



Technical Assistance Bulletin

Division of Early Intervention and Special Education Services | Bulletin # 19-07

Birth – Age 4 Birth – K Age 3 – K Birth – 21 Age 3 – 21

Date: November 2019, Revised December 2022

Improving Outcomes for Students with Significant Cognitive Disabilities: Eligibility, Instruction, and Assessment

Purpose

The purpose of this technical assistance bulletin is to support Individualized Education Program (IEP) teams and school leaders in determining eligibility for, and implementation of, the Alternate Education Framework. The Alternate Education Framework includes curriculum, instruction, and assessments for students with the most significant cognitive disabilities¹. IEP teams may determine that a small number of students with the most significant cognitive disabilities cannot master the content standards that apply to all students and, therefore, should be instructed and assessed using alternate academic achievement standards (AAAS) that are aligned with the general education standards.

The Maryland State Department of Education (MSDE), Division of Early Intervention and Special Education Services (DEI/SES) is committed to ensuring that **ALL** students, including students with the most significant cognitive disabilities, are held to rigorous academic standards in order to exit school prepared for college, career, and a productive and meaningful life in the community.

Legal Framework

The Individuals with Disabilities Education Act (IDEA) explains that the purpose of special education is to allow students with disabilities to access and progress in the general curriculum in order to master the standards that apply to all students. At the same time, the federal government recognizes that a small number of students, due to the nature and severity of their cognitive disabilities, cannot effectively master the general standards. Therefore, the *Every Student Succeeds Act* (ESSA) allows States to assess the progress of up to 1% of their students using an assessment based on alternate academic achievement standards that are aligned to the grade level standards but reflect reduced breadth, depth, and complexity. Accordingly, these students are instructed using modified materials and learning activities that provide the intensity and repetition they require to master the grade level content.

It is critical to note that instruction and assessment aligned to AAAS does not mean that these students will

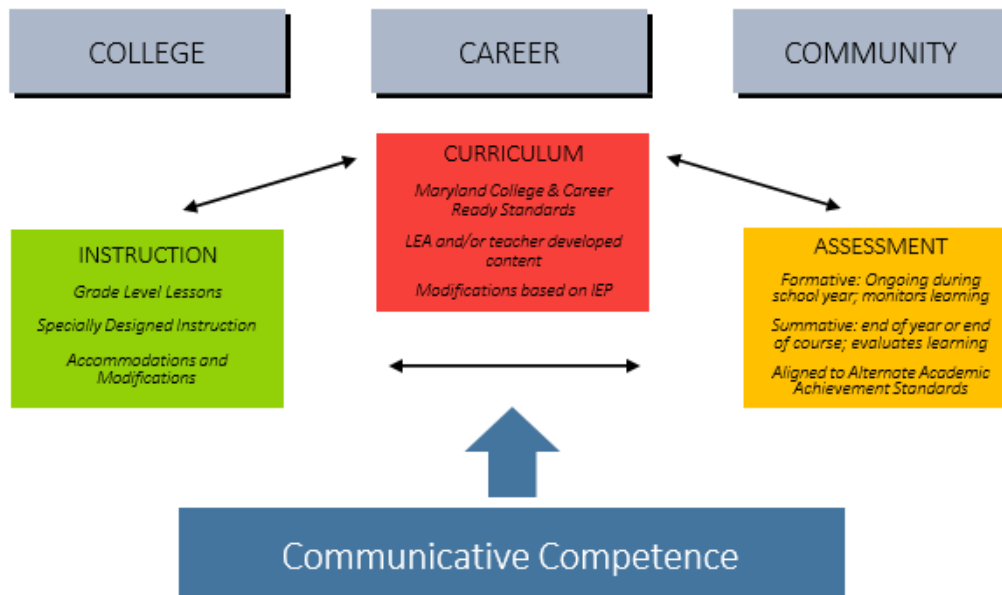
¹ *Significant Cognitive Disability: intellectual functioning that is significantly below average and exists concurrently with impairments or deficits in adaptive functioning.*

receive instruction using a “different” or “alternative curriculum.” All students, including those with significant cognitive disabilities, receive instruction based on the Maryland College and Career Ready Standards (MCCRS), aligned to their respective grades. The IDEA requires that specially designed instruction allows students to access and progress in the general education curriculum. Consistent with this guiding principle, the United States Department of Education, Office of Special Education and Rehabilitative Services (OSERS) issued significant guidance in the form of a [“Dear Colleague” letter](#), which clarifies that all students' IEP goals must be aligned with the State’s academic content standards for the grade in which the student is enrolled. 34 CFR §300.160(c).

Participation in instruction and/or assessment aligned to the alternate education framework also does not require placement in a particular educational setting, program, or school. The nature, amount, and location of special education and related services are determined by the IEP based on the student’s individual needs and the legal principle of Least Restrictive Environment.

The determination that a student has a significant cognitive disability and is eligible to participate in instruction and assessment aligned with the alternate academic achievement standards is made annually by the IEP team based on the review of multiple sources of data reflecting the student’s cognitive, adaptive, and educational functioning and response to instruction. The process for determining eligibility is described below; additional resources for team determination can be found in *Guidance for IEP Teams Working with Students with Significant Cognitive Disabilities: Assessment, Instruction and Placement*. In addition, Maryland law requires that parents consent to their student’s participation in instruction and/or assessment aligned to the alternate academic achievement standards and that will ultimately lead to the student receiving a Certificate of Program Completion rather than a Maryland High School Diploma, although the student is not precluded from attempting to complete the requirements to earn a Maryland High School Diploma. [Md. Code Ann., Educ. §8-405(f)]. (See TAB 17-02 *Parental Consent Under Maryland Law* for more information).

THE ALTERNATE EDUCATION FRAMEWORK



Adapted from the *National Center and State Collaborative Instructional Framework*

The **ALTERNATE EDUCATION FRAMEWORK** is aligned to grade-level content standards and reflects a reduced breadth, depth and level of complexity, including focusing on introductory or pre-requisite skills, as appropriate. The framework provides guidance in developing and implementing an educational program that addresses individual academic and functional needs while allowing the student to access the essential elements of the Maryland College and Career Ready Standards.

The graphic above illustrates the interdependence and alignment of curriculum, instruction, and assessment for students with the most significant cognitive disabilities who participate in instruction aligned to AAAS and/or alternate assessments. Curriculum informs instruction, instruction drives assessment, and assessments inform teams of student progress toward grade-level standards and age expectations, which enables them to make instructional adjustments. The IEP provides the blueprint for the specially designed instruction that meets the student’s individual needs and allows him or her to make appropriate, accelerated progress. The implementation of the IEP in a rigorous instructional environment is necessary in order for students with disabilities to access the standards and show their proficiency.

At the base of the Framework is Communicative Competence, a set of behaviors that students must develop to communicate what they know and to have their needs met. Communication takes many forms and is not limited to verbal speech; many students with complex communication needs rely on alternative and augmentative forms of communication, including low-tech communication displays, eye-gaze, sign language, gestures, and/or speech-generating devices. Communication is a basic human need and is essential for student access, progress, and meaningful engagement in the school environment and in the community. The development of communication allows for participation in teaching and learning and also facilitates meaningful community engagement. If a student does not have a consistent, understandable, and reliable form of communication, it is essential that school staff work with the student and family to develop a communication system for the student to use daily across all environments. Specially designed instruction to develop effective communication is a critical component of the IEP for all students.

Three post-secondary outcomes- College, Career, and Community- crown the alternate education framework as goals for all students. With improved academic and functional skills, students with significant cognitive disabilities have increased opportunities for success in college, career, and community.

ELIGIBILITY for INSTRUCTION and ASSESSMENTS ALIGNED TO ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS

DETERMINING ELIGIBILITY

Eligibility for participation in the Alternate Framework is not determined by the student’s disability category. Students with **the most significant** cognitive disabilities face the most profound and complex learning challenges and require the most intensive supports. These challenges are pervasive and affect learning across all content areas, as well as independent functioning, community living, leisure, and vocational activities; therefore, these students require instruction and assessment based on AAAS. The expectations for performance are substantially modified by restricting the scope and/or complexity of grade-level expectations. Instructional materials are substantially modified in order to provide meaningful access to the general education curriculum.

The decision for a student to participate in instruction and assessment according to the alternate framework is one of the most significant that an IEP team can make. Eligibility and participation decisions not only guide the day-to-day instruction that a student receives, but also have a significant impact on students with disabilities and their families in relation to high school graduation and meeting the requirements to earn a

Maryland High School Diploma. Students who participate in instruction aligned to AAAS and/or the alternate assessments will not meet the requirements for a high school diploma, however students who participate in AA-AAAS are not precluded from attempting to complete the requirements for a Maryland High School Diploma. COMAR 13A.03.02.09E(4). Instead, these students will be eligible for a Certificate of Program Completion. Therefore, the determination of eligibility **must** be made on an annual basis, and parents **must** be informed of, and consent to, the decision (as described in the next section). Because of the significance of this decision, IEP teams must ensure that multiple sources of valid data are thoroughly reviewed and that all participation criteria are met.

Not every student with a disability who is unlikely to be able to meet the requirements to earn a high school diploma is eligible for instruction and assessment aligned to the alternate academic achievement standards; the alternate framework is appropriate only for students with the most significant cognitive disabilities that impact them across all domains of academic and adaptive functioning[1].

IEP teams must exercise caution in making this decision for any student, but especially for very young students and for students without reliable means of communication. IEP teams must recognize there is a difference between students who may be unable to earn a diploma and students who are eligible to participate in the alternate academic achievement standards and assessment. The **final** decision to award a student with disabilities a Maryland High School Certificate of Program Completion will not be made until after the beginning of the student's last year in high school. COMAR 13A.03.02.09E(3).

DECISION-MAKING

The IEP team, which is comprised of the family, special and general education teachers, administrators, school psychologist, related service providers (when appropriate) and the student (as appropriate), determines eligibility for participation in the Alternate Education Framework based on a comprehensive review of evidence and strict adherence to *Alternate Appendix A: Participation Criteria and Checklist*. IEP teams **must** use *Appendix A: Participation Criteria and Checklist* and participation eligibility **must** be determined at least annually. The same eligibility criteria and decision making process cover instruction and assessment in all subject areas. The team must complete the Appendix A process if considering instructing a student in alignment with the alternate academic achievement standards, whether or not the student is in an assessed grade.

Appendix A guides the team through the process of reviewing information from multiple sources to determine if the student meets the eligibility criteria, including ruling out factors other than significant cognitive disability that may be impacting student performance. The team considers assessments of the student's cognitive, educational, and adaptive performance, other assessments, teacher report, classroom and intervention data, IEP progress reports, family input, and other information to answer 4 main questions:

- Is the student unable to access general education standards despite the implementation of an IEP that includes specially designed instruction and supplementary aids and services using evidence-based practices?
- Does the student have a significant cognitive disability, including intellectual functioning and adaptive behavior that impacts learning and performance across all content areas and contexts in and out of school?
- Does the student require significant modifications to the curriculum in order to access content based on grade-level curriculum standards?
- Does the student require extensive, direct, repeated, and individualized instruction to learn new skills and content?

The IEP team confirms that the decision was not based on other student characteristics (such as the disability label, language or cultural differences, extended absences, or behavioral concerns) or administrative or systemic factors (such as amount, nature or setting of special education services, logistical concerns, or perceived likelihood of proficiency on the standard assessment).

Statewide data reflects the overrepresentation of African American/Black students as participating in the alternate assessments and AAAS. Consistency of practice in completing Appendix A, accurate identification of students, distinguishing between below average academic functioning and significant global deficits, and ensuring factors such as difficulty earning credits toward a diploma or other impermissible considerations don't enter into the determination will help in addressing this issue.

Proceed with Extreme Caution Prior to Determining Eligibility for Participation in the Alternate Framework When Eligibility May be Based in Part on:

- Students with English as a second language;
- Impact from interrupted instruction during the pandemic;
- Cultural bias in assessments;
- Students with limited or no functional communication;
- Students who are failing in the general curriculum; or
- The student's diagnosis or condition.

PARENTAL CONSENT

The role of the parents and the family is an important component in the IEP process and in determining eligibility for the alternate assessments and/or instruction using alternate instructional standards. The IDEA and Maryland law requires that the student's parents/guardians are included as full members of the IEP team and are equal partners with other team members in the development of the IEP. Families bring important information about the child's history, and his or her skills and performance in a variety of settings to the IEP team table. Input from the family (and the student, as appropriate) about priority skills and desired outcomes is essential.

In addition to engaging families fully and meaningfully in the decision-making process, IEP teams in Maryland must obtain parental consent for participation in the instruction and/or assessments aligned with alternate academic achievement standards [Md. Code Ann., Educ. §8-405(f)]. The IEP team's eligibility determination is for both instruction and assessment aligned to the alternate achievement standards, but parents must consent separately to each element. Please see Technical Assistance Bulletin 17-02: [Parental Consent Under Maryland Law](#) for more information on parental consent. If the parent does not provide written consent or refusal at the IEP meeting, the IEP team must send the parent written notification of their rights no later than five (5) business days after the IEP team meeting informing them that: 1) the parent has the right to either consent to or refuse to consent to their child's participation in either or both the alternate assessments and alternate instruction; and 2) if the parent does not provide written consent at the IEP meeting or a written refusal within fifteen (15) business days of the IEP meeting, the IEP team may implement the proposed participation decision. If the parent refuses to consent, the IEP team may use the dispute resolution options listed in Education Article §8-413 (mediation or due process) to resolve the matter Md. Code Ann., Educ. §8-405(f)(3).

Student Scenario - Jonah

Jonah is an eighth grader who has received special education services since preschool. Currently, he receives instruction in ELA and Math outside of general education and participates in co-taught science and social studies classes, as well as general education electives and related arts classes. He has IEP goals for reading (phonics), reading (comprehension), math (calculation), math (problem solving), written expression, communication, and self-management.

Throughout middle school, his teachers noted concerns with his ability to master content at the pace and depth expected in his classes, leading to failing grades and increasing signs of frustration and anxiety (including putting his head down on his desk, refusing to complete assignments and activities, crying, and expressing that he “hates school”) Strategies implemented to address these concerns included: increased pre-teaching of vocabulary using visuals; introduction of a speech-to-text device for writing activities, and additional adult support in electives to implement accommodations and supplementary aids. Despite these changes to his IEP, Jonah continued to demonstrate frustration and received failing grades and very low scores on county and state assessments. He experienced the most success in Physical Education, where he was able to perform many skills by observing his peers, although he struggled with oral directions and written assignments.

At his annual review, the team considered this information about his performance, as well as a comprehensive assessment completed in 6th grade:

Cognitive:

Nonverbal - low range
Verbal - very low range
Full-scale - very low range

Educational:

Reading (decoding) - very low range, grade level - 2nd grade
Reading (comprehension) - very low range, grade level- 1st grade independent, 4th grade for text read aloud
Written Language - very low range
Math (calculation) - very low range

Adaptive:

Communication - very low range
Socialization - low range
Motor Skills - average range
Daily Living Skills - low range

The team completed Appendix A, using the information from this assessment, Jonah’s past IEPs, classroom based assessments and work samples, teacher reports, and family input. Given all this information, the IEP team agreed that Jonah meets the criteria of a student with a significant cognitive disability who is eligible for instruction and assessment aligned to Alternate Academic Achievement Standards. Jonah’s parents agreed with this determination and consented to his participation in the Alternate Education Framework

INSTRUCTION: GOALS and OBJECTIVES

In order to analyze the gaps between current skills and the expectations of the standards, the IEP team reviews the student’s present levels of academic and functional performance (PLAAFP) and Impact Statement. The IEP team also considers the student’s previous rate of growth and the specially designed instruction that will be provided to increase the rate of learning in order to determine ambitious but achievable goals. When developing IEP goals and objectives, the IEP team considers the nature and severity of the disability as it relates to the student’s ability to advance appropriately toward mastery of goals during the annual period covered by the IEP. Each goal must have objectives that support the attainment of the goal. The objectives may include specific skills-based fundamental skills that are needed to increase the student’s access to the general curriculum.

Only students who have been determined eligible and whose parents have consented to this decision may receive instruction based on alternate academic achievement standards. If a parent has not provided consent, or the student is not eligible, the student may not receive instruction based on the alternate framework.

The Dynamic Learning Maps (DLM) Essential Elements (EEs) are the alternate academic achievement standards for English language arts, mathematics and science, and are aligned with the Common Core State Standards (CCSS) and the Next Generation Science Standards (NGSS). Each EE is a specific statement of knowledge and skills linked to grade band expectations. EEs address a small number of standards, representing the breadth, but not the depth, of coverage across the entire standards framework.

IEP Goals for Students Participating in the Alternate Framework:

- Goals aligned with the academic/content standards of the grade in which the student is enrolled (required for each academic area impacted by the disability);
- Goals aligned with the academic/content standards of below grade level performance in which the student is missing critical skills; *and/or*
- Goals which address age/grade-appropriate functional skills that are impacted by the student's disability. Functional skill areas include communication, social interaction, self-care, and other non-academic areas that are needed to support the student's access to and participation in current and future environments.

Student Scenario - Jonah

As the team continued to develop Jonah's IEP, they used the Essential Elements in reading, math, and science to help prioritize skills that would increase his access to and progress in the core concepts of the grade-level curriculum. Using information about his present levels of performance and the EEs, they developed goals in Reading Comprehension, Written Expression, and Math Problem Solving aligned to critical grade level standards, with an ambitious but attainable performance level. The team developed goals in Reading Phonics and Math Calculation aligned to below grade-level standards to address critical skills that impact Jonah's ability to access the curriculum currently and in the future. They developed functional goals in areas of communication, social interaction, self-management, and self-advocacy to address his active engagement and appropriate independence. Because Jonah is 14 years old, the team also considered the results of his transition assessment and his and his family's priorities for his life after school. His desired post-school outcome of living in an apartment with friends and working with animals helped guide the prioritization of skills for his academic and functional goals.

IEP IMPLEMENTATION

The IEP team also determines the special education and related services the student will receive and the least restrictive environment (LRE) in which the student's IEP can be effectively implemented. The requirements of LRE in the Individuals with Disabilities Act (IDEA) state that, to the maximum extent appropriate, students with disabilities are educated alongside their peers without disabilities in general education settings [34 C.F.R. § 300.114(a)(2)(i), COMAR 13A.05.01.10A(1)]. The IDEA mandate specifically states that students are to be removed from general education only when the severity of their disability is such that even with modifications and supplementary aids and services, their needs cannot be met in the LRE and that the need for modifications to the curriculum is not, in and of itself, a reason to remove a student from general education [34 C.F.R. § 300.114(a)(2)(ii), COMAR 13A.05.01.10A(2)]. Inclusive education should serve as a guiding principle when determining the placement where all students' specially designed instruction and related services will be delivered, including students with the most significant cognitive disabilities.

Decisions about services and placement are separate and distinct from the decision about participation in instruction and assessments aligned with alternate academic achievement standards. The student's placement is determined by the IEP team, including the family and other persons knowledgeable about the

student, in conformity with the LRE provisions and based on the student’s IEP. An IEP team may not place a student with a disability outside of the general education setting unless it has first considered how specially designed instruction to accelerate the student’s progress can be delivered in the general education setting. There should be no pre-determined specified criteria for including or excluding any student in the general education classroom. Eligibility for the alternate framework/assessment does not necessitate placement outside of general education. The MSDE, DEI/SES supports a full continuum of educational placements; there is not one “right” environment for all students [COMAR 13A.05.01.10B].

If the IEP team determines that some or all services will be delivered outside of the general education setting, based on the individualized needs of the student, the IEP team must document why the general education setting is not appropriate for the delivery of those services and describe the extent to which the student will not participate with nondisabled peers. In addition, the IEP team must consider any potential harmful effects on the student and on the quality of services if removed from the general education setting [34 C.F.R. § 300.116(d)]. The LRE consideration relates to the settings **where** a student with a disability receives special education services and how much **time** is spent in those settings, **not what services** the student is to receive.

There are no set of services or placements aligned with participation in the alternate framework. All services and learning environments must be individually determined based on student need.

Student Scenario - Jonah

In the IEP meeting, Jonah’s case manager suggested that he spend most of his day in a special education classroom where instruction aligned to the Alternate Academic Achievement Standards is delivered to all the students, and participate in general education only for physical education and lunch. Jonah’s parents objected to this plan, stating their preference that he participate in general education for as much of the day as possible. While Jonah was currently struggling in his general education classes, the team determined that his difficulties were mainly related to the pacing, the amount of content, and the length and complexity of assignments. To be successful, make progress on key content, and achieve his goals, he requires adapted materials and assignments, explicit instruction on vocabulary and key concepts, and supports for reading, writing, and math calculation. The team determined that these needs could be met in general education for his content and elective classes, with one period a day outside the general education setting for pre-teaching, re-teaching, and an intensive intervention to address his decoding goal. Instruction and practice on his other goals are embedded in his general education classes, through the use of modified materials and specially designed instruction. His specially designed instruction within general education is delivered by the general and special education teachers and/or an instructional assistant (under the direction of a special education teacher).

ASSESSMENT

“The Maryland Comprehensive Assessment Program (MCAP) provides information to educators, families and the public on student progress towards proficiency on the Maryland state content standards. Through a strong assessment system, stakeholders gain an understanding of how schools are performing and where assistance can be directed to support student growth and achievement.” All Maryland students participate in the MCAP, including students with disabilities, who receive appropriate accommodations and supports as indicated in their IEP [34 C.F.R § 300.160(a)]. The content areas assessed through MCAP s are English language arts (ELA), mathematics, and science. Students who are found eligible for, and whose parents consent to, participation in the alternate assessments must participate in all three content areas. The overall goals of the assessments are to ensure that students achieve increasingly higher academic outcomes and leave high school ready for post-school success.

The Dynamic Learning Maps Assessments for ELA and mathematics are administered in grades 3 through 8 and once in high school (Maryland administers the assessments in grade 11). These are online assessments with a paper and pencil option (as determined by the test administrator). The assessments are stage adaptive and include multiple-choice and constructed-response items. The Dynamic Learning Maps Science assessment is adaptive, administered online in grades 5, 8, and 11, and includes multiple-choice items only. Each of the assessments has four performance levels that describe the knowledge and skills that students who perform at that level generally demonstrate.

DISPROPORTIONALITY IN PARTICIPATION AND PLACEMENT

Because of the significant impact on a student's education and current and future experiences of participating in instruction and assessment aligned with AAAS, it is critically important that LEAs implement processes to reduce the potential impact of bias on these decisions.

Across Maryland, Black/African students are identified with intellectual disability at a disproportionate rate when compared to other students. They are also overrepresented (compared to their proportion in the student population as a whole) among students participating in the Alternate Education Framework. Because students with an intellectual disability, especially those with significant cognitive disabilities, are more likely than other students to be removed from general education (with more than 80% statewide in separate classrooms or schools), this pattern of overidentification also contributes to disproportionate placement of Black/African American students in segregated settings. While the impact is most pronounced for Black/African American students, other traditionally underserved groups, including English Learners and students living in poverty, may also be at risk for over identification.

To minimize the potential inequity, LEAs and IEP teams need to develop and implement policies and procedures that reduce the impact of bias (including unconscious or implicit bias) and structural and systemic factors on IEP team decision making. These may include:

- Requiring the use of multiple cognitive assessments (including nonverbal measures, which may have less cultural bias) to determine the presence of intellectual disability
- Selecting measures of adaptive behavior that are reflective of cultural norms and expectations for a variety of students
- Conducting assessments in the student's native language

ACCOUNTABILITY

Recognizing that the alternate assessments and alternate academic achievement standards are reserved only for those students who meet specific participation criteria, the number of students who may participate in the alternate assessments must not exceed 1% of the total number of students assessed within the State in that subject. [34 C.F.R. § 200.6]. While a local education agency is not prohibited from assessing more than 1% of its assessed students in any subject using the alternate assessments, the local education agency must submit information justifying the need to exceed the 1% cap.

The DEI/SES annually monitors the number and percentage of students who participate in the alternate assessments and provides technical assistance to local education agencies, as appropriate. The DEI/SES has developed tools for local education agencies that will guide them in conducting a root cause analysis and in monitoring local practices.

As a part of its comprehensive monitoring process, the DEI/SES conducts review activities to ensure only those students with the most significant cognitive disabilities who meet all eligibility criteria participate in the alternate assessments and in instruction aligned with alternate academic achievement standards. A

random sample of students from each Local Education Agency (LEA) and Public Agency (PA) is selected for the monitoring review. The review includes monitoring for eligibility determination and for documentation of specially designed instruction within the IEP. This sample will vary based on the percentage of students who participate in the alternate assessment (as compared to the State threshold of 1.0%) and the size of the LEA (small, medium, large). The DEI/SES includes the percent participation, by content area, for each LEA in the annual SPP/APR Report Card. If an LEA has assessed more than 1% of all students in the Math, Reading, or Science Alternate Assessment, an Improvement Plan is assigned to that LEA with the goal of reducing the percentage of participation. The Improvement Plan must include an analysis of data, root causes analysis, and strategies and activities to address root causes.

SUMMARY

While accessing the general education curriculum and participating in statewide assessments is an expectation for all students, a very small number of students with the most significant cognitive disabilities who need to be instructed with, and whose performance may need to be measured against, the alternate academic achievement standards. Eligibility for participation in the alternate assessments and instruction aligned with alternate academic achievement standards must be determined annually through a collaborative IEP team decision-making process. Additionally, under Maryland law, the IEP team must obtain parental consent for their child's participation in the alternate assessment and/or instruction aligned to the alternate academic achievement standards. Decisions for participation in the alternate assessments and alternate instruction have a significant impact on meeting the graduation requirements needed to earn a Maryland High School Diploma. Ultimately, it is critical that the team maintains high expectations which allows students with the most significant cognitive disabilities to be prepared for post-secondary options.

Frequently Asked Questions

- 1) Does the IEP team determine alternate education framework eligibility only during the years in which the student is in a grade in which assessments are administered?** No. The alternate assessments are administered in grades three through eight and once in high school (in Maryland, during 11th grade), but the participation decision impacts both instruction and assessment and therefore must be made annually, including reviewing updated assessment and performance information and obtaining parent consent. The team must complete the Alternate Appendix A and must obtain parental consent annually in order for the student to participate in alternate assessments and/or in instruction aligned with alternate academic standards.

For young students, especially those below third grade, the IEP team must exercise extreme caution in making a decision for participation in the alternate education framework. Determining that a very young student will not receive the full breadth and depth of the curriculum is a very consequential decision. If there is any question about the reliability and validity of the cognitive assessments or if the student has not had adequate opportunity to receive intensive specially designed instruction to allow them to access and progress in the curriculum, the team should not determine them eligible. The decision to participate in the alternate education framework is an annual decision and can be made in the assessed grades mentioned above or in a non-assessed grade.

- 2) If a student does not pass the general State assessment, do they automatically qualify to participate in the alternate assessment?** No. Many students who do not perform well on or pass the general assessment will not qualify for participation in the alternate assessments. In order to participate in the alternate assessments, a student must meet specific eligibility criteria outlined in the [Guidance for IEP Teams: Participation Decisions for the Alternate Assessments and Instruction Using Alternate Achievement Assessment Standards](#).

When a student with a disability does not demonstrate proficiency on the general assessments, the IEP team should evaluate whether appropriate accommodations were provided and/or whether adjustments should be made to the specially designed instruction being provided to the student. Finally, the IEP team may explore other ways to meet the state assessment requirements for graduation. Not all students who are ultimately unable to fulfill graduation requirements (and who therefore exit with a Maryland Certificate of Program Completion) are students with significant cognitive disabilities.

- 3) Are all students, including students with significant cognitive disabilities, expected to meet goals based on grade-level standards within the period covered by the IEP? Is the process for goal development the same for all students?** Yes. The expectation is that the IEP team develops appropriate annual IEP goals that are aligned with grade level standards, with criteria based on the growth the student can be expected to achieve based on the student's present level of performance, previous growth, and the special education and related services that will be provided to the student. The annual IEP goals need not necessarily result in the student reaching grade level within the year covered by the IEP, but should be sufficiently ambitious to reduce the achievement gap between the student's present level and the grade level standard. For students with significant cognitive disabilities, the alternate academic achievement standards, such as the DLM essential elements, help the IEP team select priority standards on which to focus and to set appropriate performance targets.

For all students with disabilities, the IEP team also considers the impact of the disability on the student's functional performance and how that impacts access to and progress in the curriculum and school environment. For all students, functional goals in areas such as communication, social interaction, self-management, and independence are included in the IEP, along with the supports and services required for the student to achieve them, based on individual needs. Because students with significant cognitive disabilities, by definition, have significantly impacted adaptive functioning, their IEPs will usually include one or more functional goals.

- 4) If the IEP team determines that instruction and/or assessments aligned with alternate academic achievement standards are appropriate for a student, does the student have to change school placement or enter a self-contained classroom?** No. Decisions about the appropriate academic achievement standards for instruction and assessment are separate from decisions about placement. To the maximum extent appropriate, students with disabilities must be educated with their non-disabled peers and only removed for instruction in separate settings if the student is unable to make progress on the goals identified in the IEP in the general education classroom even with supplementary aids, services, and specially designed instruction. Although the curriculum may be substantially modified for students with the most significant cognitive disabilities, teachers can adapt the lesson for meaningful participation and learning in the general education classroom.
- 5) Can a student participate in the alternate assessment for certain content areas and the general assessment for other content areas?** No. A student who is determined eligible for participation in the alternate assessments and instruction using alternate academic achievement standards is a student whose disability affects all aspects of his or her life across all academic areas, independent functioning, community living, leisure, and vocational activities. If only some academic content areas are significantly impacted, the student does not meet the criteria for participation in the alternate education framework.

- 6) **If a student has previously been tested on an alternate assessment, but the current IEP team determines that the student no longer meets the criteria for the alternate assessments described in the guidance document, can the student participate in the general assessment?** Yes. The IEP must ensure that the student receives appropriate instruction on the Maryland College and Career Ready Standards (MCCRS) and participates in the required general assessment for their enrolled grade with appropriate accommodations and supports. The IEP should also consider interventions and supports to enable the student to master critical content on which they may not have received instruction while participating in the alternate education framework and explore options for credit recovery, as appropriate.
- 7) **When the IEP team is completing Appendix A, Eligibility Checklist, if the parent does not agree that the data supports one of the criteria but the rest of the IEP team feels that it does, should the team proceed with completing the Appendix A and the eligibility determination?** Yes. Even if the parent does not agree, if the data supports the decision, the team should proceed with completing Appendix A and the eligibility determination. If the team determines that the student is eligible, the parent can document their disagreement by checking the appropriate box on the Appendix A, as well as by not providing consent for their child to participate in the alternate academic achievement standards and assessment.
- 8) **If the parent does not provide consent for their child to participate in the alternate framework, what does the IEP team need to do?** There are multiple scenarios to consider. The entire team, including the parents, may agree that the student meets the eligibility criteria to participate in the alternate education framework, but the parent does not want to provide consent. Or, the parent may disagree that their child meets the criteria and does not want to provide consent. If the student meets the eligibility criteria pursuant to Appendix A, first try to understand the parent's concerns. Many parents are concerned that their child will be removed from their home school. Others will be concerned that their child will be removed from the general education classroom. Still, others will be concerned that their child will not earn a diploma. Once the team has heard the parent's concerns, they can try to address them through the IEP process, documenting the discussion and decisions in the prior written notice. If consensus cannot be reached through the IEP team process, best practice is to consult with special education leadership and reconvene after receiving guidance on how to proceed.
- 9) **What will happen if the parent does not attend the meeting or is unsure of whether they want to provide consent for their child to participate in the alternate framework?** Ensure that the parent is provided with prior written notice within 5 business days of the meeting. If the parent wants more time to make up their mind, they should be reminded that if there is no response within fifteen (15) days, the decision of the team regarding eligibility will be implemented. IEP teams must be sure to update the IEP if no response has been received by the required date. Prior to moving forward with these decisions without a parent present, the team is encouraged to pursue every means possible to ensure parent involvement. Teams may want to let parents know the topics that will be discussed at the meeting and the importance of their participation and how the parent can prepare for the meeting.

10)

11) What are the consequences if a State exceeds the 1% threshold for the alternate assessments? If a State exceeds the 1% threshold in any of the three assessed content areas (English language arts, mathematics, and science), the State is obligated to submit a plan to the United States Department of Education outlining how it plans to address the issue of being over the 1%. The State should consider addressing the following in their plan:

- a. Re-alignment of State infrastructure;
- b. Revised legislation and State guidance to districts;
- c. Developing an enhanced accountability system;
- d. Building the capacity of State and district personnel and families;
- e. Providing fiscal support; and
- f. Improved timelines and protocols for the collection and timely submission of data.

RESOURCES

General Information

- **Maryland Learning Links:** A dynamic website developed by the Division of Early Intervention and Special Education Services that provides stakeholders, including families and professionals, with current educational information, guidance about the IEP process and the provision of special education and related services, best practices, and other special education related resources. <https://marylandlearninglinks.org/>
- **Using Systems Change Efforts to Implement and Sustain Inclusive Education Practices in General Education Settings for Students with the Most Significant Cognitive Disabilities: A Review of the Literature** (June, 2019). This report presents the findings from a literature review that examined how systems change efforts can guide initiatives to increase and sustain the placement of students with the most significant cognitive disabilities in inclusive general education settings, as well as increase and sustain opportunities for these students to learn core academic standards-based curriculum through the implementation of inclusive education practices. The report concludes with the identification of several components associated with effective and sustainable systemic change efforts related to the implementation of inclusive practices [TIES Center Report #2](#)
- **Communicative Competence in the Inclusive Setting: A Review of the Literature** (June, 2019). This report presents findings from a literature review that was conducted to identify evidenced-based approaches to supporting the development of communicative competence for K-8 students in inclusive educational settings. Specifically, the review examined whether communication programming employing augmentative and alternative communication (AAC) is being successfully used in inclusive elementary and middle school settings, and what elements of the communication program are most likely to affect students' communicative competence. [TIES Center Report #3](#)
- **Debunking Myths about Inclusive Education for Students with the Most Significant Cognitive Disabilities** (February, 2022). This Brief addresses six of the barriers or myths to why students with significant disabilities cannot be included in the general education setting. It provides a set of additional resources in support of the argument against each of the barriers. [TIES Brief #8](#)

Standards and Curriculum

- **Maryland Content Standards:** Maryland College and Career Ready Standards for English/language arts and mathematics, as well as previously adopted standards for other content areas. <http://mdk12.msde.maryland.gov/instruction/commoncore/>
- **Maryland Curriculum Frameworks:** Descriptions of the component skills required for students to master the standards, which may be used to scaffold goals and develop objectives. *English language arts* <http://mdk12.msde.maryland.gov/instruction/curriculum/reading/index.html> and *mathematics* <http://mdk12.msde.maryland.gov/instruction/curriculum/mathematics/index.html>

- **Dynamic Learning Maps Essential Elements:** The Dynamic Learning Maps Essential Elements are specific statements of knowledge and skills linked to the grade-level expectations identified in the Common Core State Standards for English Language Arts, Mathematics and Science. <https://dynamiclearningmaps.org/model>
- **Next Generation Science Standards:** Maryland standards for science. <https://www.nextgenscience.org/>
- **The General Education Curriculum- Not an Alternate Curriculum** (July, 2020). The purpose of this Brief is to help parents determine whether their child with significant cognitive disabilities is provided meaningful access to the general education curriculum. It addresses the myth that students with the most significant cognitive disabilities who take the state’s alternate assessment based on alternate academic achievement standards (AA-AAAS) need an alternate curriculum. This myth is often the basis for inappropriately educating these students in separate settings. [TIES Brief #5](#)
- **TIES Brief 4: Providing Meaningful General Education Curriculum Access to Students with Significant Cognitive Disabilities** (July, 2020). The purpose of this Brief is to address the myth that students with the most significant cognitive disabilities who take the state’s alternate assessment based on alternate academic achievement standards (AA-AAAS) need an alternate curriculum. This myth is often the basis for inappropriately educating these students in separate settings. [TIES Brief #4](#)
- **TIES Inclusive Big Ideas:** General and special education teachers can use the Inclusive Big Ideas to co-plan grade-level standards-aligned lessons for all students including those with significant cognitive disabilities. [TIES Inclusive Big Ideas](#).

Standards-Aligned IEPs

- Maryland State Department of Education: **Maryland Assessment, Accessibility & Accommodations Policy Manual**. <http://www.marylandpublicschools.org/programs/Pages/Special-Education/info.aspx>
- **Standards-Aligned IEP modules**. <https://marylandlearninglinks.org/online-iep-learning-modules/>
- **Academic Standards for Students with Significant Cognitive Disabilities in Inclusive Classrooms: Same Content Standards, Alternate Achievement Standard** (November, 2020): The purpose of this brief is to clarify what academic content standards and alternate achievement standards are, how they are different, and how they contribute to inclusive education. [TIES Tip #14](#)
- U.S. Department of Education, 2004. **Individuals with Disabilities Education Act (IDEA)** (2004): US Department of Education resource site including the text of IDEA and related documents and guidance. [US ED IDEA](#)
- U.S. Department of Education (Dec. 7, 2017). **Questions and Answers (Q&A) on U. S. Supreme Court Case Decision *Andrew F. v. Douglas County School District Re-1***. This letter provides an interpretation of the impact of the recent US Supreme Court decision on goals and programs for students with disabilities. [Andrew F](#)

- Yudin, M. and Musgrove, M. (2015, Nov. 15). *Dear Colleague Letter. Washington DC: United States Department of Education, Office of Special Education and Rehabilitative Services.* Guidance from OSEP on the alignment of IEPs to state content standards. [OSERS Policy Guidance on Free Appropriate Public Education \(FAPE\) \(PDF\)](#)

Alternate Assessments

- **Guidance for IEP Teams: Participation Decisions for the Alternate Assessments and Instruction Using Alternate Standards:** Information, tools, and frequently asked questions to assist IEP teams in determining whether or not a student should participate in the alternate assessments and/or instruction. Use of Appendix A is mandatory in determining eligibility for participation in the alternate assessments and alternate instruction. [Guidance for IEP Teams](#)
- **Dynamic Learning Maps:** Maryland is a member of the Dynamic Learning Maps (DLM) assessment consortium along with 20 other states. The DLM assessments are alternate assessments aligned with alternate academic achievement standards which are derived from the Common Core State Standards. [Maryland | Dynamic Learning Maps](#)

Creating Inclusive Opportunities

- ALL IN (Arkansas) [Inclusive Practices](#)
- **Understanding the Role of Paraprofessionals in Your Child's Education in Inclusive Classrooms:** (October, 2021). It is important to know what paraprofessionals should be expected to do in inclusive classrooms. Parents should also know what qualities paraprofessionals should have, and what supports and training they need to be successful in their role. The purpose of this Brief is to address these points. It also provides examples of appropriate use of paraprofessionals in inclusive classrooms and some red flags that might indicate a need to adjust paraprofessional support or training. [TIES Brief #7](#)

Family Engagement

- **Building IEPs With Maryland Families: What a Great IDEA!** A family-friendly resource on the IEP team process. [What a Great Idea!](#)
- **MSDE DSE/EIS Parental Consent Under Maryland Law Technical Assistance Bulletin:** (November, 2017, updated July, 2019). This document provides guidance on complying with the new requirements for parental consent for certain IEP team decisions. [Parental Consent TAB](#)
- **U.S. Department of Education Family and Community Engagement** Resources for families and educators on family-school partnerships (not specific to special education). <https://www.ed.gov/parent-and-family-engagement>
- **Taking the Alternate Assessment Does NOT Mean Education in a Separate Setting!:** (May, 2019). This Brief discusses the characteristics of students with the most significant cognitive disabilities, least restrictive environment, legal provisions, and next steps for parents. [TIES Center Brief 2](#)

For more information, call 410-767-0249
MARYLAND STATE DEPARTMENT OF EDUCATION
Division of Early Intervention and Special Education Services
200 West Baltimore Street
Baltimore, MD 21201

Mohammed Choudhury, State Superintendent of Schools

Clarence C. Crawford, President, Maryland State Board of Education

Deanne M. Collins, Ed.D., Deputy State Superintendent for Teaching and Learning

Marcella E. Franczkowski, M.S., Assistant State Superintendent
Division of Early Intervention and Special Education Services

Larry Hogan
Governor

© 2022 Maryland State Department of Education, Division of Early Intervention and Special Education Services

Produced under the guidance of Marcella E. Franczkowski, Assistant State Superintendent, Division of Early Intervention and Special Education Services. Please include reference to the Maryland State Department of Education, Division of Early Intervention and Special Education Services on any replication of this information. To request permission for any use that is not "fair use" as that term is understood in copyright law, contact: Maryland State Department of Education, Division of Early Intervention and Special Education Services, 200 W. Baltimore Street, 9th Floor, Baltimore, MD 21201, Phone 410-767-0249, MarylandPublicSchools.org.

This document was developed using grant funding provided to the Maryland State Department of Education from the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS)/Office of Special Education Programs (OSEP), under the Individuals with Disabilities Education Act. The Maryland State Department of Education does not discriminate on the basis of race, color, sex, age, national origin, religion, or disability in matters affecting employment or in providing access to programs. For inquiries related to departmental policy, please contact the Equity Assurance and Compliance Branch: Phone 410-767-0433, TTY 410-767-0426, Fax 410-767-0431.