

November 17, 2020

Subject: Public Notice of Texas Request of a Waiver from 1.0 Percent State Threshold on the Percentage of Students Who Take an Alternate Assessment

To the ESC and District Testing and Special Education Coordinators Addressed:

The purpose of this email is to provide notification that the Texas Education Agency (TEA) has posted the draft *Texas One Percent Cap Waiver Request* for public comment on the State of Texas Assessments of Academic Readiness (STAAR®) Alternate 2 [webpage](#). The document is also attached to this email.

For the fourth year, Texas is requesting a waiver from the United States Department of Education (USDE) regarding the 1.0 percent threshold on the percentage of students statewide who participate in alternate assessments aligned with alternate academic achievement standards (i.e., STAAR Alternate 2). This waiver request is for the 2020–21 school year.

TEA is accepting comments regarding this waiver request via email to assessmentwaiver@tea.texas.gov. The public comment period begins Tuesday, November 17, 2020, and ends **Thursday, December 17, 2020, at 5:00 PM (CT)**. Note that TEA will not respond to individual comments but will incorporate the comments as it is finalizing the waiver request before submission to the USDE.

Please forward this notification to all interested persons.

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TEXAS ONE PERCENT CAP WAIVER REQUEST

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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 (AA-AAAS). Federal policy limits the number of students who may participate in alternate assessments to no more than 1.0 percent of students in the grades assessed in a state. States who anticipate exceeding the 1.0 percent cap must submit a waiver request to the U.S. Department of Education (USDE).

Texas develops and administers the State of Texas Assessments of Academic Readiness (STAAR®) Alternate 2 as its AA-AAAS. Due to the impact of the COVID-19 pandemic, the spring 2020 STAAR Alternate 2 test administration was cancelled. Therefore, the most recent participation data the Texas Education Agency (TEA) has to report are from the 2018–19 school year. STAAR Alternate 2 participation rates for the 2018–19 school year were 1.5 percent for mathematics, 1.3 percent for reading/language arts (RLA), and 1.3 percent for science. Based on these data, TEA anticipates exceeding the 1.0 percent cap for the spring 2021 STAAR Alternate 2 administration and is submitting the required waiver request. Pursuant to approval of the waiver of the 1.0 percent cap on STAAR Alternate 2 participation, Texas assures it will

- continue to meet all other requirements of §1111 of the ESEA and implement regulations with respect to all state-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public,
- assess at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which an assessment is required,
- require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any subject assessed with STAAR Alternate 2,
- provide appropriate oversight of a LEA that is required to submit such information to TEA and make such information publicly available,
- verify that each LEA required to submit such information to TEA is following all state guidelines in 24 CFR 200.6(d) and will address any subgroup disproportionality in the percentage of students taking STAAR Alternate 2, and
- implement planned system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

One Percent Waiver Request Requirements

I. In accordance with §200.6(c)(4)(i): Submission 90-Days Prior to State Testing Window

A state waiver request must be submitted at least 90 days prior to the start of the state’s testing window for the relevant subject.

The STAAR Alternate 2 testing window for the 2021 administration is from March 30 to May 7, 2021. At least 90 days prior to the start of Texas’ alternate assessment window (December 29, 2020), the state will submit a waiver request to USDE to assess more than 1.0 percent of its assessed population in mathematics, RLA, and science.

II. In accordance with §200.6(c)(4)(ii): State-Level Data

Although the USDE recommended that states use registration data in lieu of participation data due to the cancellation of spring 2020 testing, Texas determined that previous participation data presents a more accurate picture. Testing activities were halted in Texas by the first half of March 2020. The registration window for the general STAAR assessment was scheduled to be open through the last day of testing in May. Therefore, not all students were registered to take the general STAAR assessment when testing activities were cancelled. Using spring 2020 registration numbers for the general STAAR assessment would have left out a significant number of testers and misrepresented participation numbers when comparing the alternate assessment to the general assessment.

In the absence of 2019–20 participation data and unreliable registration data, TEA is presenting 2018–19 participation data (the latest data available) to make a credible estimate of the number and percentage of students who would have taken STAAR Alternate 2 in 2019–20 if testing had occurred.

Table 1 shows statewide participation rates from the 2018–19 school year in mathematics, RLA, and science are still above 1.0 percent. Although special education referrals in Texas have continued to increase for the last few years, STAAR Alternate 2 participation rates for RLA and science have remained the same.

TABLE 1. SPRING 2019 PARTICIPATION IN ALTERNATE ASSESSMENT BY CONTENT AREA

DESCRIPTION	NUMBER	PERCENT
STAAR ALTERNATE 2 TESTS, ALL STUDENTS MATHEMATICS	41,836	1.5%
STAAR TESTS, ALL STUDENTS MATHEMATICS	2,821,402	
STAAR ALTERNATE 2 TESTS, ALL STUDENTS READING/LANGUAGE ARTS	47,136	1.3%
STAAR TESTS, ALL STUDENTS READING/LANGUAGE ARTS	3,584,899	
STAAR ALTERNATE 2 TESTS, ALL STUDENTS SCIENCE	16,984	1.3%
STAAR TESTS, ALL STUDENTS SCIENCE	1,280,714	

Without participation data for spring 2020, Texas is not able to report substantial progress in the reduction of the number of students assessed with an alternate assessment. A review of participation data for the last available administration (spring 2019) was conducted to find areas where the state can develop actionable tasks that may result in a reduction of STAAR Alternate 2 participation rates. When data was analyzed by grade/subject and course over the past few years, decreases were found in grade 5 mathematics and reading participation rates between spring 2018 and spring 2019 as shown in Table 2. In addition, there was no increase in participation rates for 12 other tests from spring 2018 to spring 2019.

TABLE 2. CHANGE IN PARTICIPATION RATES SPRING 2017 TO 2019

GRADE/SUBJECT/COURSE	2016–17	2017–18	2018–19	CHANGE FROM SPRING 2017 TO SPRING 2018	CHANGE FROM SPRING 2018 TO SPRING 2019
GRADE 3 READING	1.4	1.5	1.5	0.1	0.0
GRADE 3 MATH	1.4	1.5	1.5	0.1	0.0
GRADE 4 READING	1.5	1.6	1.6	0.1	0.0
GRADE 4 MATH	1.5	1.5	1.6	0.0	0.1
GRADE 5 READING	1.4	1.6	1.5	0.2	-0.1
GRADE 5 MATH	1.4	1.6	1.5	0.2	-0.1
GRADE 5 SCIENCE	1.4	1.5	1.5	0.1	0.0
GRADE 6 READING	1.4	1.5	1.5	0.1	0.0
GRADE 6 MATH	1.4	1.5	1.5	0.1	0.0
GRADE 7 READING	1.3	1.4	1.4	0.1	0.0
GRADE 7 MATH	1.4	1.5	1.6	0.1	0.1
GRADE 8 READING	1.3	1.4	1.4	0.1	0.0
GRADE 8 MATH	1.5	1.6	1.6	0.1	0.0
GRADE 8 SCIENCE	1.2	1.3	1.4	0.1	0.1
ALGEBRA I	1.0	1.1	1.1	0.1	0.0
ENGLISH I	0.8	0.9	0.9	0.1	0.0
ENGLISH II	0.8	0.9	1.0	0.1	0.1
BIOLOGY	1.0	1.1	1.1	0.1	0.0

Anecdotal evidence indicates that statewide training and STAAR Alternate 2 resources are beginning to impact admission, review, and dismissal (ARD) committee decisions. Conversations with district testing coordinators confirm that LEAs are acting on the training they have received regarding participation rates. Beginning at the lower grades, ARD committees are more willing to have students participate in the general assessment, if appropriate, given the new participation requirements. If ARD committees

are adopting the theory of “least dangerous assumption” when considering assessment decisions for younger students, TEA expects to see participation rates decrease in the 2020–21 school year and the years ahead as these students move through the school system.

In addition to analyzing participation data by grade and subject, TEA gathered disability data to find where the participation rates are increasing or decreasing. Table 3 shows data for students with primary disabilities of Intellectual Disability (ID), Autism (AU), and Other Health Impaired (OHI). These disability categories are important to note because students with these primary disabilities are the most likely to be assessed with an AA-AAS. Although there were increases in the number of students identified with a primary disability of ID, AU, or OHI, the percentage of these students assessed with an alternate assessment decreased.

The data in Table 3 increases the state’s confidence that ARD committees are using the knowledge they have received through multi-level trainings to make participation decisions for students with specific disabilities. Texas expects participation rates to continue to decrease for subpopulations as students in upper grades move out of the system and as better-informed assessment decisions are made for students just entering the tested grades.

TABLE 3. STAAR ALTERNATE 2 DISABILITY DATA COMPARED TO STATEWIDE DISABILITY DATA

DISABILITY CATEGORY	2016–17	2017–18	2018–19
Intellectual Disability (ID)	*17,026 / 24,341	*18,257 / 26,353	*18,828 / 28,642
Students with ID assessed with AA-AAS	69.9%	69.3%	65.7%
Autism (AU)	*9,751 / 27,230	*10,444 / 29,398	*10,948 / 31,687
Students with AU assessed with AA-AAS	35.8%	35.5%	34.6%
Other Health Impaired (OHI)	*3,705 / 35,949	*3,915 / 38,275	*3,994 / 41,597
Students with OHI assessed with AA-AAS	10.3%	10.2%	9.6%

*Students assessed with alternate assessment out of students assessed with general assessment

- A. A state must provide state-level data, from the current or previous year, to show the number and percentage of students in each subgroup who took an alternate assessment. Table 4 shows Texas’ state-level participation data from 2018–19 indicating the number and percentage of students in each subgroup who took an alternate assessment by content area in grades 3–8 and high school.

TABLE 4. 2018–19 SUBGROUP PARTICIPATION DATA

CONTENT AREA	SUBGROUP	ASSESSED WITH GENERAL ASSESSMENT	ASSESSED WITH ALTERNATE ASSESSMENT	ALL STUDENTS ASSESSED	PERCENT ASSESSED WITH ALTERNATE ASSESSMENT
MATH	African American	366,425	7,447	373,872	2.03%
MATH	Hispanic	1,503,614	22,301	1,525,915	1.46%
MATH	White	750,888	9,388	760,276	1.23%
MATH	American Indian	9,239	154	9,393	1.63%
MATH	Two or More Races	68,113	849	68,212	1.24%
MATH	Asian	116,964	1,399	118,363	1.18%
MATH	Pacific Islander	4,291	62	4,353	1.42%
MATH	Economically Disadvantaged	1,744,355	29,870	1,774,225	1.68%
MATH	English Learner	578,694	5,392	584,086	0.92%
READING	African American	463,699	8,332	472,031	1.76%
READING	Hispanic	1,930,853	25,119	1,955,972	1.28%
READING	White	934,758	10,663	945,421	1.12%
READING	American Indian	11,779	163	11,942	1.36%
READING	Two or More Races	82,258	944	83,202	1.13%
READING	Asian	153,144	1,588	154,732	1.02%
READING	Pacific Islander	5,408	72	5,480	1.31%
READING	Economically Disadvantaged	2,198,898	33,479	2,232,377	1.49%
READING	English Learners	730,112	6,092	736,204	0.82%
SCIENCE	African American	163,727	7,447	171,174	2.03%
SCIENCE	Hispanic	681,467	8,986	690,453	1.30%
SCIENCE	White	343,024	3,923	346,947	1.13%
SCIENCE	American Indian	4,093	42	4,135	1.01%
SCIENCE	Two or More Races	29,585	331	29,916	1.10%
SCIENCE	Asian	56,100	574	56,674	1.01%
SCIENCE	Pacific Islander	1,934	22	1,956	1.12%
SCIENCE	Economically Disadvantaged	768,423	11,929	780,352	1.52%
SCIENCE	English Learners	227,567	1,784	229,351	0.77%

- B. A state must provide state-level data, from the current or previous year, to show the state has measured the achievement of at least 95 percent of all students and students with disabilities enrolled in the grades for which the AA-AAAS is required.** Texas follows the federal requirements for participation in statewide assessments outlined in ESEA. All students in grades 3–8, including students with disabilities, are required to take mathematics and reading assessments annually. All students in grades 5 and 8 must take a science assessment. High school students are required to take end-of-course assessments in Algebra I, English I, English II, and Biology. Table 5 shows the participation number and percent of all students tested and Table 6 shows the participation number and percent of all students with disabilities tested in the 2018–19 school year.

TABLE 5. 2018–19 PARTICIPATION DATA OF ALL STUDENTS ASSESSED

CONTENT AREA	ALL STUDENTS	ALL STUDENTS ASSESSED	PERCENT ASSESSED
MATHEMATICS	2,821,402	2,809,750	99.58%
READING/LANGUAGE ARTS	3,584,899	3,565,111	99.44%
SCIENCE	1,280,714	1,268,012	99.00%

TABLE 6. 2018–19 PARTICIPATION DATA OF STUDENTS WITH DISABILITIES ASSESSED

CONTENT AREA	ALL STUDENTS IN SPECIAL EDUCATION	ALL STUDENTS IN SPECIAL EDUCATION ASSESSED	PERCENT ASSESSED
MATHEMATICS	316,264	318,453	99.31%
READING/LANGUAGE ARTS	390,275	393,647	99.14%
SCIENCE	134,919	136,661	98.72%

III. In accordance with §200.6(c)(4)(iii): Assurances That LEAs Followed State Guidelines

- A. Data gathered in October 2019 shows that 765 LEAs that exceeded the 1.0 percent participation rate submitted an explanation and assurances form.** Responses include acknowledgement of assurances that the LEA has implemented the state guidelines for participation in STAAR Alternate 2 and an explanation for why participation rates exceeded 1.0 percent. The Superintendent or Chief Administrative Officer for each LEA acknowledged the following statements:

- Your district or charter school implements clear and appropriate guidelines, consistent with the STAAR Alternate 2 Participation Requirements, to use in determining when a student’s significant cognitive disability justifies participate in in this alternate assessment.
- Your district or charter school will address any disproportionality in the percentage of students in any subgroup taking STAAR Alternate 2.
- Parents are informed when their student will be assessed based on alternate achievement standards, including information about the implications of participation in STAAR Alternate 2.

- Students with the most significant cognitive disabilities are included, to the extent possible, in the general curriculum and assessments aligned with that curriculum.
- Your district or charter school disseminates information and promotes the use of appropriate accommodations to increase the number of students with the most significant cognitive disabilities who are tested against grade-level academic achievement standards.
- General/special education teachers and other appropriate staff are knowledgeable about the administration of assessments, including making appropriate use of accommodations for students with significant cognitive disabilities.

TEA will require submission of an explanation and assurances form from each LEA exceeding STAAR Alternate 2 participation rates of 1.0 percent after the 2021 test administration.

B. States will address any disproportionality in the percentage of students in any subgroup taking an alternate assessment. Texas reviewed disproportionality data from the administration of STAAR Alternate 2 in the 2018–19 school year (the latest data available). The disproportionality analysis followed Evans and Domaleski’s brief (2019) recommendations to answer two questions—whether the observed alternate assessment participation rate is consistent with the expectation and whether the participation rates vary across student groups. TEA investigated these questions from two different perspectives:

1. Whether there are similar ratios of focal group and non-focal group students participating in STAAR Alternate 2
2. Whether there are similar ratios of focal group students participating in STAAR Alternate 2 and in the general STAAR assessment.

The baselines of the expected ratios are non-focal group STAAR Alternate 2 participation rates and focal group STAAR participation rates for perspective 1 and 2, respectively. For both perspectives, TEA first calculated the participation rate for each focal group of students, then quantified the difference between the observed participation rate and the expected participation rate using difference in ratios and risk ratios. TEA uses the threshold risk ratio value of 2.0 for decision making.

The list of focal groups of students is

- a. Race and ethnicity
 - i. African American or Black
 - ii. American Indian
 - iii. Asian
 - iv. Hispanic
 - v. Pacific Islander
 - vi. Two or more races
 - vii. White
- b. Social economic status (i.e., economically disadvantaged students)

- c. English proficiency (i.e., English learners)
- d. Gender
 - i. Female
 - ii. Male

Perspective 1 compares the focal and non-focal groups participation rates for STAAR Alternate 2. Analysis from this perspective assumes that there should be similar ratios of students with significant cognitive disabilities between the focal group and the non-focal group of students. Perspective 2 compares the focal group's STAAR Alternate 2 participation rates and STAAR participation rates. The assumption of the analysis from this perspective follows the definition of disproportionality in Evans & Domaleski (2019): "Disproportionality exists when there is atypical difference in the proportions of participants from a student group who take the alternate assessment in comparison to the general assessment".

Based on the analyses from both perspectives, the risk ratios are less than 2.0 and mostly are close to 1.0. The risk ratios for African American students in all subjects range from 1.2 to 1.4 indicating that this group of students is 1.2 to 1.4 times more likely to participate in the alternate assessment. The risk ratios for American Indian students and Pacific Islander students in certain subjects are greater than 1.5. However, these numbers need to be interpreted with caution due to the uncertainty associated with very small population sizes (less than 30). In contrast, English learner students and female students are less likely to be identified to participate in STAAR Alternate 2.

Actions that TEA will take based on disproportionality data will be discussed in the next section.

IV. In accordance with §200.6(c)(4)(iv): Plan and Timeline

The state plan outlined below addresses the plan to provide guidance on the implementation of its participation guidelines, the oversight plan to monitor and regularly evaluate each LEA exceeding the 1.0 percent participation rate, and the plan to address disproportionality in the percentage of students taking STAAR Alternate 2.

Texas has provided guidance to the state's assessment stakeholders using a three-phased approach. Phase one consists of delivering state prepared participation data annually to all LEAs exceeding the 1.0 percent participation rate. TEA used the data that was delivered to LEAs in 2018–19 as a tool in the face-to-face foundational training that was presented to district testing coordinators and regional testing coordinators at each of the 20 educational regions throughout the state. The foundational training workshop included information on how to use the [STAAR Alternate 2 Participation Requirements](#). It also included a review of each LEA's participation data to find outliers that should be researched. In addition, each LEA exceeding the 1.0 percent participation rate submitted an explanation and assurances form signed by the Superintendent or Chief Financial Officer. In 2019, 765 LEAs submitted the explanation and assurances form. Texas recognizes the success of the initial face-to-face training as regional participation data shows that 50 percent of the regions had decreases in the overall percentage of LEAs exceeding the 1.0 percent threshold.

Additional phase one resources available to all Texas LEAs include:

- [STAAR Alternate 2 Resources](#)
- [STAAR Alternate 2 Participation Requirements Companion Document](#) (English)
- [STAAR Alternate 2 Participation Requirements Companion Document](#) (Spanish)
- [STAAR Alternate 2 for Families](#)

Phase two of Texas' plan targets special education administrators and district testing coordinators. With the assistance of specialists at educational regions across the state, TEA is providing direct technical support to LEAs whose data shows increases in STAAR Alternate 2 participation rates for two years in a row or unusually high participation rates in 2018–19. TEA collaborated with specialists from the educational regions in several face-to-face and virtual meetings to develop a direct technical assistance plan. Educational region specialists were presented with data for each LEA in their region and then asked to complete a report describing the technical assistance that had already been provided to each LEA exceeding the 1.0 percent participation rate. The region reports also include plans to deliver technical assistance to each targeted LEA for the 2020–21 school year.

Another component of phase two pertains to a collaboration between TEA's Student Assessment Division and Review and Support Division. The Review and Support Division provides oversight and support to LEAs. During the 2019–20 school year, these two divisions worked together to align [Results Driven Accountability](#) indicators with ESEA guidelines for alternate assessments. As part of this cross-division collaboration, TEA is also developing a new database that will make STAAR Alternate 2 participation data more accessible to LEAs along with disproportionality data. These two divisions within TEA meet on a continual basis to coordinate support for LEAs and ensure that only students with the most significant cognitive disabilities are being assessed with STAAR Alternate 2.

In December 2020, Texas will implement phase three of the plan, which directly impacts the most important stakeholders, members of the ARD committee and specifically classroom teachers. TEA will publish the first of a series of online training modules that will be available to teachers, support staff, and administrators. The first training module focuses on how to use the STAAR Alternate 2 participation requirements to make student assessment decisions and includes case studies. Each of the four sections in the module are followed by a few questions. Responses to these questions will be used to determine the effectiveness of each module and identify revisions.

The timeline below outlines the milestones and actionable steps that bring Texas closer to meeting the overall goal of only assessing students with significant cognitive disabilities with an alternate assessment.

TABLE 7. TIMELINE

August 2020	Provide training for regional testing coordinators and regional special education coordinators
August 2020–August 2021	Conduct bi-monthly meetings with TEA Special Education collaborative
August 2020–June 2021	Provide technical assistance to LEA personnel
November 2020–August 2021	Coordinate collaborative project to determine LEA responsibility for overidentification of students and disproportionality of data
November 17, 2020	Post waiver request for public comment
December 18, 2020	Publish new online training module “STAAR Alternate 2: Eligibility”
December 29, 2020	Submit waiver to USDE
March 29–May 7, 2021	Administer STAAR Alternate 2 during testing window
May 2021	Check-in with regional special education coordinators regarding technical assistance plan and adjustments to the plan
August 2021	Send communication to LEAs regarding disproportionality in local STAAR Alternate 2 participation data
August 2021	Review and analyze 2021 STAAR Alternate 2 participation data
October 2021	Provide data files to individual LEAs with participation data exceeding 1.0 percent