

Literacy-Based Promotion Act Good Cause Exemptions 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 Language Learner program;
- (b) Students with disabilities whose individual education plan (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 and 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.

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Accommodations

- 1. Will students with Individualized Education Program (IEP) read-aloud accommodations be allowed to use these on the Third Grade Reading Summative Assessment?** No. The Third Grade Reading Summative Assessment assesses student-reading skills. Teachers cannot read the assessment to students.
- 2. Where can the accommodations list for the Third Grade Reading Summative Assessment be found?** The [MKAS2-Accessibility-Features-and-Testing-Accommodations](http://www.mde.k12.ms.us/mkas2) document is linked from the right side of www.mde.k12.ms.us/mkas2.
- 3. Are students with disabilities or English Language Learners 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.
- 4. Does the test have to be resumed on the same day, or is there an 8-day window? If accommodation 23, is used, then the test must be resumed on the same day.**
Accommodation 23 states, “If, in the Test Administrator’s professional judgment, a student with a disability (SWD), an English learner (EL), and students with a diagnosis of dyslexia that were evaluated by a licensed psychologist, psychometrist, or speech language pathologist (HB 1031, July 2012) is unable to continue the assessment, the Test Administrator can stop the test. When the student is prepared to continue the test, the assessment must be resumed on the same day from the point at which it was stopped. This accommodation (#23) must be listed in the student’s IEP or Section 504 Plan and specified for this assessment area **or** students must have a documented diagnosis of dyslexia on file in accordance with Miss. Code 37-173-1 et seq.”

If **accommodation 25** is listed on, the student will have 8 calendar days to resume the assessment. **Accommodation 25** states, “Students with disabilities (SWDs) and English learners (ELs) can click [Resume Later] to allow students to resume their test at a later time, starting on the same question number at which the test was paused but a different item. The STAR monitor password is required. Note a different password can be set for each STAR class; be sure to enter the password for the class in which the student is testing. The test can be paused and resumed as many times as needed, but it can only be resumed within 8 days of when it was originally started. Closing the test window during a test will also allow a student to resume from where they left off, although this is not recommended. If the student clicks [Stop Test] and the monitor password is entered, the test is over and the student will need to begin a new test. The incomplete test will not be scored. This **accommodation (#25)** must be listed in the student’s IEP or Section 504 Plan and specified for this assessment area.”

See the [MKAS2-Accessibility-Features-and-Testing-Accommodations](http://www.mde.k12.ms.us/mkas2) document, linked from the right side of www.mde.k12.ms.us/mkas2.

Alternative Assessment

- 5. Other than the MKAS2, is there an alternative standardized assessment approved by the State Board of Education?** No, there is no alternative assessment this year; however, two retest opportunities are available.

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 Third Grade Reading Summative Assessment.
- 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. A student who does not take the test 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 is a Student Data Collection Worksheet?** This student information form, located in Appendix C of the LBPA Implementation Guide, contains all pertinent student information and is required documentation for good cause exemption. This document is available on the right side of www.mde.k12.ms.us/literacy under Resources for Administrators.
- 10. Where can schools get the Evaluation for Intervention Success Form?** This form is located in Appendix D of the LBPA Implementation Guide located on the right side of www.mde.k12.ms.us/literacy under Resources for Administrators.
- 11. What documentation must be kept for intervention and good cause exemptions?** The forms that must be utilized are located in Appendices C, D, and E of the LBPA Implementation Guide located on the right side of www.mde.k12.ms.us/literacy under Resources for Administrators. 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.

12. 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

13. Will third grade students who are diagnosed as dyslexic and who have the accommodation of extended time take the test on the computer? Yes. All students will take the test on the computer. If the student has a documented diagnosis of dyslexia, or if the student has an IEP or 504 Plan including an accommodation for extended-time, the student will be allowed 20 minutes per question.

14. Will dyslexic students 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? Students are allowed to use a tracker if needed, highlighting text is not available option for this assessment; however, you may provide students with paper to decode text. See the [MKAS2-Accessibility-Features-and-Testing-Accomodations](#) document, linked from the right side of www.mde.k12.ms.us/mkas2.

English Language Learners

15. Do English learners (ELs) who have been in a school in the United States for two years or longer have to pass the Third Grade Reading Summative Assessment? Yes. ELs who have been enrolled in a school in the United States for two years or more must pass the Third Grade Reading Summative Assessment.

16. Students officially identified as English learners are generally not retained due to a language barrier. How would they 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 Third Grade Reading Summative Assessment to be promoted to fourth grade unless they have had less than two years of instruction in an English language program.

General Information

17. What is the pass/fail cut score for the Third Grade Reading Summative Assessment? The cut score for pass/fail will be determined on May 5, 2015, and will be submitted to the State Board of Education for approval on May 7, 2015.

18. 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.

- 19. 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 and have been retained at least once in Kindergarten, first, second, or third grade. 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.
- 20. 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.
- 21. How does a teacher know whether to submit a good cause exemptions?** If the student fails the first test and meets one of the good cause exemption criteria, then an exemption should be requested.
- 22. How does a school address students who have failed two years or more, and who have failed the Third Grade Reading Summative Assessment 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 4300, the student will qualify for a good cause exemption (e).

High-Performing Teacher

- 23. 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)

- 24. 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 pass the Third Grade Reading Summative Assessment or qualify for a good cause exemption to be promoted to the fourth grade.

- 25. If an IEP Committee makes the decision to place a child in the next grade, does this law override the committee's decision?** Yes. The IEP committee cannot override the requirements of state law. The *Individuals with Disabilities in 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.
- 26. 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 clause if they have had two years of intensive reading intervention.
- 27. Would a third grade special education student who has not been retained be eligible for good cause exemption?** No. A student with a disability only qualifies for a good cause exemption if he/she has been retained one year and has had intensive intervention for two years.
- 28. 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.
- 29. 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?** Yes. A student with a disability must have had two years of intervention AND have been retained for one year to qualify for a good cause exemption.
- 30. 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.
- 31. 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 Third Grade Reading Summative Assessment?** 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.

- 32. Does a student who has been determined to have an SCD have to take the Third Grade Reading Summative Assessment?** No. Students classified as having an SCD are not required to take the Third Grade Reading Summative Assessment. These students will qualify under good cause exemption (b).

Opt-out

- 33. What can schools share with parents who are refusing for their students to participate in the Third Grade Reading Summative Assessment?** In accordance with state law (MS Code 37-177-9), the Third Grade Reading Summative Assessment is required for promotion to fourth grade.

Parent Communication

- 34. Will meetings be scheduled with parents of students being considered for a good cause exemption?** Yes. The school will schedule an initial meeting to include the parents, the teacher, and the principal. 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

- 35. How will districts report how many students are retained as a result of the Third Grade Reading Summative Assessment and how many students did not pass the assessment?** A report will be generated by the MDE and shared with districts for publication in local newspapers.
- 36. 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 Federal Education Rights to Privacy Act (FERPA) guidance.
- 37. For a student that 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. 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

- 38. 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 summative 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.
- 39. What is the MDE source for guidance on scientifically based reading research?** The National Reading Panel Report (2000) is available online at <http://www.nichd.nih.gov/research/supported/Pages/nrp.aspx/>.
- 40. What qualifies as "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.
- 41. 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.
- 42. 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 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.
- 43. How does a school document reading interventions for a student with an IEP?** Documentation for a special education student is the same as the documentation for a general education student. The forms are located in Appendices C, D, and E of the LBPA Implementation Guide located on the right side of www.mde.k12.ms.us/literacy under Resources for Administrators. 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.
- 44. 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.
- 45. If a student fails the third grade school year and is retained, but passes the Third Grade Summative Assessment, does the student have to pass the test again next year?** No. The student's score will be "banked". Once the student passes the assessment, they will not have to take the test again.

- 46. 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?** 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.
- 47. 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.
- 48. For clarity, can two years of retention include an impending retention during this current third grade year?** "Impending" retentions do not count. The two years of retention must have taken place prior to the current school year.
- 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. Please refer to guidance on the Response to Intervention (RTI) process located online under the Other Links section on the left side of www.mde.k12.ms.us/cj.
- 51. Is there a guideline to use to determine which of our students are not meeting the benchmark when taking the STAR Reading tests?** Schools should use progress monitoring data to identify students in need of intervention and support. As a point of reference, students who score in the bottom 40th percentile on STAR Reading tests should be considered for intervention or urgent intervention.
- 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, but must submit documentation. The school or district may also offer support, but are not obligated to provide summer remediation.

Summer Program

- 53. Since it is a state law, will districts be required to provide transportation for those that are required to have the four weeks of intensive intervention?**
Interventions should occur during the school year and prior to the 1st retest, which is during the school year. It is not law that the school provide interventions during the

summer before the third retest. Interventions must be documented before the retest occurs, and those interventions may be done at the school during a summer program, or parents can send documentation that interventions have taken place at home or through private tutoring. Schools are not required by this law to provide summer school.

54. Some schools or districts have received grants to pay for the summer reading support? When was this advertised and it too late to apply for assistance? The Request for Proposals was announced in early November and was due December 15, 2014. No applications are being taken at this time. However, Title I funds may be used if available and in the districts Title I application.

55. In accordance with the law, interventions must occur in school districts for retained third grade students. If this is the case, 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. Students must receive interventions during the summer prior to the second retest. Interventions must be documented before the retest occurs, and those interventions may be done at the school during a summer program, or parents can send documentation that interventions have taken place.

Test Design

56. Who authored the Third Grade Reading Summative Assessment? Renaissance Learning developed the test.

57. On the test, why will the student be required to answer a question on a higher level of difficulty when he/she has answered the question correctly?
The test is an adaptive test; therefore, it is determining the grade-level performance. If a student answers an item correctly, the difficulty level of the item will increase.

58. Will each question receive the same number of points? The assessment questions are weighted based on the difficulty level of each item.

59. Will the score reports for the Third Grade Summative Assessment be a pass/fail roster or a detailed report? The score reports will include pass/fail information and individual student performance by domain. Additionally, reports for students who fail will include a list of key standards in need of further intervention.

60. Do the 8 days to resume or complete testing refer to calendar days or school days?

The 8 days to resume is a technology system requirement for the assessment and refers to calendar days; however, testing will occur only on school days.

Transfer

61. If a student transfers before the Third Grade Reading Summative Assessment 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? The Third Grade Reading Summative Assessment is a secure assessment and only administered by MDE, so the student would not take the Third Grade Reading Summative Assessment. However, in accordance with Standard 7 of the Mississippi Public School Accountability Standards, 2014, 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.

62. A student transfers in from out-of-state, does this student qualify for good cause? A third grade student will not be promoted unless documentation is provided to support intensive reading intervention and two years of retention in grades K-3. 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 61.

Transition Class

63. 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. The MDE will host a webinar on this topic in May.