Public

Under ESSA, the FDOE must make LEA justifications for exceeding 1%, as submitted above, available to the public as long as doing so does not reveal any personally identifiable student information (34 C.F.R. §200.6(c)(3)(iv)).

Timeline

December 1, 2020—2021 ESSA Alternative Assessment 1% Cap Waiver Extension Request was submitted to the ED.

December 4, 2020—BESE sent all school district superintendents the 2021 Florida Standards Alternate Assessment Assurances memorandum (see Appendix A).

February 2021—1% District Data Discussions were ongoing.

February 12-15, 2021—1% District Data Discussions were scheduled.

February 26, 2021—Deadline for the 2021 FSAA Assurances submitted via FDOE-DRM Sharefiles.

March 2021—BESE notified districts of submitted AA-AAAS Assurances (data required from the Division of Accountability, Research and Measurement) and students selected for Level 2 validation.

March 1-31, 2021—1% District Data Discussions were ongoing.

April 2021—Level 2 districts securely submitted requested student records and documentation. The FDOE used a random generator to select a predetermined number (dependent on the district size) of students for the district to self-assess. Once these students were selected, their IEPs, class schedules, support facilitator schedules, parental permission documents, MTSS/RtI data, progress monitoring, and state assessment data were reviewed.

April 1- 30, 2021—1% District Data Discussions were ongoing.

April 5, 2021—Notice of Development of Rulemaking was posted on the Florida Administrative Registry (F.A.R.) for Rule [6A-1.0943](#), F.A.C., Statewide Assessment for Students with Disabilities, which informed the public of the workshop held on April 20, 2021 (https://www.flrules.org/gateway/notice_Files.asp?ID=24367872).

April 20, 2021—Workshop for Rule [6A-1.0943](#), Statewide Assessment for Students with Disabilities, was held. BESE staff took and considered feedback from stakeholders.

May 2021—LEAs with FSAA participation rates above 1% were required to submit a justification to the FDOE, which includes a reason for the overage and, if necessary addresses disproportionality, as part of the annual SP&P update process. This information was reviewed, sent back for revisions if necessary, and approved before publishing online for public access.

May 1-31, 2021—1% District Data Discussions ongoing.

May 18, 2021—Notice of Proposed Rule was posted on the F.A.R. for Rule [6A-1.0943](#), F.A.C., Statewide Assessment for Students with Disabilities (https://www.flrules.org/gateway/notice_Files.asp?ID=24536652).

June 2021—BESE completed the reviews of selected student records and documentation for Level 2 districts, disseminated a letter with findings, and described the next steps regarding student-specific corrections and Corrective Action Plan activities.

June 1-30, 2021—1% District Data Discussions were ongoing.

June 10, 2021—The State Board of Education approved the revisions to Rule 6A-1.0943, F.A.C., Statewide Assessment for Students with Disabilities, at the State Board of Education meeting on June 10, 2021. Rule 6A-1.0943, F.A.C., was revised to establish a definition for “most significant cognitive disability” and specify the exclusionary and inclusionary criteria required for a student to participate in the administration of the statewide, standardized alternate assessment.

June 11, 2021— Chancellor Jacob Oliva sent information in the Chancellor’s Weekly Memo (<https://info.fldoe.org/docushare/dsweb/Get/Document-9176/dps-2021-78.pdf>) that informed all school district superintendents of the amendments to Rule 6A-1.0943, F.A.C., Statewide Standardized Assessments for Students with Disabilities.

June 12, 2021—A presentation was given at Family Café to provide an overview of the Access Points - Alternate Academic Achievement Standards (AP-AAAS). Information was presented to inform families of the eligibility criteria for students being instructed in AP-AAAS and taking an alternate assessment in Florida. A high overview of access courses enrollment versus class placement was addressed. As well as available supports for students with cognitive impairments in the regular education classroom. Potential implications of instruction in the AP-AAAS and alternate assessments was discussed and presented.

June 31, 2021—Two presentations were given at Just Read, Florida!’s Summer Literacy Institute regarding the revisions made to Rule 6A-1.0943, F.A.C. The purpose of the presentation was to inform educators of the eligibility criteria for students being instructed in the AP-AAAS and participate in an alternate assessment in Florida. A high-level overview of access courses enrollment versus class placement will be addressed. As well as available supports for students

with cognitive impairments in the regular education classroom. Potential implications of instruction in AP-AAAS and alternate assessments were discussed and presented.

July 1-31, 2021—1% District Data Discussions were ongoing.

July 9, 2021—A article was published in the BESE Weekly on June 10, 2021, indicating that the State Board of Education approved the revisions made to Rule 6A-1.0943, F.A.C., Statewide Standardized Assessments for Students with Disabilities. Changes to this rule are **effective July 14, 2021**, as indicated in the Chancellor’s Weekly Memo, which was sent to all school district superintendents.

July 14, 2021—Final revisions to Rule 6A-1.0943, F.A.C., which were adopted by the State Board of Education and posted to the F.A.R., were effective https://www.flrules.org/gateway/notice_Files.asp?ID=24688942.

August 2021—LEAs completed Corrective Action Plan activities and securely submit verification.

August 23-24, 2021—BESE staff presented the amendments to Rule 6A-1.0943, F.A.C., Statewide Standardized Assessments for Students with Disabilities, during the Annual Accountability and Assessment Coordinator Meeting.

September 1, 2021—The BESE workgroup collaborated, reviewed and revised the 2021-2022 FSAA 1% Self-Assessment Monitoring for Compliance Protocol. The team decided to focus only on initial eligibility for the 2022 monitoring cycle.

October 5-6, 2021—The FDOE hosted a New ESE Directors Training Academy, presented the rule updates to new ESE directors, and discussed implementation guidance.

October 11, 2021—The BESE workgroup collaborated to incorporate the feedback from district stakeholders into the 2021-2022 FSAA 1% Self-Assessment Monitoring for Compliance Protocol.

October 12, 2021—[ED’s One Percent Alternate Assessment Corrective Action Plan Letter to FDOE \(March 26, 2021\)](#) and [Alternate Assessment based on Alternate Academic Achievement Standards \(AA-AAAS\) Participation Plan \(August 1, 2019\)](#) posted to the FDOE website as directed in the letter from ED dated March 26, 2021.

November 2-3, 2021—BESE staff presented the amendments to Rule 6A-1.0943, F.A.C., Statewide Standardized Assessments for Students with Disabilities, during the Intellectual Disabilities State Contacts Meeting.

November 30, 2021—FDOE submits 1% waiver extension request to ED.

Public and LEA Comment and FDOE Responses

The FDOE uses the F.A.R., which is published by the Florida Department of State, to post grant applications, rules, and meeting notifications to the public and provide an opportunity for comments. This publication serves as the official publication for the Florida Department of State for most agency-related matters, such as rulemaking, petitions, and other materials. See section 120.55, F.S. The [F.A.R.](#) was used to solicit public comment on the FDOE ESSA Alternate Assessment 1% Cap Waiver Extension Request. LEA comment was also solicited via a Chancellor's Memo to school district superintendents, the BESE Weekly electronic newsletter, and an email to all district ESE Directors. Four comments were received.

Submitted Comment

“Florida’s rule governing students with disabilities participation in alternate assessment was revised and approved in July 2021. Districts are in the process of reviewing students who were eligible for participation in an alternate assessment based on the prior rule to determine which students meet eligibility under the new rule. This process was started in July 2021 after the rule passed and will continue throughout this school year. Schools are asked to review students for eligibility under the new rule prior to each annual IEP meeting. During this review process, schools are determining whether additional data is needed to determine eligibility under 6A-1.0943. The reevaluation process can take several months when all factors – personnel, student participation, parent interviews, and data collection from teachers – are considered. As this review and reevaluation process is completed, students remain in their current placement, participating in courses using a modified curriculum and participating in the Florida Standards Alternate Assessment. Florida, districts, and schools are working to comply with the new rule, but this will take time to ensure the best placement for students is determined. Florida should not be expected to be under the 1% cap this year as this process is just beginning.”

Response

The United States Department of Education (ED), Office of Elementary and Secondary Education sent a letter dated March 26, 2021, to Florida Commissioner of Education Richard Corcoran. In this letter, Ian Rosenblum granted the FDOE a one-year extension of a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act so that Florida may have more than 1.0% of the total number of students who are assessed in reading/language arts, mathematics, and science with an AA-AAAS. As part of this waiver request, the FDOE assured the ED that it would implement, consistent with the plan submitted, system improvements and monitor future administrations of the AA-AAAS to avoid exceeding the 1.0% cap. To fulfill this criterion, the FDOE reviewed and revised its definition of the most significant cognitive disabilities in Rule 6A-1.0943, F.A.C., and specified inclusionary and exclusionary criteria for students to be found eligible for instruction in alternate academic achievement standards and to be assessed with an AA-AAAS. The State Board of Education approved the revisions on June 10, 2021, which then became effective July 14, 2021. ED and NCEO have worked closely with the FDOE for many years to plan and prepare for the changes taking place. The FDOE will continue this collaboration; and, in turn, support LEAs to ensure policies, procedures, and processes are developed and implemented at the local level. The mission of this work is to guarantee all students receive the most appropriate instruction and are evaluated with

assessments that align with that instruction. This waiver extension allows the FDOE to justify exceeding the 1% threshold and updates ED on the progress being made. The FDOE appreciates the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions or want more information, please do not hesitate to contact Chelsea Strickland, Director of Data and Monitoring, FDOE, via email at Chelsea.Strickland@fldoe.org.

Submitted Comment

“Palm Beach School for Autism is providing a comment regarding the critical importance of extending the timeline to assess students appropriate for moving from Access to General Education curriculum: Palm Beach School for Autism agrees all students should be academically challenged and taught to high standards. In order for a percentage of our students with autism to fully access general education curricula require several steps: 1) to identify a general education curriculum that will best meet our students’ specific learning needs, 2) training and supports for teaching staff, and 3) time for us to pilot a general education curriculum with identified students to determine effectiveness. This new ruling came during a pandemic, the start of a new school year without any guidance, and was presented with no supports or assistance.”

Response

The United States Department of Education (ED), Office of Elementary and Secondary Education sent a letter dated March 26, 2021, to Florida Commissioner of Education Richard Corcoran. In this letter, Ian Rosenblum granted FDOE a one-year extension of a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act so that Florida may have more than 1.0% of the total number of students who are assessed in reading/language arts, mathematics, and science with an AA-AAAS. As part of this waiver request, the FDOE assured the ED that it would implement, consistent with the plan submitted, system improvements and monitor future administrations of the AA-AAAS to avoid exceeding the 1.0% cap. To fulfill this criterion, the FDOE reviewed and revised its definition of the most significant cognitive disabilities in Rule 6A-1.0943, F.A.C., and specified inclusionary and exclusionary criteria for students to be found eligible for instruction in alternate academic achievement standards and to be assessed with an AA-AAAS. The State Board of Education approved the revisions on June 10, 2021. Senior Chancellor Jacob Oliva provided a memo to all Florida school district superintendents on June 11, 2021, to provide information about the revisions. These adopted revisions then became effective on July 14, 2021. The FDOE has remained responsive in providing technical assistance to LEA and school-level teams.

It has been noted that support was provided to Palm Beach School for Autism on the following dates: August 19, 20 and 27; September 2 and 15; and October 1, 8, 21 and 26, 2021. During these technical assistance sessions, information was provided on the following: revisions to Rule 6A-1.0943, F.A.C.; clarification on accommodations and modifications, and that curriculum selections are LEA decisions. FDOE will continue to collaborate and support stakeholders to ensure policies, procedures, and processes are developed and implemented at the local level. The mission of this work is to guarantee that all students receive the most appropriate instruction and are evaluated with assessments that align with that instruction. This waiver extension allows the FDOE to justify exceeding the 1% threshold and updates ED on the progress being made.

The FDOE appreciates your work to improve your schools and provide a high-quality education for your students. If you have any questions or want more information, please do not hesitate to contact Chelsea Strickland, Director of Data and Monitoring, FDOE, via email at Chelsea.Strickland@fldoe.org.

Submitted Comment

“Recognizing that while the new criteria for inclusion in the alternate assessment will positively impact the percentage of students enrolled in courses and taking the assessment, districts need time to problem solve individual cases where a student based on previous criteria has been determined to be most appropriately instructed and assessed alternately, but now is impacted by one of the exclusionary criteria.

In Florida, many districts have greater resources, including children’s hospitals that provide advanced medical treatments/care. This continues to serve as an attractor to families with children who are medically complex and may also have the most significant disabilities. Medical advances and technology have improved the survival rates of infants born who are medically fragile and may also have the most significant disabilities. Is the 1% cap still appropriate?

Florida has a large number of military bases and district/community resources available to families. This serves as a recruitment tool for the military families that have children with complex special needs.

Florida maintains many school choice opportunities for families. Many districts have a significantly high number of Charter schools, some of which serve primarily students with significant cognitive disabilities in a center-based setting. Families choose this environment, which is not based on LRE.

The large influx of families moving to Florida school districts and enrolling their children has increased the numbers of students with significant cognitive disabilities who have already been determined to be instructed and assessed alternately based on the prior states criteria/transferring IEP. Many families have moved to Florida because our schools have been open.”

Response

Prior to 2003 and per the National Center on Educational Outcomes (NCEO) [Brief Number 12](#), data collected indicated that 60% of states were reporting less than 0.5% participation rates in alternate assessments and nearly all states were reporting less than 1%. In 2015, the Every Student Succeeds Act or ESSA changed the previous 1% cap requirement, which was previously limited to 1% of the total student population that a state could count as **proficient** using alternate assessments, to a 1% cap for states on **participation** in alternate assessments. Per NCEO Brief Number 12, this decision was made because federal research at the time (2015) indicated a number of students assigned to the alternate assessments should have been assessed with general standards. ESSA reiterated that alternate assessments are only appropriate for students with the most significant cognitive disability. NCEO added to this, reiterating that inappropriate participation in alternate assessment negatively impacts a student’s future, including post-secondary opportunities like military service, employment and further education and training.

The NCEO publication, *Moving YourNumbers*, and the FDOE-adopted Theory of Action: Six Key Practices, include using data well as a key in focusing goals. To achieve these goals, the implementation of relative shared evidence-based practices must be planned and executed with integrity and fidelity. As this occurs, monitoring and providing feedback allows for evaluation and adjustment to the planned implementation. Once goals are reached, teams must inquire and learn to make their systems more efficient. There are opportunities when change takes place. In this situation, the opportunity to collect data on the number of families served through Florida's districts and communities that house population-specific military bases, advanced medical treatment facilities, and specialized educational centers could be taken to support future decisions and resource allocations.

States differ in the requirements students must meet to be provided instruction in alternate academic achievement standards. The mission of this work is to guarantee that all students receive the most appropriate instruction and are evaluated with assessments that align with that instruction. The FDOE will continue to collaborate and support stakeholders to ensure policies, procedures, and processes are developed and implemented at the local level. This waiver extension allows the FDOE to justify exceeding the 1% threshold and updates ED on the progress being made. The FDOE appreciates your work to improve your schools and provide a high-quality education for your students. If you have any questions or want more information, please do not hesitate to contact Chelsea Strickland, Director of Data and Monitoring, FDOE, via email at Chelsea.Strickland@fldoe.org.

Submitted Comment

“I am providing comment to the request to extend the waiver exceeding the 1% cap for alternate assessment. As a special educator for 20 years (teacher and administrator), I support and hope the federal government extends the 1% waiver. One percent seems arbitrary and detrimental to students who need additional supports and services provided through the access points. I am seeing the effects of the new rule put in place this school year have an overall negative impact to students who have been placed via the IEP team and fully engaged parent participation and choice.

At our school, which is a parental choice school, each student has an IEP, and the students are monitored regularly by teachers and an assigned IEP case manager. Students placed in access points are only placed after MTSS and IEP team have met to decide the best educational course of action for the individual student. Testing, response to intervention, and teacher and parent feedback are all part of the process. Leaving the decision on how to best serve a child to an intelligence test score does not show the whole child, especially if the child has additional disabilities. Parents and IEP teams should be trusted to make the decision that best suits the child, and these cap rules take the decision-making away from the people who know the child best.

I would like to add one final thought...due to the new rule, we are having to reevaluate seniors and juniors who have been in access point courses their entire high school career. Parents and IEP teams discuss this placement each year, and now, as these students are about to come to what should be a celebratory milestone, they are faced with the prospect of losing all their academic credits, starting in courses they will very likely struggle with, and not having time to complete their course of study. We also had a situation where a student deferred receipt of their

diploma in order to take courses toward a certification, only to have to go back and be required to accept the diploma or take required standard non-access courses. These are challenges that no family, student, or educator should be facing, especially when the team is taking great care to provide what is in the best interest of the student.”

Response

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The mission of this work is to guarantee that all students receive the most appropriate instruction and are evaluated with assessments that align with that instruction. The FDOE will continue to collaborate and support stakeholders to ensure policies, procedures, and processes are developed and implemented at the local level. This waiver extension allows the FDOE to justify exceeding the 1% threshold and updates the ED on the progress being made. The FDOE appreciates your work to improve your schools and provide a high-quality education for your students. If you have any questions or want more information, please do not hesitate to contact Chelsea Strickland, Director of Data and Monitoring, FDOE, via email at Chelsea.Strickland@fldoe.org.