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MEMORANDUM

TO: District Accountability Coordinators

FROM: Juan Copa, Director of Evaluation and Reporting
Bambi J. Lockman, Chief, Bureau of
Exceptional Education and Student Services

DATE: May 29, 2007

SUBJECT: 1% Cap Requirement and Waiver Process

Contact Information:

Karen Denbroeder
(850) 245-0475
karen.denbroeder@fldoe.org

The purpose of this memorandum is to provide you with information on Florida's implementation of the 1% cap requirement for students with significant cognitive disabilities and the district waiver process for exceeding the cap.

All students with disabilities must be assessed either using the Florida Comprehensive Assessment Test (FCAT) or an alternate assessment. It is expected that the majority of students with disabilities are assessed by the FCAT. Individual Educational Plan (IEP) teams must make the appropriate determination of whether a student with disabilities should be assessed by the FCAT or an alternate assessment based on the requirements defined in Rule 6A-1.0943, FAC, and use of the Florida Alternate Assessment Participation Checklist.

DISTRICT WAIVER PROCESS

Under No Child Left Behind, states have the flexibility to count the proficient scores of students with significant cognitive disabilities who take alternate assessment, as long as the number of those proficient scores does not exceed 1% of all students in the grades assessed. In some districts, the percent of students with disabilities who are proficient on alternate achievement standards may exceed 1% of the total assessed population due to a large number of students with

significant cognitive disabilities served by the district. In such cases, the district may apply to the state for a waiver.

Waiver consideration will be given to districts that:

- House multi-district programs for students with significant cognitive disabilities
- Are very small, such that a slight change in the number of students produces a large change in the percent of students with significant cognitive disabilities
- House high quality, research-based programs for students with significant cognitive abilities that attract families from around the state and country

United States Department of Education (USDE) has provided guidance to states regarding a state's application for a waiver and has recommended that states use similar, rigorous criteria with districts that wish to apply for a waiver. In general, the guidance indicates that the local education agency (LEA) should provide evidence that explains why more than 1% of all students in the LEA's tested grades have the most significant cognitive disabilities and achieve proficiency.

In order for a LEA waiver request to be considered, the following components **MUST** be included:

- An explanation of the circumstances that result in more than 1% of all students districtwide having the most significant cognitive disabilities and achieving at the proficient or advanced level on alternate achievement standards
- Data showing the number of students participating in an alternate assessment by disabilities
- A complete description of the high-quality, research-based program for students with significant cognitive disabilities
- Data showing movement of students with the most significant cognitive disabilities from other districts and states into programs in the LEA
- Data confirming that the district houses a multi-district program for students with the most significant cognitive disabilities, including the number of students from other districts by disability

Without the required components, including data, the waiver request will not be considered.

Please send waiver requests to Bambi J. Lockman, Chief, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Suite 614, Tallahassee, Florida 32399-0400, or via e-mail at bambi.lockman@fldoe.org. If you have questions regarding the waiver process, please contact Karen Denbroeder at (850) 245-0475 or via e-mail at karen.denbroeder@fldoe.org.

CALCULATION OF 1% CAP AT THE DISTRICT LEVEL

The following steps will be used to calculate 1% of students with disabilities taking the alternate assessment that will be included in adequate yearly progress (AYP) proficiency calculations:

- Step 1: Match Survey 2/3 membership file with all assessment records; determine 1% of all matched records.
- Step 2: Find all students with disabilities taking a reading alternate assessment; determine the number of students scoring at proficient and advanced levels.
- Step 3: Compare the numbers from Steps 1 and 2.
- If the number of students that are proficient or advanced on the alternate assessment (Step 2) is less than 1% of matched records (Step 1), then stop. The district has met the 1% requirement.
 - If the number of students proficient or advanced on the alternate assessment (Step 2) is more than 1% of matched records (Step 1), then all students identified as specific learning disabled (SLD) who were reported as proficient or advanced on alternate assessment will, for the purpose of AYP, be reported as not proficient to meet the 1% requirement.
- Step 4: Repeat with mathematics alternate assessments.
- Step 5: Recalculate AYP results at the school level.

Students identified as specific learning disabled who are considered not proficient at the district level because the district exceeded the 1% cap will also be considered not proficient at the school level.

For questions regarding the calculation of the 1% cap, please contact Juan Copa at (850) 245-0411 or e-mail at juan.copa@fldoe.org.

We appreciate your support and continued efforts in providing services to students with disabilities.

JC/BJL/ml

cc: District School Superintendents
Exceptional Student Education Directors
Exceptional Student Education Alternate Assessment Coordinators
District Assessment Coordinators