



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

January 5, 2024

Office of Elementary and Secondary Education Assessment Team
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
ESEA.Assessment@ed.gov

Dear Office of Elementary and Secondary Education Assessment Team,

The federal Every Student Succeeds Act (ESSA) caps the percentage of students who can take the alternate assessment at 1.0 percent of the total students tested. The ESSA also allows states that may exceed the 1.0 percent cap to apply for a one-year waiver. This document serves as the Michigan Department of Education's (MDE) formal request for a waiver approval through Spring 2024. The waiver approval will allow MDE and local education agencies (LEAs) around the state to continue working to ensure appropriate assessment selection for students with disabilities and further reduce participation numbers for Michigan's alternate assessment to meet the 1.0 percent cap requirement.

ESSA 1% Cap on Alternate Assessment Use Waiver History

Michigan applied for and was granted the initial waiver on May 14, 2018. In 2019, 2021, and 2022, MDE applied for and was granted an extension to the initial waiver by the U.S. Department of Education (USED). Michigan's 2020 waiver request was rescinded when USED waived assessment requirements due to the COVID-19 pandemic and subsequent school closures. In early 2023, Michigan applied for a renewed waiver, which was denied due to slightly fewer than 95 percent of all students with disabilities participating in statewide summative assessments for each subject.

As part of the approved waivers, MDE agreed to implement a plan to ensure students with disabilities are appropriately assessed using the state assessment system programs. MDE's implementation of this plan resulted in a consistent annual decrease in overall alternate assessment participation rates from 2017-22. In 2023, Michigan's overall participation rate for students with disabilities is once again meeting the 95 percent overall threshold for the subjects of English Language Arts (ELA) and Mathematics, but our alternate assessment participation rates have remained steady at the 1.8% to 1.9%, similar to levels observed in 2022. We are fully implementing several of our improvement efforts offered in the 2023 waiver request, following best practices used in other states, including targeted district monitoring and evaluation of criteria for the appropriate use of alternate assessments and instructional standards, as well as introducing warnings in the test registration for student level cases at higher risk for noncompliance.

However, MDE anticipates exceeding the 1.0 percent cap in 2024.

STATE BOARD OF EDUCATION

PAMELA PUGH – PRESIDENT • ELLEN COGEN LIPTON / TIFFANY D. TILLEY – CO-VICE PRESIDENTS
JUDITH PRITCHETT – SECRETARY • MARSHALL BULLOCK II – TREASURER
MITCHELL ROBINSON – NASBE DELEGATE • TOM MCMILLIN • NIKKI SNYDER

A review of our data, participation rates, and student demographic data suggests that reducing our alternate assessment rate further will require better disambiguating students with milder intellectual impairments from those with more significant ones. To date, many of our rate reductions have come from students with higher incident/milder disabilities receiving appropriate assessment and greater access to general grade-level instruction. To make further gains, Michigan will provide more monitoring and evaluation of the separate criteria needed to determine that a student has the most significant cognitive disability and is receiving instruction where the highest level of summative educational goals is based on alternate content expectations.

MDE communicated to the public its intent to request a waiver approval to exceed the 1.0 percent cap on alternate assessment participation in 2024. The state superintendent of public instruction sent a memorandum to local and intermediate school district (ISD) superintendents and public school academy (PSA) directors, ISD and LEA/PSA special education directors, and the statewide education associations.

MDE gathered public comment through an online questionnaire. The public comment period was open November 16, 2023, through 11:59 p.m. on December 16, 2023.

Below are the public comment request prompts and a summary of responses:

Prompt #1

MDE completed the following activities related to alternate assessment selection and the 1.0 percent cap during the 2022–23 academic year:

- Made District and Intermediate School District (ISD) Spring 2023 alternate assessment participation rate data available on the special education electronic monitoring system.
- Provided universal professional development and technical assistance resources to special education administrators, teachers, related service providers, and parents.
- Directed local education agency staff to an online, interactive decision-making tool to assist with appropriate assessment selection and curriculum alignment.

Additionally, Michigan provided the following tiered professional development and technical assistance with districts and ISDs:

- Performed a verification activity for districts in Tier 2 and Tier 3, focusing on student cases flagged for high risk of noncompliance with the requirements for being eligible for using alternate content standards in summative assessments. Flagged cases involved students for whom either the primary disability type, general education instructional levels, and/or past performance on alternate assessments suggest the student may not have the most significant cognitive disability or suggests the majority of the student's instruction and goals are not primarily aligned to the alternate content expectations for which alternate assessments are based. For Tier 2 districts, the verification process occurred with the ISDs, and for the Tier 3 districts, summaries of the verification results, including the district's criteria, evidence, and thresholds used to determine the student is eligible for the use of alternate standards in assessments, were reported back to MDE to consolidate into further guidance and feedback for ISDs.
- For students surpassing Functional Independence levels of alternate standards at Tier 2 or Tier 3 district, a review of the educational benefit and content expectations used to educate the

student was requested to be conducted with the district. “Surpassed the Standards” is the “advanced” performance level for MI-Access.

Please comment on the activities completed in 2022–23 and suggestions for additional activities for the 2023–24 academic year.

Prompt #1 Comments will be posted here:

Prompt #2

The ESSA requires MDE to collect and submit justification for exceeding the 1.0 percent cap on alternate assessment. In 2023–24, justification forms will be collected electronically using Catamaran. Catamaran is the electronic system used to complete reporting and compliance tasks with MDE-OSE. Technical assistance was provided to ISDs and member districts on how to submit data using Catamaran. Technical assistance recommendations were made, and information was shared between MDE and ISDs using Catamaran. Justification forms from the previous year (2022-23) are available for review online:

[Information on Justification Forms.](#)

Please comment on the use of Catamaran to meet justification requirements.

Prompt #2 Comments will be posted here:

Prompt #3

For justification forms and monitoring and evaluation of the appropriate use of alternate assessments based on alternate content expectations, Michigan will identify districts with higher support needs using the alternate assessment rate data from the previous year’s testing cycle (Spring 2023).

Please comment on the use of the previous year’s alternate assessment participation rates from Spring 2023 to identify districts who may need more support in the appropriate use of alternate content expectations and assessments.

Prompt #3 Comments will be posted here:

Prompt #4

MDE’s focus regarding participation in the alternate assessment (MI-Access) will continue to use a tiered support system for ISDs and districts.

- All Districts with alternate assessment rates exceeding 1.0 percent will complete justification forms and receive universal, general guidance on eligibility for alternate assessments. For districts with small student populations, where either fewer than five students taking alternate assessments set the district over 1.0 percent or where fewer than 300 students tested total, or for districts with alternate assessment rates between 1.1 and 1.3 percent and that have not disproportionately over-assigned demographic subgroups of students to alternate assessments, the universal supports and guidance will be all the support the districts receive. Additionally, ISD-based center programs that focus more exclusively on programming for students with disabilities who have high support needs will also receive standard, universal support and guidance.

- Districts with sufficiently large N-sizes (either testing 300 or more students total or testing five or more students using alternate assessments), alternate assessment rates between 1.4 percent to 2.6 percent or between 1.1 and 1.3 percent overall, but which have disproportionately over-designated some sub-group of students to take alternate assessments, will receive Tier 2 support. Tier 2 districts will be asked to review the IEPs of students who have disability types, general education instruction levels, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability with the ISD.
- Districts with sufficiently large N-sizes and alternate assessment rates of 2.7 percent or higher, or which have both disproportionately over-assigned a demographic subgroup of students to alternate assessments and had overall alternate assessment rates greater than 1.3 percent, will receive Tier 3 support. The districts will be asked to review and submit directly to MDE for approval a written action plan using the provided Action Plan Template with timelines to address district-level actions and review all flagged cases of students taking the alternate assessment. The ISD must approve this plan for students who have disability types, general education instruction levels, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant cognitive disability.
- For targeted Tier 2 and Tier 3 districts, the flagged student cases will require prior verification from either the ISD (Tier 2 districts) or MDE (Tier 3 districts) of the appropriateness of alternate achievement standards for flagged students before justification forms will be approved.
 - Flagged student cases will require a review and confirmation that the students meet the requirements for the use of alternate assessments. Requirements include that ALL appropriate diagnostic criteria are used to determine that the student has the most significant cognitive disability and that primary instruction in a subject is based on alternate content expectations. The criteria are:
 - **Significant Intellectual Impairment** and
 - **Significant Impairment to Adaptive Functioning** and
 - the student has **Extensive Support Needs** and
 - The **majority of instruction** and summative educational goals are primarily based on the apex of **alternate content expectations** for each tested subject.

Furthermore, these districts will need to conduct an educational benefit review for all students surpassing the Functional Independence level of alternate achievement expectations based on test performance on MI-Access and Functional Independence assessments and share the results for approval with the ISD.

- Additionally, Michigan will be incorporating warnings into the test registration secure site for cases where the student's past test performance, general education instruction levels, and disability types are incongruent with the student having a significant cognitive disability and developing better data collection for districts to identify students with the most significant cognitive disability.
- Michigan will also continue to provide technical assistance needed for IEP teams to make decisions about the appropriate assessment for every student with a disability.
- Determining technical assistance needed for IEP teams to target instruction to each student's unique needs, encourage high expectations for all students, and understand expectations regarding the use of state content standards and/or alternate content expectations.

Please comment on MDE's monitoring and evaluation plan regarding the appropriate participation in and use of alternate assessments.

Prompt #4 Comments will be posted here:

Response to Past Public Comment:

MDE appreciates individuals taking the time to provide feedback. All public comment feedback will be considered. Based on some common threads from comments received last year, MDE added the following observations to last year's waiver:

1. The department remains committed to increasing professional development opportunities, providing technical assistance tools, and presenting innovative approaches to make continued progress toward meeting the 1.0 percent cap, considering the threshold and requirements set by the federal Every Student Succeeds Act (ESSA). Technical assistance tools are designed for IEP teams, administrators, and parents.
2. Michigan continues to underscore the requirement for IEP teams to determine appropriate assessment participation on an individual student basis. MDE's Office of Educational Assessment and Accountability (OEAA) and Office of Special Education (OSE) will continue to work with all ISDs to ensure IEP teams understand the federal requirements, are aware of state efforts, have the proper training and tools, and are making appropriate assessment selections.
3. The State of Michigan is cognizant of the thousands of students with the most significant cognitive disabilities, with extensive support needs, who are educated primarily based on alternate content expectations, and for whom, even with accommodations, an alternate assessment is still necessary for the students to demonstrate learning and growth. Michigan will continue to provide a valid and reliable assessment to meet the needs of eligible students. There continues to be evidence to suggest that not all students who currently participate in the alternate assessment were appropriately determined. The purpose of a statewide plan is to ensure students who are taking the alternate assessment meet the requirements for participation.
4. MDE appreciates the need for local districts to have access to the data necessary to provide justification to the state. Catamaran is being enhanced to continue to make the process easier and data readily available for ISDs. Local districts can request access to Catamaran for any designated staff members within the district.
5. MDE plans to address instruction and the use of alternate content expectations.
6. While MDE publicly posts the justification forms on the MDE website, there are no requirements for local or intermediate school districts to post.

WAIVER REQUIREMENTS

ESSA stipulates several requirements for the waiver to exceed the 1.0 percent cap. MDE's response to each requirement is found below. Please note the data provided is information from the most recent testing window in which state assessments were administered.

Requirement 1: Submit the waiver request for the relevant subject at least 90 days before the testing window starts.

The testing window for all state summative assessments in Michigan begins April 8, 2024. Specifically, the seven-week testing window for MI-Access (the state summative AA-AAAS) is from April 8, 2024, through May 24, 2024. The waiver request is being made 90 days prior to this testing window.

Requirement 2 (A): Provide state-level data from the current or previous year that shows the number and percent in each subgroup who took the alternate assessment in the subject area.

As shown in Table 1 below, similar to the 2022 participation rates, the actual rate of alternate assessment for Spring 2023 was 1.8%. For Science, Mathematics, and ELA, the rate climbed by one-tenth to 1.9%.

Table 1: 2022–23 Participation in Alternate Assessment, MI-Access, by Content Area and Demographic Sub-Group

Demographic Sub-group	Number of Students Tested Using an Alternate Assessment	Total Number of Students Tested	Percent of Students Tested Using an Alternate Assessment
English Language Arts (Grades 3-8 and 11)			
All Students with Disabilities	13,082	702,914	1.9%
Male	8,723	359,456	2.4%
Female	4,359	343,458	1.3%
English Learner	775	47,942	1.6%
Economically Disadvantaged	9,124	382,444	2.4%
Native American	84	3,938	2.1%
Asian	335	25,709	1.3%
African American	3,551	124,859	2.8%
Hispanic	1,065	61,897	1.7%
Pacific Islander	19	595	3.2%
White	7,405	449,934	1.6%
Multi-Racial	623	35,982	1.7%
Mathematics (Grades 3-8 and 11)			
All Students with Disabilities	12,887	704,158	1.8%
Male	8,584	360,088	2.4%
Female	4,303	344,070	1.3%
English Learner	772	49,527	1.6%
Economically Disadvantaged	8,987	383,008	2.3%
Native American	81	3,956	2.0%
Asian	329	26,119	1.3%
African American	3,495	124,820	2.8%
Hispanic	1,058	62,499	1.7%
Pacific Islander	19	595	3.2%

Demographic Sub-group	Number of Students Tested Using an Alternate Assessment	Total Number of Students Tested	Percent of Students Tested Using an Alternate Assessment
White	7,292	450,221	1.6%
Multi-Racial	613	35,948	1.7%
Science (Grades 5, 7, 8 and 11)			
All Students with Disabilities	5,482	301,127	1.8%
Male	3,667	153,749	2.4%
Female	1,815	147,378	1.2%
English Learner	303	18,742	1.6%
Economically Disadvantaged	3,729	155,516	2.4%
Native American	37	1,693	2.2%
Asian	125	11,322	1.1%
African American	1,478	51,378	2.9%
Hispanic	423	26,311	1.6%
Pacific Islander	12	259	4.6%
White	3,168	195,857	1.6%
Multi-Racial	239	14,307	1.7%

Requirement 2 (B): Provide state-level data from the current or previous year that shows the overall assessment participation rate for all students and for students with disabilities.

Due to ongoing absences and instability in enrollments during the COVID-19 pandemic, Michigan had fewer students enrolled and tested in Spring 2022 than anticipated (approximately 25,000 fewer). For Spring 2023, the student enrollment and testing counts were much more in line with expected long-term demographic trends. Overall, Michigan had more than 95 percent of all students participate in statewide summative assessments for all subjects, and roughly 95 percent or more of students with disabilities participate in ELA and Mathematics in the Spring of 2023; however, for Science, the participation rate among students with disabilities only reached 92.7% (see Table 2 below). MDE OSE has created a parent-friendly webinar regarding the importance of all students participating in statewide summative assessments.

Table 2: 2022–23 Students Participating in State Summative Assessment (M-STEP, MME, MI-Access), Overall and for Students with Disabilities by Content Area

Demographic Sub-group	Number of Students with Valid Tests	Number of Students Expected to Test	Percent of Students Participating in State Tests
English Language Arts (Grades 3-8 and 11)			
All Students	702,914	723,061*	97.2%
Students with Disabilities	96,682	100,850	95.9%
Mathematics (Grades 3-8 and 11)			
All Students	704,158	723,061*	98.3%
Students with Disabilities	96,451	100,850	95.6%

Science (Grades 5, 8 and 11)			
All Students	301,127	314,730*	98.2%
Students with Disabilities	38,528	41,568	92.7%

*Note: The number of students expected is based on public enrollment counts in tested grades during the Fall 2023 student counts and data collection window. EDFacts tables with enrollments based on a combination of Fall enrollment and unique enrollment updates at the time of test registration, including other accountability and Federal reporting criteria, were not yet available in time for the waiver. The two-count windows generally provide similar counts and participation rates.

Requirement 3 (A): Provide assurance that districts with over 1.0 percent participation in the alternate assessment followed the state’s participation guidelines.

For the 2023–24 academic year, MDE will continue to use justification forms as the mechanism to collect individual LEA and ISD responses and justifications for exceeding the 1.0 percent cap. Justification forms are also the mechanism for LEAs and ISDs to provide updates on prospective rates during the upcoming testing period and for submitting plans for continuous improvement in preparing IEP teams to determine appropriate assessment selection for students with disabilities by following the state’s participation guidelines and federal requirements. MDE will also continue to develop and provide technical assistance through guidance, training, and other resources specific to alternate assessment selection.

Many LEAs have provided training to staff regarding the state guidelines for participation in the alternate assessment. Areas MDE is specifically focusing on for more timely and targeted guidance are:

- warnings in the test registration system for students with disability types and other student data that are not congruent with either the student having the most significant cognitive disabilities or receiving a majority of instruction based on alternate content expectations;
- flagged high-risk cases for ISDs to review with districts with high rates of alternate assessment use;
- clarifying each of the required criteria needed for a student to meet the definition of a student with the most significant cognitive disabilities and an emphasis on using sound, valid, and reliable criterion-relevant indicators for each aspect of the definition of a student with the most significant cognitive disabilities;
- clarifying the requirements around the primary instruction and educational goals being based on alternate content expectations;
- having districts with high rates of alternate assessment develop parent information and consent forms to use in the IEP process to ensure that parents and all IEP team members know and understand the required criteria to be eligible for alternate assessments and to discuss the strong association between the use of alternate content expectations aligned to educational goals and the potential impact on the student's ability to earn credits toward a high school diploma further down the educational stream.

Requirement 3(B): Provide assurance that any disproportionality in students taking the alternate assessment will be addressed.

Michigan examined disproportionality in participation on its state alternate assessment (MI-Access) based on the most recently completed test cycle (Spring 2023) for statewide summative assessments.

Disproportionality was examined for the following demographics:

1. Gender
 - a. Male
 - b. Female
2. Economic Disadvantage (based on poverty risk factors such as free/reduced lunch eligibility, homelessness, migrant status, and direct certification for government food assistance)
 - a. Disadvantaged
 - b. Not Disadvantaged
3. Racial/Ethnic Groups
 - a. Native American
 - b. Asian
 - c. African American or Black
 - d. Pacific Islander
 - e. Hispanic
 - f. White
 - g. Two or More Races
4. English Language Learners Status
 - a. Participating in an English learner program
 - b. Not participating in an English learner program

To determine whether substantive disproportionality affected any subgroups of students, Michigan used a relative risk ratio method to analyze the rate of participation in alternate assessments. For other federal reporting (e.g., in the Annual Performance Report), Michigan uses multiple years of data and a threshold risk ratio of 2.5 for each demographic subgroup. For assessments, this threshold means students in one demographic are participating in the alternate assessment 2.5 times more often than students who are not in the same demographic. A relative risk ratio of 1.0 means students in one demographic participate in the alternate assessment at the same rate as students who are not in the same demographic.

As depicted in Tables 4 through 6, Michigan did identify one group (Pacific Islanders) in the subject of science who were tested using alternate assessments at a significantly disproportionate rate (i.e., with a relative risk of 2.5 or more) statewide. However, in the other subjects, the risk ratio for this group was much lower and varied widely. It is likely that the small N-size of this particular sub-group (12 students in science) is likely driving a spurious finding and that the disproportionality for this group is not a robust finding. Three of the students were educated within the same district; the other nine were single cases, each in a unique district. Generally, the sub-group of students with the highest relative risk ratio across all subjects (economically disadvantaged students) had a relative risk of 1.9 in both ELA and Math, and the risk of disproportionately being tested with alternate assessments for this group has decreased since Michigan applied for the first waiver. In 2021, it dropped below the elevated risk threshold of 2.0 for the first time and remained at or below that threshold in 2022 and 2023.

Table 3: Disproportionate Alternate Assessment Participation by Demography (SY 2022-23) for English Language Arts

Simple Groups	Group Rate Comparison (In-group vs. not)	Risk Ratio
Gender (Male vs Female)	2.4% vs. 1.3%	1.85
Economic Disadvantage	2.4% vs. 1.2%	2.00*
English Language Learner	1.6% vs. 1.9%	0.84

Multi-Groups: Race/Ethnicity	Group Rate Comparison (In-group vs not)	Risk Ratio
Native American	2.1% vs. 1.9%	1.11
Asian	1.3% vs. 1.9%	0.68
African American	2.8% vs. 1.6%	1.75
Hispanic	1.7% vs. 1.9%	0.89
Pacific Islander	3.2% vs. 1.9%	1.68
White	1.6% vs. 2.2%	0.73
Two or More Races	1.7% vs. 1.9%	0.89

*Note: Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios ≥ 2.5 are considered disproportionately high representation among students taking the alternate assessment.

Table 4: Disproportionate Alternate Assessment Participation by Demography (SY 2022-23) for Math

Simple Groups	Group Rate Comparison (In-group vs. not)	Risk Ratio
Gender (Male vs Female)	2.3% vs. 1.3%	1.77
Economic Disadvantage	2.3% vs. 1.2%	1.92
English Language Learner	1.6% vs. 1.9%	0.84
Multi-Groups: Race/Ethnicity	Group Rate Comparison (In-group vs. not)	Risk Ratio
Native American	2.0% vs. 1.8%	1.11
Asian	1.3% vs. 1.9%	0.68
African American	2.8% vs. 1.6%	1.75
Hispanic	1.7% vs. 1.8%	0.94
Pacific Islander	1.8% vs. 1.6%	1.13
White	1.6% vs. 2.2%	0.73
Two or More Races	1.7% vs. 1.8%	0.94

*Note: Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios ≥ 2.5 are considered disproportionately high representation among students taking the alternate assessment.

Table 5: Disproportionate Alternate Assessment Participation by Demography (SY 2022-23) for Science

Simple Groups	Group Rate Comparison (In-group vs. not)	Risk Ratio
Gender (Male vs Female)	2.4% vs. 1.2%	2.00*
Economic Disadvantage	2.4% vs. 1.2%	2.00*
English Language Learner	1.6% vs. 1.8%	0.89
Multi-Groups: Race/Ethnicity	Group Rate Comparison (In-group vs not)	Risk Ratio
Native American	2.2% vs. 1.8%	1.22
Asian	1.1% vs. 1.8%	0.61
African American	2.9% vs. 1.6%	1.81
Hispanic	1.6% vs. 1.8%	0.89
Pacific Islander	4.6% vs. 1.8%	2.53**
White	1.6% vs. 2.2%	0.73
Two or More Races	1.7% vs. 1.8%	0.94

*Note: Risk ratios between 2.0 and 2.4 are considered elevated risk, and risk ratios ≥ 2.5 are considered disproportionately high representation among students taking the alternate assessment.

Additionally, for each LEA, Michigan examined the Spring 2023 data and the two most recent years of alternate assessment administrations for participation in mathematics and ELA. Districts that tested the same sub-group of students at 2.5 times more often than students who were not in that sub-group for two or more years, were flagged for more targeted supports and review as part of the justification form and review process. In all, there were 30 districts with disproportionate use of alternate assessments. Findings have been shared with ISDs and districts as part of targeted guidance. ISD staff will be trained to identify and target districts with substantively high disproportionate use of alternate assessments. For districts to be included in the disproportionality analyses and identification process, two minimum N-sizes were employed for each year of data:

1. Districts with 30 or more total students tested using the alternate assessment were examined for over-assignment.
2. Districts with at least 10 students from any demographic subgroup tested using the alternate assessment were evaluated for over-assignment of that subgroup.

Requirement 4 (A): Submit a plan and timeline by which the state will improve the implementation of its participation guidelines, including, if necessary, revising its definition of “students with the most significant cognitive disabilities” in future academic years.

Each ISD has implemented monitoring procedures and evaluation methods, in part developed by the department and in part informed by best practices in other states, to ensure the standards and criteria related to assessment selection are being achieved by the ISD and the constituent districts.

In addition, MDE established a three-tiered system to provide additional oversight and support to LEAs that assess more than 1.0 percent of students using the alternate assessment. This tiered system originated as part of the plan implemented in 2018-19 and will continue in 2022-23 with the following updated criteria to further reduce the alternate assessment rates and in response to USED’s increased emphasis on verification of alternate assessment appropriateness.

- All Districts with alternate assessment rates exceeding 1.0 percent will complete justification forms and receive universal, general guidance on inclusion criteria for alternate achievement standards in assessment and instruction. For districts with small student populations where fewer than five students taking alternate assessments set them over 1.0 percent, or for districts with alternate assessment rates between 1.1 and 1.3 percent and that have not disproportionately over-assigned demographic subgroups of students to alternate assessments, the universal supports and guidance will be the primary form of support provided.
- Districts with either alternate assessment rates between 1.4 percent to 2.6 percent or between 1.1 and 1.3 percent overall—but who have disproportionately over-designated some sub-group of students to take alternate assessments—will receive Tier 2 support. This tier 2 threshold was reduced from 1.6% last year to 1.4% for Spring 2024. These districts will be asked to review with the ISD the IEPs of students who have disability types, general educational instruction levels, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant cognitive disability.

- Flagged student cases will require a review and confirmation of appropriate, evidence-based diagnostic criteria in use for determining that the student meets all criteria for having the most significant cognitive disability (substantial intellectual impairment, substantial impairment in adaptive functioning, and extensive support needs) and that the student is also receiving a majority of instruction and summative curriculum based on alternate content expectations.
- Furthermore, these districts will have to conduct an educational benefit review for all students surpassing the Functional Independence level of alternate achievement expectations, based on test performance on MI-Access Functional Independence assessments, and share the results for approval with the ISD.
- Lastly, for districts in this Tier, a standard parent information and consent form about the use of alternate standards and assessments will need to be developed and used in future IEP planning meetings.
- Districts with either alternate assessment rates of 2.7 percent or higher or who have both disproportionately over-assigned a demographic subgroup of students to alternate assessments and had overall alternate assessment rates greater than 1.4 percent will receive Tier 3 support. These districts will be asked to review with the ISD the IEPs of students who have disability types, general educational instruction levels, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability.
 - The ISD and district must create and submit a written action plan using the provided Action Plan Template with timelines to address district-level actions and review all flagged cases of students taking the alternate assessment. This plan must be approved by the ISD.
 - Lastly, for districts in this Tier, a standard parent information and consent form about the use of alternate content expectations and assessments will need to be developed and used in future IEP planning meetings.

Additionally, Michigan will continue to provide technical assistance needed for IEP teams to make decisions about the appropriate assessment for every student with a disability and determining technical assistance needed for IEP teams to target instruction to each student's unique needs, encourage high expectations for all students, and understand expectations regarding the use of state content standards and/or alternate content expectations. For instance, Michigan will add warnings into the test registration process this year for cases where the student's past performance, general educational instruction levels, or disability type are incongruent with the student having a significant cognitive impairment.

Lastly, over the past year, Michigan has provided the following support and guidance:

- Tier I, provided for all LEAs:
 - Communications regarding the training available online.
 - A technical assistance call with the focus on the importance of student participation in assessments.
 - In-person training on assessment selection, as requested by ISDs or LEAs (the following trainings have been provided in the past year):
 - MCEC Supervisors of Low Incidence Programs Conference
 - Michigan Association for Administrators of Special Education (MAASE) Summer Institute

- MAASE Community of Practice
- Resources that are and will be developed by MDE, ISDs, or LEAs for others to access and use (such as on each aspect of the definition of a student with the most significant cognitive disability and decision guides for identify which students have primary instruction and summative educational goals based in alternate content expectations).
- Tier II, last year's guidance to ISDs for LEAs whose alternate participation rates were 1.6 percent or higher or whose data indicated issues of disproportionality in state testing for students with disabilities.
- As part of the justification forms, ISDs developed and update plans for supporting each LEA who met criteria for Tier II support. ISDs were also encouraged to provide technical assistance or training to school staff regarding the definition of Students with the Most Significant Cognitive Disability (SMSCD), if the district's justification form indicated the definition of eligibility for alternate achievement standards was misunderstood or misapplied.
- ISDs provided a list of LEAs that require support and a plan for that support and further training.
- Furthermore, ISDs were asked to encourage Tier II districts to review the performance of students surpassing the Functional Independence level of alternate assessments and to consider the educational benefit of the current alternate achievement expectations to which the student is being taught.
- Tier III, last year, for LEAs where alternate participation rates were in the top 3.0 percent of districts or where the participation rate was 1.6 or higher and where data indicated issues of disproportionality in state testing for students with disabilities. The ISD and/or MDE personnel developed individual plans for support for the LEAs falling into Tier III. Furthermore, ISDs were asked to have Tier III districts review the performance of students surpassing the Functional Independence level of alternate assessments and to consider the educational benefit of the current alternate achievement standards to which the student is being taught and to review those findings with the ISD.

MDE created a formal definition of students with the most significant cognitive disabilities during the 2019-20 academic year. The definition was shared in draft form for feedback during Tier I and Tier III events, ISD special education director's meetings, OSE data advisory committee meetings, and regional ISD monitor meetings. The definition was also included in the public comment request completed for the request to renew the waiver to exceed the 1.0 percent cap. The definition is now embedded in MDE's assessment selection flow chart, online assessment selection guidelines training, and the IEP interactive decision-making tool. The definition is:

Students with the most significant cognitive disabilities, for the purpose of determining instructional targets and state assessment selection, have a disability or multiple disabilities that **significantly impact intellectual functioning**.

and

Significantly impact adaptive behaviors, which are essential to live independently and to function safely in daily life. When adaptive behaviors **are significantly impacted**, the individual is unlikely to develop the skills necessary to live independently and function safely in daily life.

and

Significant cognitive disabilities impact students both in and out of the classroom and across multiple life domains, including academic domains. This means that the students **have extensive support needs to demonstrate learning and generalize skills** across academic and life settings.

and

Students with the most significant cognitive disabilities are supported with an Individualized Education Program (IEP) and the **primary instruction and summative educational goals are based on Michigan's alternate content expectations** in English language arts (ELA), mathematics, science and/or social studies.

Special Note: MI-Access is not designed for most students whose primary disability is a specific learning disability, speech language impairment, emotional impairment, or other health impairment. Furthermore, MI-Access should not be the default assessment of choice for students with hearing, visual, or physical impairments. Students with these disabilities must also demonstrate clear evidence (either clinical or educational or both) of significant cognitive disabilities in order for alternate achievement standards to be appropriate.

MDE has not received any new feedback regarding the need to revise the definition of students with the most significant cognitive disabilities since the initial feedback following the 2019 waiver approval. The establishment of the definition facilitated the appropriate assessment selection and reducing of the number of students taking the alternate assessment to 1.9 percent. Furthermore, when a district's justification form indicated the definition of eligibility for alternate achievement standards was misunderstood or misapplied, ISDs were also encouraged to provide technical assistance or training to school staff regarding the definition of "Students with the Most Significant Cognitive Disability" (SMSCD). MDE will continue to use the definition established in 2019-20 for the 2023-24 academic year but will focus on ensuring ISDs and Districts understand students must meet ALL components of the definition in order to be eligible to take MI-Access.

MDE will continue to post the ISD justification summaries submitted for the 2023-24 academic year, which will include individual plans for ensuring appropriate assessment selection, from each year.

Requirement 4 (B): Submit a plan and timeline by which the state will take additional steps to support and provide appropriate oversight to each LEA that the state anticipates will assess more than 1.0 percent with the alternate assessment.

MDE uses the tiered system of support to sort LEAs for the purpose of providing oversight and technical assistance. The cut scores for inclusion in Tier II and Tier III have been reduced from 1.6 percent to 1.4 percent to reflect continuous improvement efforts.

For the 2023–24 academic year, ISDs and LEAs are submitting justification forms as a task in Catamaran. Catamaran is the electronic system used to complete reporting and compliance tasks with MDE OSE. Both ISD and LEA forms are downloadable into accessible reports to be made available to members of the public, upon request.

MDE has recorded webinar workshops that provide technical assistance to LEAs and ISDs. MDE continues to have direct input to the ISDs regarding LEAs meeting the requirements for Tier II and Tier III support.

Based on interactions with ISD and LEA personnel, MDE believes LEAs may need additional support for IEP teams in properly targeting instruction for students with disabilities, particularly for students who fall outside of the definition of students with the most significant cognitive disabilities. MDE plans to have LEAs conduct educational benefit reviews for students performing highly on alternate assessments, especially if the LEAs are in Tier II or III. Michigan also plans to provide ISDs and LEAs with data on flagged student cases from Spring 2023, where the student's disability type, high level of general education instruction, or past surpassing performance on alternate assessments are incongruent with the student having a significant cognitive impairment, so that the ISD or LEA may better evaluate and monitor, whether or not alternate instruction is appropriately assigned.

Requirement 4 (C): Submit a plan and timeline by which the state will address any disproportionality in the percentage of students taking the alternate assessment.

In the subject of Science, disproportionality was found at the state level for Pacific Islanders being over-assigned to alternate content expectations. However, due to the small N size of this group, and the contradictory risk ratios found for the group in the other subjects, Michigan believes that this finding is spurious. Nevertheless, Michigan will reach out to the district that tested more than one Pacific Islander student to inquire further. Additionally, at the district level, thirty districts within the state were identified as disproportionately over-assigning some sub-group of students to alternate assessments, based on high-risk ratios for two testing cycles in a row. As part of the justification form approval process, ISDs are expected to facilitate conversations with the affected LEAs on the disproportionality list. In addition, any LEA assessing 1.3 percent or more of all students using the alternate assessment and flagged for disproportionality qualifies for Tier III status and must include a plan to address disproportionality in the justification forms submitted to the ISD.

Requirement 5: Demonstrate substantial progress toward each component of the prior year's plan and timeline, which was required under Requirement 4 (c).

Michigan made substantial progress toward meeting the 1.0 percent cap requirement under past years of the waiver. This is evidenced by the reduction in students taking the alternate assessment from a high of 2.4 percent in Spring 2017 to a projected rate of 1.9 percent in Spring of 2021 (if overall participation rates had been normal), and 1.8 percent in Spring 2022. In all, from 2017 to 2022, Michigan has reduced the total number of students participating in alternate assessments by 6,028 students, down from a high of over 18,830 in 2017 to 12,802 in 2022. For the students who have transitioned from alternate achievement expectations to the general grade level standards, the odds in real-terms of graduating high school with a diploma has increased by roughly 22 percent and in relative terms has roughly doubled, and the real-term odds of going on to enroll in college within two years of leaving high school has increased by roughly 10 percent. Additionally, from an equity perspective, the risk ratio for subgroups has improved across the assessment cycles, from 2017 to 2021, with disparity in alternate assessment use for economically disadvantaged students reaching its lowest point in 2021 and maintaining in 2022 and 2023.

In addition, MDE has expanded the plans for improvement by:

- Lowering the criteria in the three-tier system of support as outlined in Requirement 4A.

January 8, 2024

- Monitoring and enforcing compliance on only assigning alternate achievement expectations for students with the most significant cognitive disabilities (SMSCD).
- Increasing LEA access to data needed for justifications.
- Increasing the verification of the appropriateness, necessity, and benefit of alternate achievement standards for students whose performance, primary disability type, or general education instructional practices seem incongruous to the definition of a student with the most significant cognitive disabilities.
- Requiring the development and use of parent information and consent forms for the use of alternate assessments.
- Enhancing MDE's focus to include a collaborative process for developing IEP team guidance for properly targeting instruction, as well as assessment selection, for students with disabilities.

MDE is confident the plan outlined in this waiver request, once implemented, will result in renewed reductions in the percentage and number of students taking the alternate assessment in the state of Michigan.

Sincerely,

Michael F. Rice, Ph.D.
State Superintendent

Attachments regarding last year's public comment: November 3, 2022 [Spotlight on Student Assessment and Accessibility \(michigan.gov\)](#)