



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: December 13, 2023

To: Local Educational Agency Leads, Administrators of Approved Private Schools for Students with Disabilities

Route To: Directors of Special Education, Staff Involved with Alternate Assessments, Parents of Students with Disabilities

From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Deadline: December 27, 2023

Public Comment on 1.0 Percent Waiver for Alternate Assessments

The New Jersey Department of Education (NJDOE) is preparing to submit an initial 1.0 percent waiver request in response to the [Office of Special Education memo](#) sent to all states on September 20, 2023. The NJDOE has adopted alternate academic achievement standards for students with the most significant intellectual disabilities. The NJDOE measures the achievement of those standards with an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). Federal regulation at 34 C.F.R. 200.6(c)(2) requires that, for each subject for which assessments are administered, the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards may not exceed the 1.0 percent of the total number of students in the state who are assessed in that subject.

The federal Every Student Succeeds Act (ESSA) caps the percentage of students who can take the alternate assessment at 1.0 percent of the total students tested. ESSA also allows states that may exceed the 1.0 percent cap to apply for a one-year waiver. The NJDOE believes the waiver may be necessary for the 2023-2024 school year. Therefore, the NJDOE seeks public comment on the 1.0 Percent State Waiver Request.

Please note that responses will be considered formal public comment. After consideration of public comments received during the comment window, the NJDOE will submit an addendum to the waiver request with the included comments by January 4, 2024.

Public Comment Process

The New Jersey State Waiver for the Alternate Assessment is available for review on the NJDOE's [Engagement, Professional Development, and Technical Assistance website](#). The NJDOE invites all members of the public to review the proposal and submit comments to OSEinfo@doe.nj.gov by end of day on December 27, 2023.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group