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MEMORANDUM

TO: District School Superintendents
District Accountability Coordinators
Exceptional Student Education Directors

FROM: Pam Stewart

DATE: May 10, 2013

SUBJECT: One Percent Cap Requirement and Waiver Process

Contact Information:

Marie LaCap

850-245-0475

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DPS: 2013-55

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

All students with disabilities must be assessed using the Florida Comprehensive Assessment Test 2.0 (FCAT 2.0), Florida End-of-Course (EOC) assessments or the Florida Alternate Assessment (FAA). It is expected that the majority of students with disabilities currently participate in the FCAT 2.0 or EOCs. Individual educational plan teams must continue to make the appropriate determination of whether a student with disabilities should participate in the FCAT 2.0, EOC or an alternate assessment based on the requirements defined in Rule 6A-1.0943, Florida Administrative Code (F.A.C.), using the Assessment Participation Checklist. The checklist can be found at <http://info.fldoe.org/docushare/dsweb/Get/Document-5831/dps-2010-92.pdf>.

DISTRICT WAIVER PROCESS

Under the Elementary and Secondary Education Act (ESEA), states have the flexibility to count the proficient scores (level 4 or higher on the FAA) of students with significant cognitive disabilities who take an alternate assessment as long as the number of those proficient scores does not exceed one percent of all tested students.

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In some districts, the percentage of students with disabilities who are proficient or above on alternate achievement standards may exceed one percent 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 percentage of students with significant cognitive disabilities; and
- House high-quality, research-based programs for students with significant cognitive abilities that attract families from around the state and country.

The U.S. Department of Education has provided guidance to states regarding their 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 one percent of all tested students in the LEA have the most significant cognitive disabilities and achieve proficiency.

In order for an LEA waiver request to be considered, one or more of the following components **MUST** be included based on the reason for the request.

- An explanation of the circumstances that result in more than one percent of all tested students district wide having the most significant cognitive disabilities and achieving at the proficient or advanced level on the FAA
- Data showing the number of students participating in the FAA by disability
- 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.

Included is a summary of data by district for the past six years to assist you in determining the need for a waiver request. Your waiver request should be submitted by **May 31, 2013**. Please send waiver requests to Marie LaCap, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Suite 601, Tallahassee, Florida 32399-0400, or via email to Marie.LaCap@fldoe.org.

CALCULATION OF ONE PERCENT CAP AT THE DISTRICT LEVEL

The following steps will be used to calculate the one percent cap on the number of students with disabilities assessed through the FAA that will be included in performance calculations for school and district grades:

- Step 1: Determine one percent of all students who are full-year enrolled in the assessed grades (3-10).
- Step 2: Find all students with disabilities taking a reading alternate assessment; determine the number of students scoring at proficient or above (levels 4 through 9).
- Step 3: Compare the numbers from Steps 1 and 2.
- If the number of students who are proficient or above on the alternate assessment (Step 2) is less than one percent of matched records for full-year enrolled students in the assessed grades (Step 1), then stop. The district has met the one percent requirement.
 - If the number of students proficient or above on the alternate assessment (Step 2) is more than one percent of full-year enrolled students in the assessed grades (Step 1), then all students with a primary exceptionality of specific learning disabled who were reported as proficient or above on the FAA will, for the purpose of school and district grades, be reported as not proficient to meet the one percent requirement.
- Step 4: If, after completion of Step 3, the district still does not meet the one percent requirement, then all students with a primary exceptionality of speech impaired only, language impaired only, or a combination of speech and language impairments who were reported as proficient or above on the FAA will, for the purpose of school and district grades, be reported as not proficient to meet the one percent requirement.
- Step 5: If, after completion of Step 4, the district still does not meet the one percent requirement, then all students in your district identified with a primary exceptionality of emotional/behavior disorder who were reported as proficient or above on the FAA will be reported as not proficient.
- Step 6: If, after completion of Step 5, the district still does not meet the one percent requirement, then other students taking the FAA who scored proficient will be numerically ordered, first, by school number (lowest to highest), and then by student identification number (lowest to highest). The first student at the first school will be reported as not proficient, followed by the first student at the second school, and so on. If, after taking the first student from all schools, the district is still over the cap, the second student at the first school will be reported as not proficient, followed by the second student at the second school and so forth. This procedure will be followed, student by student, until your district is at or under the one percent cap.

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Step 7: Repeat Steps 2 through 6 with mathematics alternate assessment.

Step 8: Recalculate school and district grade performance results at the school level. Students who are considered not proficient at the district level because the district exceeded the one percent cap will also be considered not proficient at the school level.

For questions regarding the calculation of the one percent cap, please contact Ed Croft at 850-245-0411 or Ed.Croft@fldoe.org. For questions regarding the waiver process, please contact Marie LaCap at 850-245-0473 or Marie.LaCap@fldoe.org.

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

EC/mvt

Attachment

cc: Exceptional Student Education Alternate Assessment Coordinators
District Assessment Coordinators
Mary Jane Tappen
Monica Verra-Tirado
Ed Croft
Marie LaCap