IMPROVING OUTCOMES FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES: Eligibility, Instruction, and Assessment

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

THE ALTERNATE EDUCATION FRAMEWORK

Adapted from the National Center and State Collaborative Instructional Framework
The graphic on the previous page illustrates the interdependence and alignment of curriculum, instruction, and assessment for students with the most significant cognitive disabilities who participate in instruction aligned to alternate standards and/or the alternate assessments. Curriculum informs instruction, instruction drives assessment, and assessments inform teams of student progress toward grade-level standards and age expectations. The IEP provides the blueprint for the specially designed instruction that meets the student’s individual needs. 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. The ALTERNATE EDUCATION FRAMEWORK is aligned to grade-level content standards and reflects a reduced scope or level of complexity and which may take the form of introductory or pre-requisite skills. The alternate education framework and the IEP address the academic, adaptive behavior, and social emotional needs of the student.

At the base of the framework is Communicative Competence, a set of behaviors that students must develop to communicate what they know and to get their needs met. Many students with complex communication needs rely on alternative forms of communication including low tech communication displays, eye-gaze, sign language, gestures, or speech-generating devices. Communication is more than just talking; it is a basic human right and an essential building block for the development of language. The development of communication allows for participation in teaching and learning and facilitates meaningful community engagement. If a student does not have a consistent, understandable, and reliable form of symbolic 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.

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

THE LAW
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 significant cognitive disabilities, are held to the same rigorous academic standards in order to exit school prepared for college, career, and a productive life in the community. 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 clarified that a student’s IEP must be aligned with the State’s academic content standards for the grade in which the student is enrolled. For most students, this takes the form of instruction in a curriculum based on the Maryland College and Career Ready Standards (MCCRS) and participation in the general assessments. Please see the Technical Assistance Bulletin: Improving Outcomes for Students with Disabilities: Curriculum, Instruction, and Assessment for further information.

For some students, the IEP team may determine that he or she is not able to participate in the general
curriculum and the general assessment, even when provided with accommodations, specially designed instruction, supplementary aids and service, and program modifications. In this case, the IEP team may determine the student should participate in the alternate framework.

**DETERMINING ELIGIBILITY**

While there are many students identified with a cognitive disability, most will be appropriately served in the general education setting through the collaborative implementation of specially designed instruction which includes instructional and assessment accommodations, supplementary aids and services, program modifications and evidence-based instruction and intervention. Students with the most significant cognitive disabilities face the most profound and complex learning challenges and require the most intensive support needs. These challenges are pervasive and affect learning across all content areas, independent functioning, community living, leisure, and vocational activities and, therefore, require instruction and assessment based on alternate academic achievement standards. 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. Accommodations and modifications make how the student communicates, responds to the environment, and learns look considerably different from those same behaviors of same-age peers with and without disabilities.

Students with the most significant cognitive disabilities have intellectual functioning that is significantly below average and exists concurrently with impairments or deficits in adaptive functioning. Adaptive functioning is defined as the behavior essential for someone to live independently and to function safely in daily life. Adaptive functioning is affected by three basic skill sets: conceptual skills (reading, numbers, time, money, communication), social skills (understanding social rules and customs), and practical life skills (feeding, dressing, bathing, navigation, and occupational skills). A significant cognitive disability affects students across all life domains, not just academics.

**PARTICIPATION CRITERIA**

The IEP team, which is comprised of the family, special and general education teachers, administrators, 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* found in the *Guidance for IEP Teams: Participation Decisions for the Alternate Assessments and Instruction Using Alternate Standards*. This document provides a detailed discussion of the eligibility process, assessments that should or could be administered, factors to consider when determining eligibility, and factors that should not be taken into consideration. IEP teams **must** use *Appendix A: Participation Criteria and Checklist* and participation eligibility **must** be determined at least annually, including eligibility for participation in alternate instruction for students in non-assessed grades. At the end of this guidance document is an eligibility decision flowchart to assist IEP teams in determining whether a student has a significant cognitive disability that would make him or her eligible for the alternate assessments and/or alternate instructional standards. The flowchart is a helpful resource, but it is **not** a replacement for the participation criteria referenced above which is a requirement for teams considering eligibility for
the alternate assessment and/or alternate instructional standards.

Eligibility and participation decisions have a significant impact on students with disabilities and their family in relation to high school graduation. If students with the most significant cognitive disabilities participate in instruction aligned to alternate standards and/or the alternate assessments, they will not meet the requirements for a high school diploma [COMAR 13A.03.02.09E(4)]. Instead, these students will be eligible for a Certificate of High School Completion. Therefore, 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, some local school systems have created policies which require Central Office participation at the IEP team meeting where such decisions are being made. Additionally, caution should be exercised when determining eligibility for students in the early grades as this may preclude them from progressing through the general education curriculum and will, ultimately, impact their ability to earn a high school diploma.

**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 call for the student’s parents/guardians to be included as full members of the IEP team and 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 Maryland, IEP teams must obtain parental consent for participation in the alternate assessments and/or instruction using alternate standards [Md. Code Ann., Educ. §8-405(f)]. Please see Technical Assistance Bulletin: Parental Consent Under Maryland Law for more information on parental consent. If the parent does not provide written consent, 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)].

**ACCOUNTABILITY**

Recognizing that the alternate assessments and alternate instructional 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 one percent of the total number of students assessed within the State in that subject. [34 C.F.R. § 200.6]. While a local school system is not prohibited from assessing more than 1% of its assessed students in any subject using the alternate assessments, the local school system must submit information justifying the need to exceed
The one percent cap.

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

The DEI/SES conducts annual monitoring 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 using alternate standards. A random sample of students from each Local School System and Public Agency is selected for the monitoring review which includes monitoring for eligibility and for documentation of specially designed instruction within the IEP, along with classroom observations to ensure implementation of specially designed instruction in an integrated tiered system of supports. 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 overall percentage of eligibility criteria met in the previous year’s monitoring.

**INSTRUCTION**

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 should also consider the student’s previous rate of growth and the specially designed instruction that is being provided to increase the rate of learning in order to determine ambitious, but achievable goals. When developing IEP goals and objectives, the IEP team must consider the nature and severity of the disability as it relates to the student’s ability to advance appropriately toward attaining the 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 for participation in the alternate education framework and/or participation in the alternate assessments (and whose parents have consented to this decision) may receive academic instruction based on alternate academic standards. The Core Content Connectors (CCCs), developed by the National Center and State Collaborative (NCSC) and aligned with the MCCRS, are modified standards for English/language arts and mathematics and represent the essential or “core” skills of the grade level MCCRS.

The Dynamic Learning Maps (DLM) Essential Elements (EEs) are the alternate standards for science and are aligned with 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 science standards, representing a breadth, but not the depth, of coverage across the entire standards framework.

As with any student with a disability, the IEPs for students found eligible for participation in the alternate education framework contain three types of goals:

- Goals aligned with the academic/content standards of the grade in which the student is enrolled (CCCs and EEs);
- 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.

The IEP should also include, as appropriate, goals for 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. Such goals should be based on age/grade appropriate expectations.

Based on the PLAAFP, the IEP team determines the instructional and testing accommodations, supplementary aids, services, program modifications and supports, and special education and related services necessary for the student to access the curriculum and school environment and achieve the goals. A focus on evidence-based practices is emphasized in the Every Student Succeeds Act (ESSA) which requires the implementation of such practices that have been proven to be effective in leading to desired outcomes, namely improving student outcomes.

**Model lesson plans** in English/language arts, mathematics, and science were created by Maryland master teachers. These lessons are based on the National Center and State Collaborative Core Content Connectors and the Dynamic Learning Maps Essential Elements and are aligned with the Maryland College and Career ready Standards. These model lessons facilitate access to modified grade-level content and are available on [OER Commons](https://www.oercommons.org).

**PROVIDING SERVICES**

The IEP team must also determine the least restrictive environment (LRE) in which the student’s IEP can be effectively implemented. The decision about LRE is separate from the decision about participation in the alternate assessments and/or alternate instructional standards. Inclusive education should serve as a guiding principle when determining the placement where a student’s specially designed instruction and related services will be delivered, including students with the most significant cognitive disabilities. The requirements of LRE in the Individuals with Disabilities Act (IDEA) [34 C.F.R. § 300.114 through 300.118, COMAR 13A.05.01.10A] states that, to the maximum extent appropriate, students with disabilities are educated alongside their peers without disabilities in general education settings. 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 [34 C.F.R. § 300.114(a)(2)(ii) and COMAR 13A.05.01.10A(2)].

The student’s placement decision is made 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 can be delivered in the general education setting to accelerate the student’s progress. Moreover, there should be no predetermined specified criteria for including or excluding any student in the general education classroom. Eligibility for the alternate framework/assessment does not automatically 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 placement outside of the general education setting is warranted, 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 IEP 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.

**ASSESSMENT**

All students with disabilities, including students with significant cognitive disabilities, must be included in statewide assessments with appropriate accommodations and supports as indicated in their IEP [34 C.F.R § 300.160(a)]. The content areas assessed through the alternate assessments are English language arts (ELA), mathematics, and science. Students who participate in the alternate assessments must participate in all three content areas: English language arts, mathematics, and science. The Multi-State Alternate Assessments for ELA and mathematics are administered in grades 3 through 8 and 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. 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.

As noted in a previous section, the alternate assessments and alternate instructional 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 [34 C.F.R. § 200.6].

**SUMMARY**

While accessing the general education curriculum and participating in statewide assessments is an expectation for all students, there exists a very small number of students with the most significant cognitive disabilities who may need to be instructed with, and whose performance may need to be measured against, the alternate instructional standards. Eligibility for participation in the alternate assessments and instruction using alternate 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 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 collaborative team maintains high expectations, which allows students with the most significant cognitive disabilities to reach their fullest potential and be prepared for post-secondary options.

**Frequently Asked Questions**

1) **Does the IEP team determine alternate education eligibility only during the IEP years in which assessments are administered?** No. The alternate assessments are administered in grades three through eight and during 11th grade. This 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. The decision to participate in alternate assessments should not be made prior to the IEP that will be in effect when the student enters third grade. The team must complete the Alternate Appendix A and must obtain parental consent annually in order for the student to participate in alternate assessments or in instruction using alternate academic standards.

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 Assessment and instruction Using Alternate 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 (e.g., a combined passing score, the Bridge Plan for Academic Validation).
3) **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:

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

4) **Are all students, including students with significant cognitive disabilities, expected to meet age or grade level standards within the period covered by the IEP?** Yes. The expectation is that the IEP team develops appropriate annual IEP goals that are aligned with grade level standards, then calculate 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 have been 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. The IEP should represent progress in light of the student’s unique characteristics.

5) **Does the IEP team for a student with a significant cognitive disability follow the same process for developing IEP goals and objectives as teams for other students with disabilities?** Yes, the process is the same, except the annual IEP goals are aligned to alternate achievement standards aligned with the grade in which the student is enrolled. The alternate standards, called the Core Content Connectors (CCCs) and Essential Elements (EEs) are derived from the general education curriculum. Given the unique needs of students with significant cognitive disabilities, the IEP team may consider including functional IEP goals to improve access to the curriculum (such as communication and interpersonal goals), participation in school and learning activities, or independence in the school and potential post-school environments.

6) **If the IEP team determines that 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 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 goals identified in the IEP cannot be achieved in the general education classroom with supplementary aids, service, 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.

7) **Are there resources to help school and district leaders ensure students with the most significant cognitive disabilities can be educated in the general education classroom?** Yes, there are a number of resources available to State, district and school leaders. For example, Maryland was selected to receive intensive technical assistance from the TIES Center. The **TIES Center** is the national center on inclusive practices and policies for students with significant cognitive disabilities. Its purpose is to create sustainable K-8 educational systems that support full participation, engagement, and learning for students with the most significant cognitive disabilities so that they can fully engage in general education classrooms and other general education settings. TIES Center elements include increased **Time** in inclusive settings; use of evidence-based practices to improve **Instruction**; increased **Engagement**; and increased capacity of state and school personnel to **Support** and implement inclusive practices and policies. Over the course of this four-year initiative, the work will be scaled up across the state so that **all** Maryland students have equitable opportunities that produce outcomes, which is a primary focus of the Division of Early Intervention and Special Education Services’ work.

8) **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 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.

9) **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 MCCRS and participates in the required general assessment for their enrolled grade with appropriate accommodations and supports.
Eligibility Participation Decision Flowchart

The student has an Individualized Education Program (IEP) that includes specially designed instruction comprised of accommodations, supplementary aids and services, evidence-based practices, program modifications, personnel support, and evidence the student cannot access the general education curriculum despite ongoing interventions.

The student’s records indicate a disability or multiple disabilities that most significantly impact intellectual functioning and adaptive behavior.

The student requires modifications to instruction that result in a educational program that restricts the full scope and sequence of the assigned curriculum.

The student requires extensive, direct, repeated, and individualized instruction and support that is not of a temporary or transient nature.

The student uses substantially modified materials with individualized methods of accessing information in alternate ways to acquire, maintain, generalize, demonstrate, and transfer skills across academic content.

After a thorough review using multiple sources of evidence, the team has determined that the student has a significant cognitive disability, which prohibits him or her from participating in the general education curriculum even with the provision of specially designed instruction and supports and is therefore eligible for participation in the Alternate Education Framework.

The IEP team has obtained the written consent of a parent to participate in the Alternate Assessments and/or the Alternate Education Framework.

The student may participate in the Alternate Assessments and/or the Alternate Education Framework.

Student must participate in the general assessments if ALL criteria are not met.
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/](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.** [https://tiescenter.org/resource/G7/VVN2oMRZGzGg1syrvlMA](https://tiescenter.org/resource/G7/VVN2oMRZGzGg1syrvlMA)

- **Communicative Competence in the Inclusive Setting: A Review of the Literature, June 2019.** [https://tiescenter.org/resource/Zg/Ue_eLWQ_eA3nNnb7datg](https://tiescenter.org/resource/Zg/Ue_eLWQ_eA3nNnb7datg)

Standards

- **Core Content Connectors**: Maryland’s alternate achievement standards for English/language arts and mathematics for students with the most significant cognitive disabilities. [https://wiki.ncscpartners.org/index.php/Core_Content_Connectors](https://wiki.ncscpartners.org/index.php/Core_Content_Connectors)


- **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/](http://mdk12.msde.maryland.gov/instruction/commoncore/)


- **Next Generation Science Standards**: Maryland standards for science. [https://www.nextgenscience.org/](https://www.nextgenscience.org/)

Standards-Aligned IEPs


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. [http://marylandpublicschools.org/programs/Documents/Special-Ed/PSTA/DEISESAltAssessmentParticipationGuidance_04-2019.pdf](http://marylandpublicschools.org/programs/Documents/Special-Ed/PSTA/DEISESAltAssessmentParticipationGuidance_04-2019.pdf)

- **National Center and State Collaborative** website contains information for parents and professionals relating to the alternate assessment system and related content to assess the English/language arts and mathematics achievement of students with the most significant cognitive disabilities. [http://www.ncscpartners.org/](http://www.ncscpartners.org/)

Family Engagement


- **Taking the Alternate Assessment Does NOT Mean Education in a Separate Setting!** TIES Center Family Brief #2 May, 2019 [https://tiescenter.org/resource/NO/yDQYeoQqe0thNgNp4ch](https://tiescenter.org/resource/NO/yDQYeoQqe0thNgNp4ch)