



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

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GOVERNOR

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STATE SUPERINTENDENT

January 10, 2023

Office of Elementary and Secondary Education Assessment Team  
U.S. Department of Education  
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Washington, DC 20202  
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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. Michigan applied for and was granted the initial waiver on May 14, 2018. In 2019 and 2021, the Michigan Department of Education (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 Michigan's 2020 waiver request was rescinded when USED waived assessment requirements due to the COVID-19 pandemic and subsequent school closures.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 2022, Michigan applied for a renewed waiver, which on April, 22, 2022, was approved by USED.

As part of the approved waivers, MDE agreed to implement a plan to ensure students with disabilities are properly assessed using the state assessment system programs. MDE's implementation of this plan has resulted in a consistent annual decrease in overall alternate assessment participation rates. Despite this decrease, MDE anticipates exceeding the 1.0 percent cap in 2023. This document serves as MDE's formal request to extend the waiver through Spring 2023. The waiver extension 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.

In 2021, MDE reviewed participation data from statewide summative assessments that were completed before and during the pandemic. The purpose of the review was to compare and analyze the participation rates of students taking the state Alternate Assessment aligned with Alternate Academic Achievement Standards (AA-AAAS), better known in Michigan as MI-Access. MI-Access is aligned with the Michigan alternate content expectations in English language arts (ELA), mathematics, science,

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and social studies. The alternate assessment is designed to allow students with the most significant cognitive disabilities to demonstrate their knowledge and skills.

The data analysis demonstrates a consistent reduction in participation rates of students with disabilities, across subject areas, for Michigan's alternate assessment. From 2019 to 2022 (there were no assessments in 2020, and 2021 did not have normal participation counts in statewide assessments), the alternate participation numbers reduced by 2,859 students, from 15,661 in 2019, to 12,802 in 2022. Additionally, the alternate assessment rate in Michigan reduced from 2.1 percent in 2019 to 1.8 percent in 2022 for ELA, from 2.0 percent to 1.8 percent for mathematics, and from 1.9 percent to 1.8 percent for science. Lastly, in 2021, we asked districts to project their likely alternate assessment participation rates prior to the assessment window. These projections provide us with an estimate of what participation rates in 2021 would have looked like, if 95% of students had tested that year (as is the case in normal, non-pandemic years, rather than the 72% observed in 2021). Cumulatively, these projected participation rates stated that had the pandemic not disrupted overall participation in statewide summative assessments, that the alternate participation rate for 2021 would have been 1.9% in ELA, mathematics, and science. Taken together, the pre-pandemic numbers from 2019 and the projected rates from 2021 had overall participation returned to normal, both demonstrate that Michigan is continuing to reduce its elevated alternate participation rates and making progress toward the goals of the ESSA 1-percent cap on alternate assessments and instruction.

MDE will communicate to the public its intent to request a waiver extension to exceed the 1.0 percent cap on alternate assessment participation in 2023 and is presently seeking public comment. The state superintendent of public instruction will send 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 will gather public comment through an online questionnaire. The public comment period opened **November 4, 2022, and closes by November 18, 2022.** Michigan had 35 total respondents who provided public comment on open-ended prompts in the survey. Not all prompts received responses from all respondents.

**Below is The public comment request:**

Michigan's alternate assessment (MI-Access) is aligned with Michigan's alternate content standards in English language arts (ELA), mathematics, science, and social studies. The alternate assessment is designed to allow students with the most significant cognitive disabilities to demonstrate their knowledge and skills.

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. Michigan was granted the initial waiver of the 1.0 percent cap on May 14, 2018. In 2019 and 2021, as provided under the ESSA, Michigan applied for and received an extension to the waiver of the 1.0 percent cap on the participation rate for students taking the alternate assessment. As part of the federal waiver, MDE agreed to implement a plan to ensure students are properly assessed using the state assessment system programs. Michigan's 2020 waiver request was rescinded when

assessment requirements were waived due to the COVID-19 pandemic and subsequent school closures.

Analysis of the 2021–2022 state assessment data, when compared to pre-pandemic data from 2018–2019 data, shows a reduction of 2,859 students taking alternate assessments, from 15,661 in Spring 2019 to 12,802 in Spring 2022. Furthermore, the participation rate for the alternate assessment in Michigan during this same timeframe reduced from 2.0 percent in Spring of 2019 to 1.8 percent in Spring of 2022 for mathematics, from 2.1 percent to 1.8 percent in ELA, and from 1.9 percent to 1.8 percent in science.

Although progress has been made, more work needs to be done to ensure appropriate assessment and corresponding curriculum selection and for verifying that students designated by the IEP to take alternate assessments actually meet the criteria as students with the most significant cognitive disabilities. Therefore, Michigan will be applying for a waiver extension for Spring 2023, which will include a plan for continued improvement.

The results from public comment will be posted and summarized here.

### **Prompt #1**

MDE completed the following activities related to alternate assessment selection and the 1.0 percent cap during the 2021–2022 school year:

- Reduced statewide participation in the alternate assessments from 15,661 pre-pandemic, to 12,802 in the Spring of 2022; a reduction of 2,859 students being assessed based on alternate achievement standards.
- Made District and Intermediate School District (ISD) Spring 2022 alternate assessment participation rate data available on the special education electronic monitoring system.
- Provided universal professional development and technical assistance 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.

Please provide comment on the activities completed in 2021–2022 and suggestions for additional activities for the 2022–2023 school year.

### **Prompt #1 Comments will be posted here:**

### **Prompt #2**

The ESSA requires MDE to collect and submit justification for exceeding the 1 percent cap on alternate assessment. In 2022–2023, justification forms will be collected electronically using Catamaran, an electronic IDEA compliance monitoring system. Technical assistance was provided to ISDs and member districts on how to submit data using Catamaran. Technical assistance recommendations were made, and information shared between MDE and ISDs using Catamaran. Justification forms from the previous year (2021-2023) are available for review online:

[https://www.michigan.gov/mde/0,4615,7-140-22709\\_28463-459598--,00.html](https://www.michigan.gov/mde/0,4615,7-140-22709_28463-459598--,00.html).

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

## **Prompt #2 Comments will be posted here:**

### **Prompt #3**

Given the lack of testing in Spring 2020 and lower overall participation in Spring 2021, there is less reliable statewide assessment data available to provide justification to MDE regarding assessment participation rates. For this year's application, projected rates from the 2020–2021 school year, provided by districts and aggregated by MDE, were used to compare year-over-year progress, as the overall participation rates in 2020-2021 were much lower due to roughly 25 percent of students still learning remotely and unavailable for in-person assessments. These projected rates included all publicly enrolled students, remote or otherwise, and provided a more complete picture of what alternate participation rates would have been if all students and schools were meeting in person and available for assessments during the pandemic. For the 2021–2022 school year, Michigan used actual alternate assessment participation information after all testing windows were complete. This data will:

- Aid in the application to extend the U.S. Department of Education waiver for the 1% cap on participation in the alternate assessment, due January 10, 2023.
- Provide the most current information on participation rates to districts, leading up to the next testing cycle. This information can help districts determine training needs and support the monitoring of participation rates.

Please provide comment on the use of projected participation rates from 2020-2021 compared to actual participation rates for Spring 2022.

## **Prompt #3 Comments will be posted here:**

### **Prompt #4**

The MDE's focus regarding participation in the alternate assessment (MI-Access) will continue to use a tiered support system to 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 5 or fewer students taking alternate assessments set them over 1.0 percent, or for districts with alternate assessment rates between 1.1 and 1.5 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 they receive.
- Districts with alternate assessment rates between 1.6 percent to 2.9 percent or between 1.1 and 1.5 percent overall, but who have disproportionately over-designated some sub-group of students to take alternate assessments, will receive Tier 2 support. These districts will be asked to review with their ISD the IEPs of students who have disability types, general educational placement statuses, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability.

- For these districts, the flagged student cases will require a review and confirmation of appropriate diagnostic criteria being used to determine that the student also has the most significant cognitive impairment to meet requirements for alternate assessments.
  - 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 their ISD.
- Districts with alternate assessment rates of 3.0 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 1.5 percent, will receive Tier 3 support. These districts will be asked to review and submit directly to MDE for approval, the IEPs of students who have disability types, general educational placement statuses, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability.
    - For these districts, the flagged student cases will require a review and confirmation of appropriate diagnostic criteria being used to determine that the student also has the most significant cognitive impairment to meet eligibility.
    - 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 from MDE.
- For these targeted Tier II and III districts, the flagged student cases will require prior verification from either the ISD (Tier II districts) or MDE (Tier III districts) of the appropriateness of alternate achievement standards for these students before justification forms will be approved.
  - Additionally, Michigan will be incorporating warnings into the test registration secure site for cases where the students past test performance, educational placement, and disability type are incongruent with the student having a significant cognitive impairment.
  - Michigan will also continue to provide technical assistance needed for IEP teams to make decisions about the appropriate assessment for each and 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 standards.

Please provide comment on MDE's focus regarding participation in the alternate assessment.

**Prompt #4 Comments will be posted here:**

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, the 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 districts to ensure IEP teams understand the federal requirements, are aware of State efforts, have the proper training and tools, and are empowered to make appropriate assessment selections based on an individual student basis.
3. The department is working with ISDs to build awareness in districts, IEP teams, and parents that 1.0 percent cap activities are not about getting below 1.0 percent. 1.0 percent cap activities are intended to increase the utilization of available decision-making tools, by IEP teams, in order to increase the selection of appropriate assessment tools, on an individual student basis, to measure academic competencies.
4. The State of Michigan is cognizant of the many students for whom an alternate assessment is necessary and will continue to provide a valid and reliable assessment to meet their needs. 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 guidelines for participation.
5. MDE appreciates the need for local districts to have access to the data necessary to provide justification to the state. Catamaran has been enhanced in effort to continue to make the process easier and data readily available for districts. Local districts have the ability to request access to Catamaran for any designated staff members within the district.
6. MDE plans to address instruction and the use of alternate content expectations.
7. While MDE publicly posts the justification forms on its website, there are no requirements for local or intermediate school districts to post.

ESSA stipulates several requirements for this waiver. 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 at least 90 days before the testing window starts for the relevant subject.**

The testing window for all state summative assessments in Michigan begins April 10, 2023. Specifically, the seven-week testing window for MI-Access (the state summative AA-AAAS) is from April 10, 2022, through May 26, 2023. This 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.**

For the 2020-2021 school year, the state required all districts to submit a projection of students designated to take the alternate assessment, as assessments were not completed in Spring 2020, and overall participation rates in 2021 were notably lower than normal (95% or more vs. 72%). A compilation of the data resulted in a statewide aggregate projection rate for what percent of students taking the alternate assessment would have been, had overall participation levels in state summative assessments reached normal levels (e.g., greater than or equal to 95% vs. the 72% actually observed during the pandemic). Based on these projected rates, the state aggregate alternate assessment rate was 1.9 percent in 2021. Additionally, the overall number of students taking alternate assessments in Michigan has also come down from roughly 15,661 in 2019 (pre-pandemic), to 12,803 in 2022, which is a significant reduction of 2,858 students. As shown in Table 1 below, the actual rate of alternate assessment for Spring 2022 was 1.8%, and the downward trend remains consistent with the 0.1 percent annual reduction in alternate assessment use observed in Michigan in past years. MDE remains optimistic this trend will continue into future years.

Table 1: 2021 – 2022 Participation in Alternate Assessment, MI-Access, by Content Area and Demographic Sub-Group

<b>Demographic Sub-group</b>	<b>Number of Students Tested Using an Alternate Assessment</b>	<b>Total Number of Students Tested</b>	<b>Percent of Students Tested Using an Alternate Assessment</b>
<b>English Language Arts (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>12,802</b>	<b>698,846</b>	<b>1.8%</b>
Male	8,508	357,520	2.4%
Female	4,294	341,326	1.3%
English Learner	766	47,753	1.6%
Economically Disadvantaged	8,855	380,474	2.3%
Native American	88	3,980	2.2%
Asian	321	25,337	1.3%
African American	3,441	122,231	2.8%
Hispanic	1,054	60,859	1.7%
Pacific Islander	14	576	2.4%
White	7,324	451,900	1.6%
Multi-Racial	560	33,963	1.6%
<b>Mathematics (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>12,590</b>	<b>699,335</b>	<b>1.8%</b>
Male	8,355	357,767	2.3%
Female	4,235	341,568	1.2%
English Learner	755	48,734	1.5%
Economically Disadvantaged	8,677	380,478	2.2%
Native American	87	3,984	2.2%
Asian	319	25,621	1.2%
African American	3,386	120,075	2.8%
Hispanic	1,034	61,089	1.7%
Pacific Islander	13	575	2.3%
White	7,204	452,070	1.6%
Multi-Racial	547	33,921	1.6%
<b>Science (Grades 5, 7, 8 and 11)</b>			
<b>All Students</b>	<b>5,421</b>	<b>299,899</b>	<b>1.8%</b>
Male	3,570	153,071	2.3%
Female	1,851	146,828	1.3%
English Learner	755	48,734	1.5%
Economically Disadvantaged	3,678	154,588	2.4%
Native American	32	1,744	1.8%
Asian	122	11,014	1.1%
African American	1,392	49,870	2.8%
Hispanic	444	26,122	1.7%
Pacific Islander	7	228	3.1%

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	3,197	197,345	1.6%
Multi-Racial	227	13,576	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). Nevertheless, 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 each subject in the Spring of 2022. (see Table 2 below).

*Table 2: 2021 – 2022 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
<b>English Language Arts (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>698,846</b>	<b>711,718*</b>	<b>98.2%</b>
Students with Disabilities	93,164	96,452	96.6%
<b>Mathematics (Grades 3-8 and 11)</b>			
<b>All Students</b>	<b>699,335</b>	<b>711,718*</b>	<b>98.3%</b>
Students with Disabilities	92,927	96,452	96.3%
<b>Science (Grades 5, 8 and 11)</b>			
<b>All Students</b>	<b>299,899</b>	<b>305,325*</b>	<b>98.2%</b>
Students with Disabilities	37,987	40,011	94.9%

\*Note: Number of students expected is based on public enrollment counts in tested grades during the Spring 2022 student counts and data collection window. ED Facts tables with enrollments based on test registration time and other accountability criteria were not yet available in time for this waiver. These two count windows generally provide very similar counts and participation rates.

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

For the 2022–2023 school year, MDE is continuing to use justification forms as the mechanism to collect individual LEA and ISD anticipated participation rate data. Justification forms are also the mechanism for LEAs and ISDs to provide justifications for exceeding the 1.0 percent cap and plans for continuous improvement in preparing IEP teams to determine appropriate assessment selection for students with disabilities by following the state’s participation guidelines. MDE will also continue to

develop and provide technical assistance through, guidance, trainings, and other resources, specific to alternate assessment selection. Many LEAs have provided training to staff and parents regarding the state guidelines for participation in the alternate assessment. In their comments about training, a majority of LEAs cited resources provided by MDE as being used at the local level, including the assessment selection flowchart, the online assessment selection guidelines training module, and the assessment selection IEP team interactive decision-making tool.

**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 2022) 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 not identify any sub-group of students who were tested using alternate assessments at a significantly disproportionate rate (i.e., with a relative risk of 2.5 or more) statewide. The sub-

group of students with the highest relative risk ratio (economically disadvantaged students), had a relative risk of 1.9 in both English Language Arts 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, suggesting true, equitable improvement over time, and not merely an artifact in 2021 due to decreased overall participation rates from districts with more low-income students.

DRAFT

Table 3: Disproportionate Alternate Assessment Participation by Demography (SY 2021-2022) 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	2.3% vs. 1.2%	1.92
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%	1.20
Asian	1.3% vs. 1.9%	0.70
African American	2.8% vs. 1.6%	1.72
Hispanic	1.7% vs. 1.8%	0.92
Pacific Islander	2.4% vs. 1.8%	1.31
White	1.6% vs. 2.2%	0.72
Two or More Races	1.6% vs. 1.8%	0.87

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

Table 4: Disproportionate Alternate Assessment Participation by Demography (SY 2021-2022) for Math

Simple Groups	Group Rate Comparison (In-group vs. not)	Risk Ratio
Gender (Male vs Female)	2.3% vs. 1.2%	1.92
Economic Disadvantage	2.3% vs. 1.2%	1.92
English Language Learner	1.5% vs. 1.8%	0.83
Multi-Groups: Race/Ethnicity	Group Rate Comparison (In-group vs. not)	Risk Ratio
Native American	2.2% vs. 1.8%	1.22
Asian	1.2% vs. 1.8%	0.66
African American	2.8% vs. 1.6%	1.76
Hispanic	1.7% vs. 1.8%	0.94
Pacific Islander	2.3% vs. 1.8%	1.28
White	1.6% vs. 2.2%	0.73
Two or More Races	1.6% vs. 1.8%	0.88

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

Table 5: Disproportionate Alternate Assessment Participation by Demography (SY 2021-2022) for Science

Simple Groups	Group Rate Comparison (In-group vs. not)	Risk Ratio
Gender (Male vs Female)	2.3% vs. 1.3%	1.77
Economic Disadvantage	2.4% vs. 1.2%	2.00*
English Language Learner	1.5% vs. 1.8%	0.83
Multi-Groups: Race/Ethnicity	Group Rate Comparison (In-group vs not)	Risk Ratio
Native American	1.8% vs. 1.8%	1.00
Asian	1.1% vs. 1.8%	0.60
African American	2.8% vs. 1.6%	1.74
Hispanic	1.7% vs. 1.8%	0.94
Pacific Islander	3.1% vs. 1.8%	1.72
White	1.6% vs. 2.2%	0.74
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  $\geq 2.5$  are considered disproportionately high representation among students taking the alternate assessment.

Additionally, for each LEA, Michigan examined the Spring 2022 data as well as 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. These findings have been shared with ISDs and districts as part of their targeted guidance, and 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 school years.**

Each ISD has implemented monitoring procedures and evaluation methods developed by the department to ensure the standards and criteria related to assessment selection are being achieved by the ISD, their 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 2018-2019 and will continue in 2022-2023 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 5 or fewer students taking alternate assessments set them over 1.0 percent, or for districts with alternate assessment rates between 1.1 and 1.5 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 they receive.
- Districts with either alternate assessment rates between 1.6 percent to 2.9 percent or between 1.1 and 1.5 percent overall—but who also 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 1.8% last year to 1.6% for Spring 2023. These districts will be asked to review with their ISD the IEPs of students who have disability types, general educational placements, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability.
  - For these districts, the flagged student cases will require a review and confirmation of appropriate diagnostic criteria being used to determine that the student also has the most significant cognitive impairment to meet requirements for alternate assessments.
  - 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 their ISD.
- Districts with either alternate assessment rates of 3.0 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 1.5 percent, will receive Tier 3 support. These districts will be asked to review and submit directly to MDE for verification, the IEPs of students who have disability types, general educational placements, or alternate assessment performance statuses that may not be compatible with a designation as a student with the most significant disability.
  - For these districts, the flagged student cases will require a review and confirmation of appropriate diagnostic criteria being used to determine that the student also has the most significant cognitive impairment.
  - 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 from MDE.
- For these targeted Tier II and III districts, the flagged student cases will require verification, from either the ISD (Tier II districts) or MDE (Tier III districts), of the appropriateness of alternate achievement standards for these

students, before justification forms will be approved.

Additionally, Michigan will continue to provide technical assistance needed for IEP teams to make decisions about the appropriate assessment for each and 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 standards. For instance, Michigan will be adding warnings into the test registration process this year for cases where the students past performance, educational placement, 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.
  - 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 developing standards-based IEPs based on alternate content expectations).
- Tier II, targeted guidance to ISDs for LEAs whose alternate participation rates were 1.8 percent or higher percent 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 that 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 their 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.
- Tier III, for LEAs whose alternate participation rates were in the top 3.0 percent of districts or whose participation rate were 1.8 or higher and whose 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 their 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 2019-2020 school year. This 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. It was also included in the public comment request completed for this waiver application. 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 adaptive behavior.

Adaptive behaviors 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.

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

Significant cognitive disabilities impact students both in and out of the classroom and across multiple life domains, including academic domains.

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. In each of these instances, 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 played a significant role in facilitating appropriate assessment selection and reducing of the number of students taking the alternate assessment to 1.8 percent. Furthermore, when district's justification form indicated that 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 that was established in 2019-2020 for the 2022-2023 school year.

MDE will continue to post the ISD justification summaries submitted for the 2021-2022 school 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 1.8 percent to 1.6 percent to reflect current participation rates.

For the 2022–2023 school 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 that 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. And Michigan plans to provide ISDs and LEAs with data on flagged student cases from Spring 2022, where the student's disability type, high level of integration in the general education setting, 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.**

There were no sub-groups in which the risk ratio would indicate a concern with disproportionality at the state level regarding participation in the alternate assessment. However, 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 all of their affected LEAs on the disproportionality list. In addition, any LEA assessing 1.5 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 their 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 has made substantial progress toward meeting the 1.0 percent cap requirement under each year 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. Furthermore, these reductions are greatest in earlier grades, suggesting sustained changes in practices that are likely to carry through as students matriculate to later grades. 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 these students who have transitioned from alternate achievement standards to general grade level standards, their 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 their real-terms 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. In addition to meeting all components of the plan detailed in Requirement 4A, MDE has expanded the plans for improvement by:

- Lowering the criteria in the three-tier system of support as outlined in Requirement 4A;
- Monitoring and enforcing compliance on only assigning alternate achievement standards 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, disability type, or educational placement seem incongruous to alternate standards.
- Enhancing the MDE 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 will result in continued reduction 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:

[MDE communication regarding public comment November 4, 2021](#)

[Spotlight article regarding public comment December 2, 2021](#)