

6A-1.0943 Statewide Assessment for Students with Disabilities.

(1) Definitions. For the purposes of this rule, the following definitions apply:

- (a) "Circumstance" shall have the same meaning as defined in Section 1008.212, F.S.
- (b) "Condition" shall have the same meaning as defined in Section 1008.212, F.S.
- (c) "General Education Curriculum Standards" means the standards incorporated in Rule 6A-1.09401, F.A.C.
- (d) "Medical complexity" shall have the same meaning as defined in Section 1008.22(11), F.S.
- (e) "Modifications" shall have the same meaning as defined in paragraph 6A-6.03411(1)(z), F.A.C.

(f) "Most significant cognitive disability" means a global cognitive impairment that adversely impacts multiple areas of functioning across many settings and is a result of a congenital, acquired or traumatic brain injury or syndrome and is verified by either:

1. A statistically significant below average global cognitive score that falls within the first percentile rank (i.e., a standard, full-scale score of sixty-seven (67) or under); or

2. In the extraordinary circumstance when a global, full-scale intelligent quotient score is unattainable, a school district-determined procedure that has been approved by the Florida Department of Education under paragraph (5)(e) of this rule.

(g) "Parent" shall have the same meaning as defined in paragraph 6A-6.03411(1)(bb), F.A.C.

(h) "Statewide, standardized assessment" shall have the same meaning as defined in Section 1008.22(3), F.S.

(2) The Florida Department of Education shall assure the participation of students with disabilities to include those students with disabilities as defined by Section 1003.01(3)(a), F.S., or students with disabilities who have been determined eligible and have a plan developed in accordance with Section 504 of the Rehabilitation Act in the statewide standardized assessment program and provide technical assistance to school districts in the implementation of the requirements of this rule including appropriate accommodations for students participating in the statewide standardized assessment program as required by Section 1008.22(3)(c), F.S.

(3) All students with disabilities will participate in the statewide standardized assessment program based on state standards, pursuant to Rule 6A-1.09401, F.A.C., without accommodations unless the individual educational plan (IEP) team, or the team that develops the plan required under Section 504 of the Rehabilitation Act, determines and documents that the student requires allowable accommodations during instruction and for participation in a statewide standardized assessment.

(4) Provision of accommodations for students with disabilities participating in the statewide, standardized assessment program.

(a) Each school board shall utilize appropriate and allowable accommodations for statewide, standardized assessments within the limits prescribed herein and current statewide, standardized assessment test administration manuals published by the Florida Department of Education's Bureau of K-12 Student Assessment and Bureau of Exceptional Student Education. Copies of the manuals are available by contacting the Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400. Accommodations are defined as adjustments to the presentation of the statewide, standardized assessment questions, methods of recording examinee responses to the questions, scheduling for the administration of a statewide, standardized assessment to include amount of time for administration, settings for administration of a statewide, standardized assessment, and the use of assistive technology or devices to facilitate the student's participation in a statewide standardized assessment. Accommodations that negate the validity of a statewide, standardized assessment are not allowable. Within the limits specified in this rule, allowable statewide, standardized assessment accommodations are based on current instructional accommodations and accessible instructional materials used by the student in the classroom.

(b) The accommodations described in paragraph (4)(a), of this rule, are authorized for any student who has been determined to be an eligible student with a disability pursuant to Section 1003.01(3)(a), F.S., and Rule 6A-6.0331, F.A.C., and has a current IEP, or who has been determined to be a student with a disability with a plan developed in accordance with Section 504 of the Rehabilitation Act. The accommodations must be identified on the student's IEP or the plan developed under Section 504 of the Rehabilitation Act.

(c) The need for any unique accommodations for use on a statewide, standardized assessment must be submitted to the Florida Department of Education for approval by the Commissioner of Education. In order to be approved, a unique accommodation must be allowable for use on a statewide, standardized assessment and must be used by the student during classroom instruction and for assessments and described as such on the student's IEP or plan developed in accordance with Section 504 of the Rehabilitation Act.

(d) School district personnel are required to implement the accommodations in a manner that ensures that the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond

or directing or leading the student to a particular response. In no case shall the accommodations authorized herein be interpreted or construed as an authorization to provide a student with assistance in determining the answer to any test item.

(e) Students with disabilities who are not currently enrolled in public schools or receiving services through public school programs and require accommodations in order to participate in the statewide, standardized assessment program must have access to accommodations identified in paragraphs (4)(a) and (4)(c) of this rule if the following information is provided:

1. Evidence that the student has been found eligible as a student with a disability as defined by Section 1003.01(3)(a), F.S., or is an eligible student with a disability with a plan developed in accordance with Section 504 of the Rehabilitation Act; and,

2. Documentation that the requested accommodations are regularly used for instruction.

(5) Participation in the Statewide, Standardized Alternate Assessment.

(a) The decision that a student with a significant cognitive disability will participate in the statewide, standardized alternate assessment as defined in Section 1008.22(3)(c), F.S., must be made by the IEP team and recorded on the IEP.

(b) The provisions with regard to parental consent for participation in the statewide, standardized alternate assessment found in subsection 6A-6.0331(10), F.A.C. must be followed.

(c) In order for a student to participate in the statewide, standardized alternative assessment, all of the following criteria must be met:

1. The student must receive exceptional student education (ESE) services as identified through a current IEP and be enrolled in the appropriate and aligned courses using alternate achievement standards for two (2) consecutive full-time equivalent reporting periods prior to the assessment;

2. The student must be receiving specially designed instruction, which provides unique instruction and intervention supports that is determined, designed and delivered through a team approach, ensuring access to core instruction through the adaptation of content, methodology or delivery of instruction and is exhibiting very limited to no progress in the general education curriculum standards;

3. The student must be receiving support through systematic, explicit and interactive small-group instruction focused on foundational skills in addition to instruction in the general education curriculum standards;

4. Even after documented evidence of exhausting all appropriate and allowable instructional accommodations, the student requires modifications to the general education curriculum standards;

5. Even after documented evidence of accessing a variety of supplementary instructional materials, the student requires modifications to the general education curriculum standards;

6. Even with documented evidence of the provision and use of assistive technology, the student requires modifications to the general education curriculum standards;

7. Even with direct instruction in all core academic areas (i.e., English language arts, mathematics, social studies and science), the student is exhibiting limited or no progress on the general education curriculum standards, and requires modifications;

8. Unless the student is a transfer student, the student must have been available and present for grade-level general education curriculum standards instruction for at least seventy (70) percent of the school year prior to the assessment;

9. Unless the student is a transfer student, the student must have been instructed by a certified teacher for at least eighty (80) percent of the school year prior to the assessment;

10. The assessment instrument used to measure the student's global level of cognitive functioning was selected to limit the adverse impact of already-identified limitations and impairments (e.g., language acquisition, mode of communication, culture, hearing, vision, orthopedic functioning, hypersensitivities and distractibility); and,

11. The student has a most significant cognitive disability as defined in paragraph (1)(f) of this rule.

(d) A student is not eligible to participate in the statewide, standardized alternate assessment if any of the following is true:

1. The student is identified as a student with a specific learning disability or as gifted;

2. The student is identified only as a student eligible for services as a student who is deaf or hard of hearing or has a visual impairment, a dual sensory impairment, an emotional or behavioral disability, a language impairment, a speech impairment, or an orthopedic impairment; or

3. The student scored a level 2 or above on a previous statewide, general education curriculum standardized assessment administered pursuant to Sections 1008.22(3)(a) and (b), F.S., unless there is medical documentation that the student experienced a traumatic brain injury or other health-related complication subsequent to the administration of that assessment that led to the student having the most significantly below-average global cognitive impairment.

(e) Each school district must submit to the Department of Education a procedure to identify students with the most significant cognitive disability when a global, full-scale intelligent quotient score is unattainable. In order to be approved for use by a district, the procedure must:

1. Include data from multiple sources;
2. Meet the criteria found in paragraphs (5)(c) and (5)(d) of this rule; and
3. Be documented in the district's ESE Policies and Procedures, as required by Section 1003.57, F.S.

(6) Extraordinary exemption. Pursuant to Section 1008.212, F.S., upon approval of the Commissioner, a student with a disability is eligible for an extraordinary exemption from participation in statewide standardized assessments as defined in subsection (1) of this rule.

(a) The IEP team may determine that a student with a disability is prevented by a circumstance or condition as defined in subsection (1) of this rule from physically demonstrating the mastery of skills that have been acquired and are measured by a statewide, standardized assessment and may recommend that an extraordinary exemption from the administration of a statewide assessment be granted. A learning, emotional, behavioral, or significant cognitive disability or the receipt of services through the homebound or hospitalized program in accordance with Rule 6A-6.03020, F.A.C., is not, in and of itself, an adequate criterion for the granting of an extraordinary exemption.

(b) The IEP team, which must include the parent, may submit to the school district superintendent a written request for an extraordinary exemption at any time during the school year, but no later than sixty (60) calendar days before the first day of the administration window of the statewide standardized assessment for which the request is made. A request must include all of the following information:

1. A written description of the student's disabilities, including a specific description of the student's impaired sensory, manual or speaking skills;
2. Written documentation of the most recent evaluation data;
3. Written documentation, if available, of the most recent administration of statewide, standardized assessments;
4. A written description of the circumstance's or condition's, as defined in subsection (1) of this rule effect on the student's participation in statewide, standardized assessments;
5. Written evidence that the student has had the opportunity to learn the skills being tested;
6. Written evidence that the student has been provided appropriate instructional accommodations;
7. Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student's IEP that are allowable in the administration of a statewide, standardized assessment;
8. Written evidence of the circumstance or condition as defined in subsection (1) of this rule; and,
9. The name, address and phone number of the student's parent.

(c) Based on the documentation provided by the student's IEP team, the school district superintendent shall recommend to the Commissioner whether an extraordinary exemption from participation in a given statewide assessment administration be granted or denied. The school district's recommendation and accompanying documentation must be sent to the Florida Department of Education, Office of the Commissioner, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(d) If the parent disagrees with the IEP team's recommendation, the dispute resolution methods as described in Rule 6A-6.03311, F.A.C., shall be made available to the parent.

(e) Upon receipt of the request, documentation and recommendation, the Commissioner shall verify the information documented, make a determination and notify the parent and the school district superintendent in writing within thirty (30) calendar days after the receipt of the request whether the exemption has been granted or denied. In order for an extraordinary exemption to be granted by the Commissioner, all required documentation must be submitted and must provide sufficient evidence that the identified circumstance or condition prevents the student from physically demonstrating the mastery of skills that have been acquired and are measured by the statewide, standardized assessment. If the Commissioner denies the exemption, the notification must state the reasons for the denial.

(f) If the Commissioner grants the exemption, the student's progress must be assessed in accordance with the goals established in the student's IEP.

(7) Exemption options for students with medical complexity. A student with medical complexity as defined in Section 1008.22(10), F.S., may be exempt from participating in statewide, standardized assessments to include the Statewide, Standardized Alternate Assessment. If the parent consents in writing, and the student's IEP team determines that the student should not be

assessed based on medical documentation that confirms that the student meets the criteria of medical complexity, the parent may select one (1) of the following assessment exemption options:

(a) A one-year exemption approved by the school district superintendent as described in Section 1008.22(11), F.S. For all students approved by the school district superintendent for a one-year exemption, the following information must be reported to the Commissioner by June 1:

1. The total number of students for whom a one-year exemption has been granted by the superintendent; and,
2. For each student receiving an exemption, the student's name, grade level and the specific statewide, standardized assessment(s) from which the student was exempted.

(b) A one-, two-, or three-year or permanent exemption approved by the Commissioner as described in Section 1008.22(11), F.S. In order for the Commissioner to consider such an exemption, the following information must be submitted by the school district superintendent to the Commissioner no later than thirty (30) calendar days before the first day of the administration window of the statewide, standardized assessment for which the request is made:

1. The student's name, grade level, and the statewide, standardized assessment for which the exemption request is made;
2. The name, address and phone number of the student's parent;
3. Documentation of parental consent for the exemption;
4. Documentation of the superintendent's approval of the exemption;
5. Documentation that the IEP team considered and determined that the student meets the definition of medically complex as defined in Section 1008.22(11), F.S.; and,
6. Medical documentation of the student's condition as determined by a physician licensed in accordance with Chapter 458 or 459, F.S.

(8) Upon receipt of the request, documentation and recommendation, the Commissioner shall verify the information documented, make a determination, and notify the parent and the school district superintendent in writing within twenty (20) calendar days after the receipt of the request whether the exemption has been granted or denied.

Rulemaking Authority 1001.02(1), (2)(n), 1003.01, 1003.571, 1008.212, 1008.22(3), (11), (13) FS. Law Implemented 1003.01, 1003.571, 1008.212, 1008.22(3), (11) FS. History—New 9-12-78, Amended 3-4-84, Formerly 6A-1.943, Amended 6-12-90, 9-17-01, 7-1-10, 1-5-14, 12-23-14, 7-14-21.