

# **STATE OF VERMONT 1% THRESHOLD WAIVER REQUEST**

**November 27, 2019**

Submitted by the Vermont Agency of Education



## Table of Contents

Introduction .....	3
Requirement 1 (200.6(c)(4)(i) Submit test 90 days prior to start of assessment window .....	4
Requirement 2 (200.6(c)(4)(ii) Provide state-level data .....	4
(A) Data on participation in VTAA in subject area by subgroup .....	4
(B) Data showing 95% participation overall and for students with disabilities subgroup .....	7
Requirement 3 (200.6(c)(4)(iii): Assurances .....	8
Requirement 4 (200.6 (c)(4)(iv)) Submit a plan and timeline .....	9
Rationale:.....	10
Plan.....	10
Timeline .....	12
Public Comment.....	13
Appendices .....	14

## Introduction

Title 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 ([ESSA](#)) [[ESEA §111\(b\)\(2\)\(D\)](#) and [34 CFR 200.6 \(c\) and \(d\)](#)], modifies the provision that students with the most significant cognitive disabilities may participate in alternate assessments based on alternate academic achievement standards. ESSA places a 1% threshold statewide on the number of students who may participate in alternate assessments. States that anticipate exceeding the 1.0% threshold must submit a waiver request, for more than one year, to the U.S. Department of Education.

The Vermont Agency of Education's alternate assessment (VTAA) is based on the Common Core State Standards (CCSS) for English language arts and mathematics, and the Next Generation Science Standards (NGSS) for science. Vermont Agency of Education, the State Education Agency (SEA), adopted the CCCS in 2010 and the NGSS in 2013. Soon after adoption, Vermont joined the Smarter Balanced Assessment Consortium (SBAC) for the general education assessment in English language arts (ELA) and mathematics (MA). Vermont administered the first operational Smarter Balanced Assessment in the spring of 2015. During that same time, Vermont also joined the Dynamic Learning Maps (DLM), and administered the first operational DLM assessment in 2015. DLM is aligned to the CCCS in ELA and MA. At that time, NGSS was not represented in DLM's assessment, so Vermont kept the legacy Vermont Alternate Assessment Portfolio (VTAAP) for science. In 2017, Vermont was unable to remain with DLM, and in 2018 administered an alternate portfolio assessment as a place holder for reporting while the new Vermont Alternate Assessment (VTAA) was being developed. In 2019, Vermont administered for the first time, as an operational field test, the newly developed VTAA, which assesses ELA and MA in grades 3-9, and science in grades 5, 8 and 11.

As a consequence of administering multiple versions of an alternate assessment for 2017 (DLM), 2018 (Alternate Portfolio), and 2019 (VTAA operational field test), Vermont's alternate assessment numbers have been unstable. Although the SEA exceeded the 1% threshold in 2018, the SEA did not proceed with a waiver due to the instability of the numbers. In 2018, the alternate assessment was a portfolio functioning as a placeholder while the VTAA was being developed and the Science assessment was an operational field test with a participation rate below 95%.

In 2019, Vermont administered the VTAA as an operational field test. Although Vermont was unable to get total student participation due to missing information in the annual census, the SEA was able to calculate the percentage of students who took the VTAA against the total number of students who took the Smarter Balanced Assessment and the Vermont Science Assessment (VTSA) for the purpose of determining the 1% threshold.

Because the SEA, exceeded the 1% state threshold in 2019 (See table 4), and it is uncertain that the numbers will decrease in 2020, the SEA is seeking a waiver for the 2020 school year.

## Requirement 1 (200.6(c)(4)(i) Submit test 90 days prior to start of assessment window

The SEA's assessment window for all academic assessments, including the VTAA, is open from March 17, 2020 to June 12<sup>th</sup>, 2020. Ninety days prior to the start of the SEA's testing window, December 18, 2019, the SEA will submit a waiver request to the United States Department of Education in ELA, MA and science. It should be noted that at this time census information for the 2019 school year has not been received from every LEA. For that reason, the SEA has decided to move forward with the waiver request; however, certain data fields may not be present in the first submission. The SEA will submit an addendum with the missing information as soon as the data are available. Areas that necessitate accurate census data have been noted with 'to be determined' (\*), and areas where the numbers need to be suppressed due to small N-size are noted with (++) to keep it consistent with traditional state reporting notations. Information with \* will be submitted as soon as this information becomes available; however, information being suppressed (++) will not be on the waiver in order to safeguard student privacy. The SEA does not report numbers less than 11.

## Requirement 2 (200.6(c)(4)(ii) Provide state-level data

### (A) Data on participation in VTAA in subject area by subgroup

The SEA reviewed and analyzed alternate assessment participation rate data for ELA, MA and science for the 2018-19 Academic year.

Table 1, Table 2 and Table 3 illustrate SEA's state-level data for the number and percentage of students in each subgroup who participated in the alternate assessment in ELA, MA and Science for the 2018-19 academic year.

**Table 1: Participation Rates for ELA in 2018-19**

*Areas that necessitate accurate census data have been noted with (\*), and areas where the numbers need to be suppressed due to small N-size are noted with (++)*.

Student Sub-Group	# of Students participating in General Assessment	# of Students Participating in VTAA	Total # of Students assessed	Percentage Participating in VTAA
All Students	41,558	445	42,003	1.06%
American Indian or Alaska Native	*	*	*	*
Asian	*	*	*	*
Native Hawaiian or Other Pacific Islander	*	*	*	*

<b>Student Sub-Group</b>	<b># of Students participating in General Assessment</b>	<b># of Students Participating in VTAA</b>	<b>Total # of Students assessed</b>	<b>Percentage Participating in VTAA</b>
All Students	41,558	445	42,003	1.06%
American Indian or Alaska Native	*	*	*	*
Black or African American	*	*	*	*
Hispanic or Latino	*	*	*	*
White	*	*	*	*
Two or More Races	*	*	*	*
Limited English Proficient (LEP)	++	++	++	0.88%
Economically Disadvantaged students	*	*	*	*
Male	*	*	*	*
Female	*	*	*	*

**Table 2: Participation Rates for MA in 2018-19**

*Areas that necessitate accurate census data have been noted with (\*), and areas where the numbers need to be suppressed due to small N-size are noted with (++)*.

<b>Student Sub-Group</b>	<b># of Students participating in General Assessment</b>	<b># of Students Participating in VTAA</b>	<b>Total # of Students assessed</b>	<b>Percentage Participating in VTAA</b>
All Students	41,616	451	42,067	1.07%
American Indian or Alaska Native	*	*	*	*
Asian	*	*	*	*
Native Hawaiian or Other Pacific Islander	*	*	*	*

<b>Student Sub-Group</b>	<b># of Students participating in General Assessment</b>	<b># of Students Participating in VTAA</b>	<b>Total # of Students assessed</b>	<b>Percentage Participating in VTAA</b>
Black or African American	*	*	*	*
Hispanic or Latino	*	*	*	*
White	*	*	*	*
Two or More Races	*	*	*	*
Limited English Proficient (LEP)	++	++	++	0.82%
Economically Disadvantaged students	*	*	*	*
Male	*	*	*	*
Female	*	*	*	*

**Table 3: Participation Rates for science in 2018-19**

*Areas that necessitate accurate census data have been noted with (\*), and areas where the numbers need to be suppressed due to small N-size are noted with (++)*.

<b>Student Sub-Group</b>	<b># of Students participating in General Assessment</b>	<b># of Students Participating in VTAA</b>	<b>Total # of Students assessed</b>	<b>Percentage Participating in VTAA</b>
All Students	17,428	189	17,617	1.07%
American Indian or Alaska Native	*	*	*	*
Asian	*	*	*	*
Native Hawaiian or Other Pacific Islander	*	*	*	*
Black or African American	*	*	*	*
Hispanic or Latino	*	*	*	*

<b>Student Sub-Group</b>	<b># of Students participating in General Assessment</b>	<b># of Students Participating in VTAA</b>	<b>Total # of Students assessed</b>	<b>Percentage Participating in VTAA</b>
White	*	*	*	*
Two or More Races	*	*	*	*
Limited English Proficient (LEP)	++	++	++	0.97%
Economically Disadvantaged students	*	*	*	*
Male	*	*	*	*
Female	*	*	*	*

Some cells in the tables contain material that has been redacted to protect student privacy. Data are redacted in cells that represent fewer than 11 students. In addition, cells must be redacted where any total is available, in order to prevent any cell required for redaction to be derived.

**(B) Data showing 95% participation overall and for students with disabilities subgroup**

The SEA is unable to calculate the participation requirement for all students and for students with disabilities in MA and ELA in 2018-19 academic year due to missing census data. For the purposes of this waiver, the SEA has determined the percentage based on students who took the assessment. It should be noted that total student population has not been determined when looking at Table 4.

**Table 4: Participation Rate of All Students and Students with Disabilities**

*Areas that necessitate accurate census data have been noted with (\*), and areas where the numbers need to be suppressed due to small N-size are noted with (++)*.

<b>Content Area</b>	<b>Students Tested</b>	<b>Students required to test</b>	<b>Percent Assessed</b>	<b>Student with disabilities tested</b>	<b>Students with disabilities required to test</b>	<b>Percentage of Student with Disabilities assessed</b>
English Language Arts	41,558	*	*	445	*	*
Math	41,616	*	*	451	*	*

Content Area	Students Tested	Students required to test	Percent Assessed	Student with disabilities tested	Students with disabilities required to test	Percentage of Student with Disabilities assessed
Science	17,428	*	*	189	*	*

**Requirement 3 (200.6.(c)(4)(iii): Assurances**

As of December 1, 2019, the census data for all LEAs in the state had not been submitted. The SEA is working on collecting these data from the few remaining LEAs and plans on submitting an addendum to the 2020 waiver once the full student census has been collected. As a result, information on the 95% participation rates and disproportionality cannot be determined. (Table 4)

The SEA has developed a plan to ensure that moving forward, each LEA will be accountable for monitoring its eligibility process and account for any disproportionate representation in socio-economic status, race and English learner status of those students taking the VTAA.

The SEA will put forth the following assurances that each LEA will follow the SEA eligibility criteria in identifying students who are eligible to take the VTAA.

For the year 2020-21 school year, the SEA will provide a VTAA Justification Form that each LEA will submit indicating the following:

1. The student has an active individual education program (IEP)
2. All IEP Teams followed the SEA’s [Alternate Assessment Student Eligibility Criteria](#), which includes the SEA’s definition of a significant cognitive disability, excluded considerations not allowed in determinations and completed the criterion checklist.
3. Student’s program includes extensions from grade-level standards in ELA, MA and science,
4. Student requires extensive direct individualized instruction and supports to make measurable gains in grade and age appropriate curriculum.
5. The IEP team, which includes parent input, have identified a need for an alternate assessment.
6. The students participating in the VTAA have been instructed in the VTAA Alternate Academic Achievement Standards derived from the CCCS and the NGSS.
7. Parents of students who will be taking the VTAA have been informed participants in the decision-making process and that any consequences of taking the state alternate assessment have been disclosed. Additionally, any parent whose primary language is not English will have this information provided to the parent in the family’s primary language.
8. The LEA will address any areas of disproportionality in race, ethnicity, English learner and socio-economic status. If applicable, the LEA will address this in the VTAA Justification Form.

In addition to the Justification Form, all District Test Administrators will submit a [District Test Administrator’s Certification of Proper Test Administration](#) form to ensure that all special



educators have had access to, and participated in, SEA's required trainings on the VTAA selection process and the VTAA eligibility criteria.

Lastly, all Test Administrators will complete a Learner Characteristic Inventory (LCI), with fidelity, which identifies the student's attributes and contains the state's definition of a significant cognitive disability (provided in the LCI).

The SEA will assist the LEA in meeting their assurances by:

- providing trainings in the winter of 2020, that will address:
  - Alternate Assessment Criteria
  - Overview of the Alternate Assessment Academic Achievement Standards for each content area being assessed
  - General Education Assessment Accommodations
  - Selection of appropriate supports on the general education assessment
  - Cultural Nuances
  - Identification of English Learners with disabilities
  - Minority population representation
  - providing a technical assistance line, monitored by the special education division to handle technical questions

#### **(B) Addressing Disproportionality in students taking the VTAA**

For 2019, the SEA will not be addressing disproportionality in this waiver. The SEA has not to date received complete census data from all LEAs. This information will be submitted in the form of an addendum when available.

The LEA should note, that disproportionality for the purposes of state assessments and this waiver pertain to these student sub-groups:

- American Indian or Alaska Native
- Asian
- Native Hawaiian or Other Pacific Islander
- Black or African American
- Hispanic or Latino
- White
- Two or More Races
- Limited English Proficient
- Economically Disadvantaged students
- Male
- Female

#### **Requirement 4 (200.6 (c)(4)(iv)) Submit a plan and timeline**

The SEA will work to ensure appropriate participation in the VTAA with the goal of ensuring that only eligible students are participating in the VTAA and reducing the number of students participating to less than 1%.

## **Rationale:**

Using data collected from Child Count and the LCI, we are provided with a general picture of most students with significant cognitive disabilities, and a benchmark for determining whether it is possible that students are participating in the alternate assessment who do not have significant cognitive disabilities. The LCI collected information on those students participating in the alternate assessment will prove valuable in exploring the characteristics of students participating in the alternate assessment in certain LEA's, schools or even grades. LCI's have been submitted by special educators for the students that will be taking the alternate assessment on November 8, 2019. Because all of our LEAs are small in student population the SEA will address the overage by disability category and not base it on the LEA data, as this data may be inflated due to small N-sizes.

As part of our general supervision and monitoring system, the SEA examines Special Education and IEP's focusing on the following objectives:

- IEPs include appropriate interventions, accommodations, technology/devices, or other program modifications for students to have equitable access and opportunity in the regular education classroom.
- Students' needs for specific assessment accommodations to participate in classroom or statewide testing
- Statements as to why students participate in an alternate assessment
- Evidence that students with the most significant cognitive disabilities, who participate in the alternate academic achievement standards (AAAS), learn content aligned to state academic standards.

The SEA will continue to provide and implement new professional development for IEP team members and other educators on the nature of the alternate assessment and who should participate. The SEA currently provides ongoing support through technical assistance, which includes our TA hotline, assistance through email and website resources. The [Alternate Assessment webpage](#) through the Agency of Education provides resources and training materials about the Alternate Assessment as well as the Student Eligibility Criteria, as does the [Vermont Common Assessment Portal \(VTCAP\)](#). As part of the plan of ensuring that only eligible students are participating in the VTAA and reducing the number of students participating to less than 1%, the SEA will create a FAQ's document regarding eligibility and criteria for students assessing using an alternate assessment.

## **Plan**

The SEA will create a webinar for determining who should participate in the Alternate assessment, with the target audience being Special Educators, District Administrators, Special Education Coordinators and parents/guardians. The proposed webinar would focus on the eligibility and possible consequences of taking an alternate assessment, making clear the definition for Specific Learning Disability, examining the new criteria checklist, discuss possible diminishing access to Least Restrictive Environments.

The SEA will provide Professional Development Modules for Special Educators, District Administrators, Special Education Coordinators and Parents/Guardians focusing on the following objectives:

- Using the eligibility checklist and participation to make assessment participation decisions
- Differentiating instruction and providing better access to academic content
- Examining all accommodations in the General Assessment by reviewing selection, implementation and evaluation of accessibility features and accommodations for instruction and assessments.
- Reviewing the Alternate Achievement Standards
- Discussing Alternate Assessment in an IEP meeting and how to discuss effects of student participation in the alternate assessment such as student's post-secondary and career readiness.
- Addressing ELL's with disabilities and appropriate assessment

The SEA will provide information for parents and guardians of students with disabilities so that they can participate in the IEP-decision-making process about the assessment in which their child participates. Along with the [VTAA brochure](#) that was created in in 2019, that accompanies students' school reports for parents, the SEA will create an insert for IEP meetings including disclaimers and the Justification Form.

The Every Student Succeeds Act (ESSA) requires annually each LEA to submit a justification when it anticipates testing more than 1% of students using the Alternate Assessment for Students with Significant Cognitive Disabilities. The SEA will require LEAs to submit a justification form for students taking the Alternate Assessment. The Justification Form will have LEAs disclose if they will exceed the 1% threshold for the LEA and provide a rationale.

The SEA will provide in-person regional trainings on assessment with the assessment vendor. This training will include guidance on submitting District Justifications.

In year two, as part of a more intensive intervention for LEAs exceeding the 1% cap, the SEA will assist LEA's with a high number of students taking the VTAA by addressing any overage and having LEA's create an improvement plan. A notification letter would be sent to the superintendent and special education coordinator. The SEA will hold private discussion to examine the reasons for the overage with the LEA representatives to include, but not be limited to, the Special Education Director and Superintendent. The SEA would provide in-person trainings at the LEA to help decide who should participate in the VTAA while giving professional development to special educators on how to provide accommodations to the general assessment. LEA's will complete a self-review and LEAs will create an improvement plan including submitting verification of professional development addressing general education accommodations and the eligibility criteria of the VTAA. The SEA will give access to LEA's exceeding the 1% cap to a webinar for completing a self-review.

## Timeline

**Table 5: Timeline for Plan for meeting 1% State-Level cap**

<b>Proposed Date(s)</b>	<b>Proposed Title</b>	<b>Proposed Description</b>	<b>Format</b>
January 2020	Participating in VTAA	Determining who should participate in the VTAA. Breaking down eligibility and possible consequences. clarify SLD definition, Criteria checklist, Diminishing access to LRE's, potential graduation implications.	Webinar
January/February 2020	VTAA Professional Development Modules	Eligibility Checklist, Justification Form, all accommodations in General Assessment Overview of AAAS Standards, addressing in IEP meetings, addressing ELL's with disabilities and appropriate assessment	Face to Face/ Online
February 2020	FAQ's on Alternate Assessment	FAQ's document regarding eligibility and criteria for students assessing using an alternate assessment	PDF/ Online
Fall 2020	VTAA resource for IEP Meetings	Including disclaimers and Justification Form	PDF / Online
Fall 2020	Justification Form	LEA's to submit a Justification Form for students taking the VTAA	PDF / Fillable / Online
Fall 2020	VTAA & Vendor Training	Assessment/Vendor Regional Training with video for submitting district Justification Forms	In-Person / Video Recording

## Public Comment

The SEA provided direct information to stake holders via the agency's [Weekly Field Memo](#), Monthly updates email to Special Education Directors of the State, a Memorandum from the Special Education Director and to the listserv to Alternate Assessment Test Administrators.

To ensure public access, a copy of the Vermont 1% Cap Waiver Request and guidelines for providing comment were posted on the SEA website. The SEA allowed two weeks for public comment, beginning on November 27, 2019 closing 5 p.m. on December 13, 2019.

## Appendices

### Appendix A

1. [State of Vermont, Agency of Education, Alternate Assessments web page](#)
2. [Comprehensive Assessment Program Portal](#)
3. [Alternate Assessment Resources - Comprehensive Assessment Program Portal](#)
4. [Tools and Documents for School Leaders – Comprehensive Assessment Program Portal](#)



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## Vermont's Alternate Assessment Criteria Checklist

### Definition

Students who exhibit a significant cognitive disability are those whose records indicate a disability, or multiple disabilities, that require intensive or extensive levels of direct support that is not of a temporary or transient nature. These students require specially designed instruction that are aligned with the grade appropriate Common Core State Standards and the Next Generation Science Standards, or extensions of those standards, to acquire, maintain, or generalize skills in multiple settings including the home, school, workplace, and community. The student's disability must significantly impact intellectual functioning and adaptive behavior. Adaptive behavior is defined as actions essential for an individual to live independently and to function safely in daily life. Having a significant cognitive disability is not determined by an IQ test score, but rather a holistic understanding of a student.

### **The following are NOT allowable (or acceptable) considerations for determining participation in an alternate assessment:**

1. a disability category label;
2. poor attendance or extended absences;
3. native language, social, cultural, or economic differences;
4. expected poor performance on the general education assessment;
5. academic and other services student receives;
6. educational environment or instructional setting;
7. percent of time receiving special education;
8. English learner (EL) status;
9. low reading level or achievement level;
10. anticipated disruptive behavior by the student;
11. impact of student's scores on accountability system;
12. administrator decision;
13. anticipated emotional duress; or
14. need for accommodations (e.g., assistive technology) to participate in assessment.

<b>Participation Criterion</b>	<b>Participation Criterion Description</b>	<b>Agree (yes) or Disagree (no)? Provide Documentation for each</b>
1. Student has an active IEP	Student is currently receiving services under an active IEP.	Yes/No
2. The student program includes extensions from grade-level academic standards in ELA, Mathematics, Science, and English Proficiency (if applicable)	a. Goals and instruction listed in the IEP for this student include the enrolled grade-level content standards or extensions derived from the Common Core State Standards (CCSS) for English and Math and the Next Generation Science Standards (NGSS) for science.	Yes/No
	b. The student’s parents or guardians have been notified that the student will be assessed against extended academic achievement standards.  <i>*Alternate English Language Proficiency standards are under development. Teachers should reference Alternate Model Performance Indicators in the IEP.</i>	Yes/No
3. The student requires extensive direct individualized instruction and substantial supports to achieve measureable gains in the grade-and-age-appropriate curriculum.	The student a. Requires extensive, repeated, individualized instruction and support that is not of a temporary or transient nature and	Yes / No
	b. uses substantially adapted materials and individualized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate, and transfer skills across multiple settings	Yes / No
4. The student meets the criteria for participation in the alternate assessment	The IEP team has identified the need for an alternate assessment.	Yes/No



**APPENDIX C****District Test Administrator's Certification of Proper Test Administration**

District: \_\_\_\_\_ School \_\_\_\_\_

District Admin: \_\_\_\_\_ School Year \_\_\_\_\_

**This certification is submitted for:** Smarter Balanced     NGSS Science     VT Alt     Access for ELL

I certify that the assessment(s) were administered in accordance with the principles and procedures outlined in the Test Coordinators and Test Administrators Manuals. Specifically, by checking below, I certify that each of the following key components of test administration has been addressed as indicated in the manuals:

- All test administrators have been provided with copies of test administration manuals and test accommodation manuals, and required to review both prior to administering the assessment;
- All test administrators have been fully trained in proper test administration procedures and have been provided access to training modules as appropriate;
- All test administrators and other school staff who have access to test materials have been fully trained in test security measures and procedures. Test security has been maintained throughout the testing window, including keeping all tests under lock and key when not in use by students;
- Students have not been provided access to secure testing materials prior to assessment, nor have secure materials been used in any form or fashion to prepare the students for testing;
- All test administrators have been observed by the principal or his/her designee during testing to ensure that key elements of test administration and test security have been applied during the test sessions. Specifically, students have not been prompted or provided assistance beyond that which is permitted as part of standard test administration procedures;
- All staff involved with test administration have been informed and understand that violations of these principles may result in invalidation of test results, or in the case of overt cheating, possible revocation of the individual's license to teach in Vermont.

Signature \_\_\_\_\_ Date \_\_\_\_\_