



COMMONWEALTH of VIRGINIA
Department of Education

DATE: March 2, 2018
TO: Division Superintendents
FROM: Steven M. Constantino, Ed.D., Acting Superintendent of Public Instruction
SUBJECT: **Required Justification for School Divisions Exceeding the One Percent Cap on Students Participating in the Virginia Alternate Assessment Program**

Under the *No Child Left Behind Act of 2001* (NCLB), federal regulations limited the number of proficient and advanced scores on the Virginia Alternate Assessment Program (VAAP) that could be counted in the pass rates used in Virginia's federal accountability system. The number of passing VAAP scores included was limited to one percent of students in the tested grade levels. Under the NCLB requirements, school divisions were required to re-assign VAAP passing scores that exceeded the one percent cap at the division level to failing scores. The re-assignment of passing scores was used for the purposes of federal accountability only and did not impact the passing status on individual students.

The *Every Student Succeeds Act of 2015* [↗](#) (ESSA) was signed into law in December 2015. ESSA amends the *Elementary and Secondary Education Act of 1965* (ESEA), and replaces the previous NCLB amendment. Section 1111(b)(2)(D)(i)(I) and Section 1111(b)(2)(D)(ii)(II) of ESSA clarify that states must ensure that the total number of students assessed in a subject using the alternate assessment aligned with alternate achievement standards in the state does not exceed one percent of the total number of all students who are assessed in a subject. However, states are precluded from setting a division-level cap on the percentage of students who may be assessed with an alternate assessment. The law also specifies that any division that exceeds the one percent cap must submit information to the State justifying the need to exceed it.

Based on the new requirements of ESSA, school divisions will no longer be required to re-assign passing scores on VAAP that exceed the one percent cap at the division level to failing scores. Beginning in the 2017-2018 school year, school divisions who exceed the one percent cap on participation in the VAAP will have to provide to the Virginia Department of Education (VDOE) justification for exceeding the one percent.

The VDOE will hold a webinar in March in order to provide further information on how VDOE will monitor the administration of the VAAP and how school divisions exceeding the one percent cap will provide justification to VDOE. Additional information about registration for the webinar will be provided to Directors of Special Education and Division Directors of Testing.

If you have questions, please contact Deborah Johnson at Deborah.Johnson@doe.virginia.gov; telephone (804) 371-2725.

SMC/DJ