MISSISSIPPI DEPARTMENT OF EDUCATION
Ensuring a bright future for every child

MISSISSIPPI LITERACY-BASED PROMOTION ACT

Frequently Asked Questions



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Literacy-Based Promotion Act
Frequently Asked Questions

§ 37-177-11. Good Cause Exemption for promotion to grade 4 of student not meeting academic requirements

A Third Grade student who does not meet the academic requirements for promotion to the Fourth Grade may be promoted by the school district only for good cause. Good Cause Exemptions for promotion are limited to the following students:

(a) Limited English proficient students who have had less than two (2) years of instruction in an English Learner program;

(b) Students with disabilities whose Individualized Education Program (IEP) indicates that participation in the statewide accountability assessment program is not appropriate, as authorized under state law;

(c) Students with a disability who participate in the state annual accountability assessment and who have an IEP or a Section 504 Plan that reflects that the individual student has received intensive remediation in reading for more than two (2) years but still demonstrates a deficiency in reading **or** previously was retained in Kindergarten or First, Second or Third Grade;

(d) Students who demonstrate an acceptable level of reading proficiency on an alternative standardized assessment approved by the State Board of Education; and

(e) Students who have received intensive intervention in reading for two (2) or more years but still demonstrate a deficiency in reading and who previously were retained in Kindergarten or First, Second or Third Grade for a total of two (2) years and have not met exceptional education criteria.

Questions and answers on the following pages are categorized alphabetically by topic as outlined below.

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Accommodations

1. **Will students with Individualized Education Program (IEP) read-aloud accommodations be allowed to use these on the Mississippi Assessment Program-English Language Arts (MAAP-ELA)?** No. The reading portion of the MAAP-ELA test assesses student's reading skills. Teachers cannot read the assessment to students.

2. **Where can the accommodations list for the 3rd Grade assessments be found?** For the spring administration of the Grade 3 MAAP-ELA assessment, districts should use accommodations as indicated in the 2017 Mississippi Testing Accommodations Manual.

3. **Are students with disabilities or English learners (ELs) allowed to test individually in order for students to read the test aloud?** Yes. This is an option available to all students. While the teacher cannot read the test to students, a student can be tested individually so the student can read the test aloud to himself/herself. This must be included in the school's test security plan, and the test administrator and proctor must both be present during that time.

4. **Does the test need to be completed the same day?**
   No, students must have an accommodation to test over multiple days. Please see Accommodation 25 in the 2017 Mississippi Testing Accommodations Manual.

Alternative Assessment

5. **What is the alternative standardized assessment approved by the State Board of Education?** The alternate assessment will be the 3rd Grade Reading Alternative Assessment produced by Questar Assessment, Inc.

Attendance

6. **How do schools address students with excessive absences?** School personnel should work with the school attendance officer to communicate attendance policies with parents and ensure that parents understand the consequences of a student not passing the 3rd Grade MAAP-ELA.

7. **If a child is sick and misses the initial test period, will they have the opportunity to take the test during the retest window? If a student consistently misses the test window, will they be retained in third grade by default?** If the student is sick, they will take the test upon return during the designated testing window. A student who does not take the test nor the alternative assessment will be retained.

Documentation

8. **What can a school do if documentation of reading intervention is not available because the student was previously enrolled in another school?** Documentation is required and must be provided; therefore, the school must contact the student's previous school administration for documentation of prior reading intervention.

9. **What can a school do if the student transfers from an out-of-state school, and there is no documentation of reading intervention available?** Immediately upon identification of a reading deficiency the school should develop an Individual Reading Plan (IRP) and begin the intervention process.

10. **What is a Student Data Collection Worksheet?** This student information form, located in Appendix C of the Mississippi Literacy Based Promotion Act Implementation Guide, contains all pertinent student information and is required documentation for Good Cause Exemption.

11. **Where can schools get the Individual Reading Plan Template?** This form is located in Appendix D of the Mississippi Literacy Based Promotion Act Implementation Guide. The Individual Reading Plan template may also be found in the MTSS Documentation Packet (Appendix E).

12. **What documentation must be kept for intervention and Good Cause Exemptions?** The forms that must be utilized are located in Appendices C, D, E and F of the Mississippi Literacy Based Promotion Act Implementation Guide. The school/district will maintain forms and supporting documentation. This documentation may be kept electronically, but it must be readily available for review by the MDE.

13. **Who determines if intensive reading remediation has been delivered?** The district superintendent will determine if the documentation supports that intensive reading interventions have been provided in accordance with the Literacy Based Promotion Act requirements and accept or reject the principal's recommendation in writing.

Dyslexia

14. **Will 3rd grade students who have an official diagnosis of dyslexia be allowed accommodations on the 3rd grade assessment?** Yes. On the 3rd Grade MAAP-ELA, the extended accommodation for MAAP is not a per-question extension. Extended time is allowable, but students must complete the assessment before 3:00 p.m. or the end of the school day, whichever occurs first. Students with a documented diagnosis of dyslexia will also be allowed accommodations 24 and 25 on the 3rd Grade MAAP-ELA which allows for testing over multiple sessions (#24) or multiple days (#25) (see the 2019 Accommodation 25 Stopping Points and Extended Time Guidance and 2019 Accommodation 25 Stopping Points and Extended Time Retest Guidance.

15. **Will students with dyslexia be allowed to track the text as they read, highlight the text during the assessment, and have paper provided in order to manipulate words and decode?** Yes. Students are allowed to use a tracker if needed and may be provided paper to decode text. Highlighting text is available for the 3rd Grade MAAP-ELA assessment.

English Learners (ELs)

16. **Do English Learners (ELs) who have been in a school in the United States for two years or longer have to pass the 3rd Grade MAAP-ELA or the 3rd Grade Reading Alternative Assessment?** Yes. ELs who have been enrolled in a school in the United States for two calendar years or more must pass the 3rd grade reading assessment for promotion.

17. **If a student is officially identified as an English Learner and has not been retained, how would he or she qualify for a Good Cause Exemption?** Good Cause Exemption A addresses ELs and does not require prior retention to be applied. ELs must pass the 3rd grade reading assessment for promotion to be promoted to fourth grade unless they have had less than two years of instruction in an English language program.

General Information

18. **How can a student meet the requirement of the Literacy Based Promotion Act?**

    For 2018-2019, students may meet promotion requirements of the LBPA by:

    - earning a passing score (level 3 or above) on the multiple-choice portion of the 3rd Grade MAAP-ELA Assessment.
    - achieving a passing score (level 3 or above) on either of the two retest opportunities on the 3rd Grade Reading Alternative Assessment. *
    - achieving a composite score of Level 3 or higher on the 3rd Grade MAAP-ELA Assessment after the writing is scored. *

    *Please note these methods of promotion are considered Good Cause Exemption D

19. **What is the pass/fail cut score for the 3rd Grade MAAP-ELA?** Beginning 2018-2019, students will be required to score at or above Level 3 on the online reading portion of the 3rd Grade MAAP-ELA.

20. **Is there a timeline for requesting a Good Cause Exemption?** Schools should apply for Good Cause Exemptions after the initial test results determine that students did not pass the assessment. Therefore, a student who qualifies for a Good Cause Exemption should not take the alternative assessment.

21. **What is the difference between Good Cause Exemption for general education students and students with disabilities?** Students with an IEP must have received two years of intensive reading intervention **or** have been retained at least once in Kindergarten, First, Second, or Third Grade – **Good Cause Exemption C**. General education students must have received two years of intensive reading intervention and have been retained two years total in Kindergarten, First, Second, or Third Grade – **Good Cause Exemption E**.

22. **Who makes the final decision about Good Cause Exemptions?** The superintendent makes the final decision about Good Cause Exemptions. Prior to this decision, the teacher submits documentation to the principal. The principal shall review and discuss

the recommendations with the teacher and parents and make a determination as to whether or not the student should be promoted based on requirements set forth in this chapter. If the principal determines that the student should be promoted, based on the documentation provided, the principal must make the recommendation in writing to the school district superintendent, who, in writing, may accept or reject the principal's recommendation.

23. **How does a teacher know whether to submit a Good Cause Exemption?** If the student fails the first test and meets one of the Good Cause Exemption criteria, then an exemption should be requested.

24. **How does a school address students who have failed two years or more, and who have failed the 3rd grade reading assessment for promotion but did not qualify for a Good Cause Exemption?** This student should have received Tier III intervention and possibly a referral for a comprehensive assessment. If the student has been retained two or more years and has received intensive reading intervention, as required by State Board Policy Chapter 41, Rule 41.1, the student will qualify for Good Cause Exemption E.

25. **For clarity, can two (2) years of retention include an impending retention during the current third-grade year?** No. The "impending retention" does not count. The two years of retention must have taken place prior to the current school year.

26. **In MSIS, students that passed the 3rd grade retest in June are populating as 20 day students. Should districts consider these students as 20 day students and follow protocol? These students will need an IRP in 4th grade, so will that suffice as their reason for being considered 20 day students?** In this situation, the student is promoted to fourth grade under Good Cause Exemption (D) because they passed the retest in June. This student should be considered a 20 day student. The district should conduct a 20 day meeting to decide what level of intervention support is needed for this student. They will need an IRP, but they may also need intensive interventions at Tier III.

High-Performing Teacher

27. **What constitutes a high-performing teacher? Is this determined by state assessment scores, promotion/retention rate, etc.?** A high-performing teacher is selected by the principal based upon successful student achievement (through the use of current and past assessment data) and classroom observation.

Individualized Education Program (IEP)

28. **What is the role of the IEP Committee in Good Cause Exemptions?** An IEP Committee can decide services that impact the student's least restrictive environment (LRE) placement. The student must either pass the 3rd Grade MAAP-ELA, 3rd Grade Reading Alternative Assessment, or qualify for a Good Cause Exemption to be promoted to the Fourth Grade.

29. **If an IEP Committee makes the decision to place a child in the next grade, does the Literacy-Based Promotion Act override the committee's decision?** Yes. The IEP Committee cannot override the requirements of state law. The *Individuals with Disabilities Education Act* (IDEA) does not address grade placement. Grade promotion and/or retention are not the same as "placement." Placement is the program of services (specially-designed instruction)—i.e. regular education, self-contained, residential placement, day treatment, homebound, etc. The establishment of promotion or retention is governed by local/state-level policy.

30. **Can students who have an IEP that reflects a single eligibility of Language/Speech and who have been retained one year qualify for a Good Cause Exemption?** Yes. They are students with an IEP and can be promoted under the Good Cause Exemption C. Students with an IEP must have had one year of retention or have had two years of intensive reading intervention.

31. **Would a third grade student with a disability who has not been retained be eligible for Good Cause Exemption?** Yes. Students with a disability who participate in the state annual accountability assessment and who have an IEP or a Section 504 Plan that reflects that **the individual student has received intensive remediation in reading for more than two (2) years** but still demonstrates a deficiency in reading **or** previously was retained in Kindergarten, First, Second or Third Grade may qualify for Good Cause Exemption C.

32. **If a student becomes eligible for special education during third grade, has never been retained, has only received intensive intervention during third grade, would he/she qualify for a Good Cause Exemption?** No. The student will not qualify for a Good Cause Exemption because the student has not met the requirements of having two (2) years of documented intensive interventions.

33. **Do students with disabilities who are NOT significantly cognitively disabled (SCD) have to be retained to qualify for a Good Cause Exemption if they have had two years of intensive reading intervention?** No. A student with a disability must have had two years of intervention OR have been retained for one year to qualify for a Good Cause Exemption.

34. **If a student initially qualifies as a child with a disability under IDEA at any time during their third grade year, would the student then be eligible for the special education Good Cause Exemption?** Yes. If the student has an IEP and meets the additional requirements under Good Cause Exemption C, then the school would adhere to the special education requirements for Good Cause Exemptions for a student with an IEP. The exemption can only be applied once the IEP is in place for the student.

35. **If a student is coded in MSIS as a "56" in a self-contained classroom but age-wise would be a third grade peer, should they be given the 3rd Grade MAAP-ELA?** Yes. Students who are coded 56 are assigned an assessment grade-level as determined by peer age/peer grade according to the student's age on September 1 of the current academic school year.

36. **Does a student who has been determined SCD have to take the 3rd Grade MAAP-ELA?** No. Students classified as SCD are not required to take the 3rd Grade MAAP-ELA. These students will qualify under Good Cause Exemption B.

Opt-out

37. **What can schools share with parents who are refusing for their students to participate in the 3rd Grade MAAP-ELA statewide accountability assessment?** In accordance with state laws (MS Code 37-177-9) and (MS Code 37-16-3), the **3rd Grade MAAP-ELA** is required for promotion to fourth grade.

Parent Communication

38. **Will meetings be scheduled with parents of students being considered for a Good Cause Exemption?** The principal, teacher, and parent should work collaboratively to schedule an initial meeting to discuss the identified reading deficiency. An additional meeting and written notification should occur once there is a final decision on the Good Cause Exemption. Parents are to be involved throughout the process.

Public Reporting

39. **How will districts report the number and percentage of students who are retained and/or did not pass as a result of the 3rd grade MAAP-ELA?** Schools will enter promotion and retention data and Good Cause Exemption data in MSIS. A report will be generated by the MDE and shared with districts for publication in local newspapers.

40. **How will data for small groups of students be reported?** For small groups of students, the published reports will protect student identity in accordance with Family Educational Rights and Privacy Act (FERPA) guidance.

41. **For a student who meets a Good Cause Exemption, will there be a requirement to note this or provide documentation to MDE?** Yes. Status of Good Cause Exemption will be reported electronically through MSIS. The school/district will maintain forms and supporting documentation for Good Cause Exemption determinations. The completed Good Cause Exemptions Summary Form, located in Appendix E of the LBPA Implementation Guide, must be placed in the student's cumulative record. Supporting intervention documentation may be kept electronically, but it must be readily available for review by the MDE.

Reading Interventions

42. **Does the 90 minutes of intervention during the regular school day have to be uninterrupted?** The Literacy Based Promotion Act requires ninety (90) minutes of intervention for students not promoted to 4th grade based on the 3rd grade reading

assessment results. It is **recommended best practice** that the ninety (90) minutes be uninterrupted, but it is not required to be delivered consecutively by law.

43. **Where can we find sources for scientifically-based reading research?** The following sources may be considered when identifying resources to support literacy instruction:
    - The National Reading Panel Report (2000)
    - International Dyslexia Association Standards for Teachers of Reading
    - What Works Clearinghouse: Foundational Skills to Support Reading for Understanding in K-3
    - International Literacy Association Standards (2010)

44. **What qualifies as two (2) years of "intensive reading instruction"?** Intensive reading instruction is direct, explicit, systematic instruction that addresses the reading deficiency that has been identified and that is delivered with integrity and fidelity. Intensive reading instruction must be documented for two school years.

45. **Could two years of being in the special education system prior to third grade be considered as two years of reading intervention?** Not necessarily. The decision is based on documentation of intensive reading intervention and not the fact that the child is receiving specially-designed instruction through special education. Special education placement does NOT qualify as intensive reading intervention.

46. **Would after-school tutoring be considered a Good Cause Exemption intervention?** After-school tutoring provided at a school can be considered only if it adheres to the MTSS-RTI Tier III requirements, is coordinated by the school, is provided at no cost to the parent, and is documented in the student's cumulative record.

47. **How does a school document reading interventions for a student with an IEP?** Documentation for a student with a disability is the same as the documentation for a general education student. The forms are located in Appendices C, D, E, and F of the Mississippi Literacy Based Promotion Act Implementation Guide. The school/district will maintain forms and supporting documentation. This documentation may be kept electronically, but it must be readily available for review by the MDE.

48. **Can the documented intensive reading interventions come from the resource classroom or do they have to come from the general education setting with or without special education support?** The documented intensive reading interventions may come from the resource teacher, general education teacher, or a combination of both.

49. **Are Tier II interventions considered intensive interventions?** No. Tier II interventions are not considered intensive interventions.

50. **Do students have to be in Tier III to get a Good Cause Exemption?** Yes. Students in general education must be receiving Tier III intensive intervention in reading.

51. **Is there a guideline to use to determine which of our students are not meeting the benchmark for universal screeners?** Please refer to the IRP and Intervention Guidance document.

52. **Who is responsible for providing interventions during the summer prior to the third retest?** Since the third retest will occur over the summer, parents may choose to provide support personally for the student. The school or district may also offer support but are not obligated to provide summer remediation.

Retention

53. **If a student fails the third grade school year due to district requirements and is retained, but passed the 3rd grade reading assessment for promotion the previous year, does the student have to pass the test again the following year?** All students MUST take the 3rd Grade MAAP-ELA assessment to satisfy state accountability testing requirements.

    Beginning 2018-2019, if students score a Level 3 or above on MAAP-ELA or receive a "met" score on either retest then that score may be used to apply Good Cause Exemption D the following spring. No score from past MKAS2 (Renaissance) administrations can be banked due to the change in promotion requirements.

54. **Does the MDE have any research to support the practice of retention? Is there any research that shows retaining students with a Specific Learning Disability in reading will improve reading skills?** The State Legislature established the Literacy-Based Promotion Act. It is the job of the Mississippi Department of Education to ensure that the law is followed. We encourage districts to understand that it is not the intent of the law for retained students to have the same classroom experience when they repeat third grade. It is the intent of the law to provide students that fail with intensive reading intervention that includes effective instructional strategies and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade.

55. **Can parents choose to have their child retained if the superintendent approves promotion based on the Good Cause Exemption?** Yes. Parents can request that their child be retained even if the child qualifies for a Good Cause Exemption.

56. **Will a student who makes a 3 or above on the 3rd Grade MAAP-ELA Composite be eligible for promotion during the 2018-2019 school year?** Yes. The 3rd Grade MAAP-ELA Reading Sub-score, the 3rd Grade Reading Alternative Assessment or the 3rd Grade MAAP-ELA Composite may be used to determine whether a student met the promotion criteria of the Literacy-Based Promotion Act. Beginning in 2018-2019, students must score a level 3 or higher to be considered for promotion.

Summer Program

57. In accordance with the law, interventions must occur in school districts for retained third grade students. Are schools and districts required to offer transportation and summer school? No. Additional transportation or summer school programs are not required by the law. Interventions should occur during the school year and prior to the first retest window, which is also during the school year. While the law allows for summer reading camps, schools are not required to use this approach.

Test Design

58. On the test, will the student be required to answer a question on a higher level of difficulty when he/she has answered the question correctly? No. The 3rd Grade MAAP-ELA consists of items that are written to address the Grade 3 Mississippi College- and Career-Readiness Standards for English Language Arts.

59. Will each question receive the same number of points? No. The questions on the 3rd Grade MAAP-ELA Assessment are worth either 1 or 2 points depending on the item type. Closed-ended items are worth one point, and open-ended items are worth two points. More specific information about the item types can be found in the Mississippi Assessment Program English Language Arts, Grades 3-8 Blueprint Interpretive Guide.

60. Will the score reports for the 3rd Grade MAAP-ELA be a pass/fail roster or a detailed report? For the 3rd Grade MAAP-ELA, districts will receive a pass/fail roster, and parents will receive an individual student score report indicating if a student met/did not meet the LBPA requirement.

61. What should the Test Administrator or Proctor do if a student cannot get through the practice questions on the K-Readiness Assessment? Districts are encouraged to reference the Mississippi Accessibility Features and Testing Accommodations for the MKAS2 document for accessibility features available for students who experience difficulty answering questions on the Kindergarten Readiness Assessment, which may also include the ability to answer practice questions. Specifically, number 70 on the Accessibility Features states, “Student will dictate or gesture the answers to Scribe, and Scribe will mark answers directly into online test system in the presence of Test Administrator and Proctor." Scribes may read the practice questions and should ensure that practice questions are answered correctly so that students may gain access to the Kindergarten Readiness Assessment. When the assessment begins, the Scribe must record student answers to establish a baseline and determine next steps for addressing deficiencies.

Transfer

62. If a student transfers before or after the 3rd Grade MAAP-ELA is administered and re-enters the district after the beginning of the following school year, then this

student is placed in fourth grade based on academic information from the previous school. What if a student enrolls in fourth grade, coming from a homeschool, private school, or other setting? In accordance with Standard 7 of the Mississippi Public School Accountability Standards, 2018, any transfer student from a school or program (correspondence, tutorial, or home study) not accredited regionally or by a state board of education [or its designee(s)] is given either a standardized achievement test(s) or teacher-made special subject test(s) to determine the appropriate classification of the student within thirty (30) days after filing for transfer. Notice of the administering of such test(s) shall be given to the applicant not less than five (5) days prior to the date of the administration of such test. It is the local district's responsibility to determine if a school is regionally accredited based on the local district policy. State Board Policy 36.2 states: *Enrollment in a non-public school/program (to include, but not limited to, private schools, parochial schools, home schools, virtual schools, summer schools, independent study/correspondence programs, etc.) shall not be used to circumvent participation in the Mississippi Statewide Assessment System or students meeting the graduation requirements outlined in this policy.*

63. **Does a student who transfers from out-of-state qualify for a Good Cause Exemption?** A student enrolling in Fourth Grade from a regionally or state board accredited school would simply enroll in fourth grade. For students enrolling in fourth grade as a transfer from homeschool, private school, or some other setting, please see the response to question 62.

Transition Class

64. **The LBPA Implementation Guide recommends a transition class after third grade. Will MDE provide any guidance or suggestions about the implementation of this type of class?** Yes. Please visit Guidelines for Students Identified with a Reading Deficiency and/or for Students Not Promoted document for guidance.