



2023/2024

**NEW JERSEY ALTERNATE
ASSESSMENT STATE
WAIVER REQUEST FOR
EXCEEDING THE 1.0
PERCENT PARTICIPATION
CAP**

ELA, MATH, AND SCIENCE

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New Jersey Alternate Assessment State Waiver Request for Exceeding the 1.0 Percent Participation Cap for ELA, Math and Science

INTRODUCTION

Title 1 of the Elementary and Secondary Education Act of 1965, amended by the Every Student Succeeds Act (ESSA¹) of 2015, addresses alternate assessments for students with the most significant intellectual disabilities. This provision states that students with the most significant cognitive disabilities may participate in alternate assessments based on alternate academic achievement standards. ESSA places a 1.0 percent threshold statewide on the number of students who may participate in the alternate assessment. Each State must submit a waiver request to the U.S. Department of Education if it predicts exceeding 1.0 percent participation in the alternate assessment in a subject.

Table 1 shows the percentage of students who took an alternate assessment by content area in grades 3-8 and high school in school years (SY) 2016-2017 through 2022-2023. Using NJSmart data, participation for 2022-2023 in reading decreased by 0.01%, mathematics decreased by 0.01%, and science alternate assessment participation decreased by 0.02% from 2021-2022 to 2022-2023. 2021-2022 had the highest percentage of students taking the alternate assessment in ELA and was 0.01% higher than 2022-2023. Across all five reporting years, the percentage of participation ranged from 1.0% to 1.62% for ELA, Math ranged from 1.0% to 1.59%, and Science participation rate ranged from 0.8% to 1.51%.

Table 1: Participation in Alternative Assessment by Subject Across Years (NJSmart)

Subject	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	Change
ELA	1.20%	1.30%	-	1.0%	1.62%	1.61%	-0.01%
Math	1.20%	1.30%	-	1.0%	1.59%	1.58%	-0.01%
Science	1.40%	1.40%	-	0.80%	1.51%	1.49%	-0.02%

NOTE: New Jersey took advantage of the flexibility offered by USED and did not administer statewide assessments for 2019-2020.

As stipulated in ESSA, New Jersey's Statewide Improvement Plan includes the following:

- Annually requiring justifications from districts and charter schools exceeding the 1.0 percent threshold.
- Supporting and monitoring districts and charter schools to ensure the appropriate use of the State's eligibility guidelines for the alternate assessment.
- Using a statewide tiered system of support to provide appropriate oversight and support to districts that exceed the 1.0 percent threshold.

New Jersey's participation rate is above the 1.0 percent threshold for ELA, Math, and Science. The New Jersey Department of Education (NJDOE) is collaborating with national partners to develop and implement innovative approaches to ensure that only students with the most significant intellectual

¹ [ESEA §111\(b\)\(2\)\(D\) and 34 CFR 200.6 \(c\) and \(d\)](#)

disabilities participate in New Jersey's Alternate Assessment. The staff at NJDOE currently participate in:

- The National Center for Educational Outcomes (NCEO) 1.0 Percent Community of Practice
- Membership in The Council of Chief State School Officers (CCSSO) State Collaborative on Assessment, Standards and Education of Students with Disabilities (ASES).

As specified in ESSA, districts and charter schools that are expected to exceed 1.0 percent participation must complete and submit a justification and assurances. NJDOE communicated with all 655 local educational agencies (LEAs) via a [Broadcast Memo](#) released on October 26, 2022, to collect alternate assessment justifications and assurances for the 2022-2023 school year and participate in the Tier 1 Universal Technical Assistance activities. If LEAs did not anticipate testing, more than 1.0 percent of their students on the alternate assessment they were not required to submit justification or participate in the Tier 1 Universal Technical Assistance activities.

Alignment to New Jersey's Priorities for Education

New Jersey is committed to meeting the needs of the whole child, which is an opportunity to ensure positive and meaningful educational experiences for students with disabilities that will lead to academic and postsecondary success. NJDOE's work on alternate assessment participation aligns with the purpose and goals of the New Jersey Partnership for Student Success ([NJPSS](#)). New Jersey's priorities for helping students recover from the impact of the COVID-19 pandemic:

- Learning Acceleration Resources and Supports
 - High Impact Tutoring
 - Reading Acceleration Professional Integrated Development (RAPID)
- Youth Mental Health
- Expanding Universal Preschool
- Educator Empowerment
- Maximizing partnerships between state agencies, with associations, and advocates
- New Jersey Tiered System of Supports ([NJTSS](#))
- The Reading Acceleration Professional Integrated Development (RAPID) Initiative
- [NJTSS Early Reading](#)
- Office of Special Education Learning Institutes: Summer Learning Institute 2023 and Winter Learning Institute 2024
- Adoption of 2023 New Jersey Student Learning Standards in English Language Arts

While NJDOE is working to reduce the percentage of students participating in the alternate assessment, another priority is ensuring that all students take the most appropriate assessments given their unique learning needs. NJDOE is working with County Special Education Specialists, districts, approved private schools and charter schools to ensure that Individualized Education Program (IEP) teams are using guidance documents appropriately, consistently applying the criteria for alternate assessment participation, and using the available accommodations to provide students with disabilities access to New Jersey's State assessments.

New Jersey has taken significant steps towards improving the appropriate use of the alternate assessment statewide. These steps include the following:

1. NJDOE developed a tiered system of supports for the alternate assessment that began implementation 2020-2021 school year.
 - a. Tier 1 Universal Technical Assistance
 - b. Tier 2 Targeted Review
 - c. Tier 3 Comprehensive Targeted Review
2. NJDOE put forth the State’s definition of “significant cognitive disability” in January 2020, pre-Covid, to a large group of internal and external stakeholders, including the New Jersey State Special Education Advisory Council (SSEAC). The stakeholder group reviewed the States definition of “significant cognitive disability” and revised the definition.
3. NJDOE continues to develop yearly LEA trainings that are housed on the alternate assessment vendor [website](#). LEAs are notified yearly via a [Broadcast Memo](#) of the release and availability of trainings. The training courses are available in PDFs and PowerPoint formatting and meets accessibility requirements. They include:
 - a. New Jersey DLM Assessment Coordinator Training Module
 - b. New Jersey DLM Data Manager Training Module
 - c. New Jersey DLM Managing Student Moves and Special Circumstance Codes for Voiding Testlets
 - d. New Jersey DLM Preparation for the Spring Assessment, Part One and Part Two
 - e. New Jersey DLM Sample Testing Checklist for Test Administrators
 - f. New Jersey DLM Security Breach and Irregularity Report Form
 - g. New Jersey DLM Teacher Training Module
 - h. New Jersey DLM Test Administration Observation Form
 - i. New Jersey DLM Testlet Completion Form
 - j. New Jersey DLM Test Security Agreement Assessment Coordinators and Other Staff
 - k. New Jersey DLM Test Security Agreement for Support Staff During DLM Test Administration
 - l. New Jersey DLM Test Security Agreement Teachers as Test Administrators

NJDOE is working to reduce participation in alternate assessments to meet federal requirements and ensure each student has access to rigorous curriculum and assessments that prepare them for positive school outcomes. New Jersey’s goal is and will continue to be, to ensure that the right students are taking the correct assessments.

Required Components of One Percent Waiver Request

Requirement 1: 34 CFR §200.6(c)(4)(i)) *Submit a waiver request at least 90 days before the testing window starts for the relevant subject.*

New Jersey’s assessment window for the Alternate Assessment for Students with Significant Intellectual

Disabilities for the 2023-2024 SY is April 8, 2024, through May 31, 2024. Ninety days before the start of New Jersey’s testing window (January 8, 2024), NJDOE will submit a waiver request to the United States Department of Education that covers each subject area listed above (English Language Arts, Math, and Science).

Refer to Appendix A regarding public comments.

Requirement 2: 34 CFR §200.6(c)(4)(ii): Provide State-level data to show: A) the number and percent in each subgroup who took the AA-AAAS in the subject area; and, B) the State has measured the achievement of at least 95% of all students and students with disabilities enrolled in the grades for which the AA-AAAS is required.

Table 2. Overall Rates of Assessment Participation for 2022-2023

Group	All Students Grades 3-8 and HS ELA	Students with Disabilities Grades 3-8 and High School ELA
Students Assessed	687,218	123,452
Students Enrolled	698,969	127,741
Assessment Participation Rate	98.32%	96.64%
Group	All Students Grades 3-8 and HS Math	Students with Disabilities Grades 3-8 and High School Math
Students Assessed	697,853	122,720
Students Enrolled	710,249	127,443
Assessment Participation Rate	98.25%	96.29%
Group	All Students Grades 3-8 and HS Science	Students with Disabilities Grades 3-8 and High School Science
Students Assessed	296,442	49,663
Students Enrolled	306,725	52,519
Assessment Participation Rate	96.65%	94.56%

NOTE: Data submitted to ED Facts; ELA means English Language Arts

Table 3. Alternate Assessment Participation Rates by Subgroup for 2022-2023

Group	Total Number in Grades 3-8, & HS	Num. Taking AA-AAAS in Grades 3-8, & HS	Percent Taking AA-AAAS in Grades 3-8, & HS
English Language Arts (ELA)			
All Students	698,969	11,272	1.61%
Hispanic	267,638	7,790	2.91%
American Indian/ Alaskan Native	1,455	60	4.12%
Asian	80,786	2,244	2.78%

Group	Total Number in Grades 3-8, & HS	Num. Taking AA-AAAS in Grades 3-8, & HS	Percent Taking AA-AAAS in Grades 3-8, & HS
Black	125,446	4,838	3.86%
Hawaiian/ Pacific Islander	1,469	48	3.27%
White	324,604	7,032	2.17%
Two or More Races	25,312	532	2.10%
Male	359,054	8,004	2.23%
Female	339,585	3,258	0.96%
English Learner	51,386	354	0.69%
Econ. Disadvantaged	252,540	4,617	1.83%
Mathematics			
All Students	710,249	11,253	1.58%
Hispanic	276,720	7,796	2.82%
American Indian/ Alaskan Native	1,483	60	4.05%
Asian	81,522	2,218	2.72%
Black	125,468	4,824	3.84%
Hawaiian/ Pacific Islander	1,469	48	3.27%
White	325,690	7,028	2.16%
Two or More Races	25,340	532	2.10%
Male	364,930	7,983	2.19%
Female	344,998	3,260	0.94%
English Learner	63,122	357	0.57%
Econ. Disadvantaged	258,797	4,615	1.78%
Science			
All Students	306,725	4,558	1.49%
Hispanic	98,244	1,535	1.56%
American Indian/ Alaskan Native	488	11	2.25%
Asian	32,650	441	1.35%
Black	44,737	951	2.13%
Hawaiian/ Pacific Islander	727	13	1.79%
White	121,408	1,511	1.24%
Two or More Races	8,471	96	1.13%
Male	157,660	3,190	2.02%
Female	148,828	1,366	0.92%
English Learner	21,461	124	0.58%
Econ. Disadvantaged	105,456	1,782	1.69%

NOTE: Data submitted to ED Facts; ELA means English Language Arts

Table 4. AA-AAAS Rates by Subject, by Year

School Year	ELA	Mathematics	Science
2017-2018	1.20%	1.20%	1.40%
2018-2019	1.30%	1.30%	1.40%
2019-2020	N/A	N/A	N/A
2020-2021	1.00%	1.00%	0.80%
2021-2022	1.62%	1.59%	1.51%
2022-2023	1.61%	1.58%	1.49%
2023-2024 (Estimate)	1.58%	1.55%	1.38%

NOTE: Data submitted to EDfacts; ELA means English Language Arts

Requirement 3: 34 CFR §200.6(c)(4)(iii): *Provide assurances that the State has verified that each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in a subject using the AA-AAAS did the following: Followed the State’s participation guidelines.*

For the 2022-2023 school year, NJDOE required all LEAs anticipating exceeding the 1.0 participation cap to submit a [Justification Form](#) providing justification on the need to assess more than 1.0 percent using the alternate assessment by February 3, 2023. LEAs were notified via a [Broadcast Memo](#) distributed on October 26, 2022. In analyzing the local data, the NJDOE OSE collected justifications and assurances from 213 LEAs. This Justification Form included the following assurances, which included that the LEA followed the participation guidelines:

- The LEA participated in the Tier 1 Universal Technical Assistance support by reviewing the online video and completing the quiz,
- IEP team members utilized NJ’s Eligibility and Participation Criteria to determine student eligibility for NJAA,
- IEP team review and determine annually a student’s eligibility to participate in the NJAA,
- The LEA provides sufficient training such that school staff who participate as members of the IPE team understand and implement NJ’s Eligibility and Participation Criteria so that students are appropriately assessed,
- Parents are informed in the development of their child’s individualized education program that their child’s academic achievement will be measured based on alternate standards.

If an LEA was not able to provide assurance for one or more of the above items, they were prompted to provide a brief narrative justifying why assurance could not be provided.

For the upcoming, 2023-2024 school year, NJDOE will continue to use the [Justification Form](#) to collect individual LEA anticipated participation rate data for the alternate assessment. Justification Forms are also the mechanism for LEAs to justify exceeding the 1.0 percent cap. NJDOE will also continue to develop and provide technical assistance through guidance, training, and other resources specific to alternate assessment participation.

Requirement 4: 34 CFR §200.6(c)(4):

NJDOE is implementing a comprehensive action plan for monitoring the participation rate in the alternate assessment. This plan seeks to uphold the principles of equity, fairness, and inclusivity in educational evaluation. Outlined below is a series of action steps designed to assess, track, and manage the participation rate in the alternate assessment. Furthermore, this plan is intricately structured to identify and implement strategies aimed at reducing the participation rate where appropriate. Appendix B provides a detailed timeline of the proposed action steps, complete with milestones to ensure transparent and accountable progress towards NJDOE's objectives. Through these actions and milestones, we endeavor to create an assessment landscape that truly reflects the diversity and unique needs of all New Jersey students.

A) The State will improve the implementation of its guidelines for participation

1. NJDOE will convene an internal Office of Special Education panel to review the State's definition of students with the most "significant cognitive disability."
2. NJDOE will create a new supplemental webpage ([NJ DLM Resource Library](#)) with the alternate assessment provider (Dynamic Learning Maps; DLM) to host NJ-specific resources and supports for LEAs and families of students with disabilities to understand the alternate assessment and participation requirements for the 2023-2024 school year.
3. NJDOE will develop a new series of resources to assist LEAs and families with understanding the alternate assessment and participation eligibility for the 2023-2024 school year. These resources will be housed in the new [NJ DLM Resource Library](#). The resources include:
 - a. [Frequently Asked Questions](#) (FAQ)
 - b. [Overview for Families: NJ's Alternate Assessment](#)
 - c. eLearning webinar "[1% Cap for New Jersey Alternate Assessment](#)"
 - d. Virtual Information Session on "Understanding the Participation Criteria for Students with the Most Significant Intellectual Disability" (session scheduled for the OSE Winter Learning Institute - February 2024)
4. NJDOE will create for the 2023-2024 SY the Alternate Assessment Decision-Making Tool ([Alternate Assessment Roadmap to Determine Eligibility](#)) to support IEP teams in determining eligibility for participation in the alternate assessment as a supplemental resource to the Participation Criteria Form and New Jersey DLM Teacher Training Module.

B) The State will take additional steps to support and provide appropriate oversight to each LEA (including monitoring and evaluation)

5. NJDOE will continue the three-tiered system of support established as additional oversight and support to LEAs that assess more than 1.0 percent of students using the alternate assessment. This tiered system originated as part of the plan implemented in 2020-2021 and will continue in 2023-2024 with the following updated criteria to further reduce the alternate assessment rates and in response to USED's increased emphasis on verification of alternate assessment appropriateness.

- All LEAs with anticipated alternate assessment rates exceeding 1.0 percent will complete a justification form and receive universal, general guidance on inclusion criteria for alternate achievement standards in assessment and instruction.
 - Selected LEAs that are above 2.0 percent participation rate but who also have more than 15 students participate in the alternate assessment, are disproportionate within one or more identified subgroups, and of those students' educational eligibility category is other health impairment, specific learning disabilities, or emotional regulation impairment will be considered to receive Tier 2 Targeted Review support.
 - Selected LEAs that meet the Tier 2 Targeted Review criteria for 3 or more consecutive school years will be considered to receive Tier 3 Comprehensive Review.
6. NJDOE will add alternate assessment participation rates to the Special Education Data Dashboard, which is published annually.
 7. NJDOE will add exceeding the 1.0 percent participation rate in the alternate assessment as a criterion in the comprehensive monitoring risk assessment.
 8. NJDOE will add exceeding the 1.0 percent participation rate in the alternate assessment as a criterion for LEA Annual Determinations.

C) The State will address any disproportionality in students taking the AA-AAAS

New Jersey examined disproportionality in participation on its State Alternate Assessment (DLM) based on the most recently completed test cycle (Spring 2023) for statewide summative assessments. To determine if disproportionality of students participating in the alternate assessment exists, the NJDOE analyzed the participation of students taking the alternate assessment in each of the following subgroups:

1. Racial and Ethnic Groups
 - a. White
 - b. Black or African American
 - c. Hispanic
 - d. Native American or Alaska Native
 - e. Asian
 - f. Pacific Islander
 - g. Multiracial
2. Socio-Economic Status (As determined by students' eligibility for Free and Reduced Price Meals)
3. Multilingual Learners (i.e., English Language Learners)

NJDOE's disproportionality analysis will examine the data for each of the content areas above for as many of the subgroups for which data were available. NJDOE will address disproportionality in the percentage of students (3.0% or more) in any subgroup taking the alternate assessment through multiple activities as described in the support system below. In particular, the following steps address disproportionality concerns:

- Calculating and analyzing participation rates among subgroups at the state and district levels;
- Identifying subgroups over-represented in the alternate assessment participation counts;

- Reviewing district justifications and data to identify unusual patterns and high participation rates across subgroups;
- Analyzing subgroup data over time to identify trends in subgroup participation with the goal of decreasing disproportionality;
- Continuing support and guidance for appropriate use of the [participation guidelines for New Jersey's Alternate Assessment](#);
- Posting eLearning video as a companion resource to the participation guidelines;
- Engaging with stakeholder groups to address disproportionality and ensure only students with the most significant intellectual disabilities are participating in the alternate assessment;
- Maintaining and updating alternate assessment online resources; and

ADDITIONAL ACTION STEPS FOR 2023-2024

1. NJDOE will continue to make the instructionally embedded (IE) alternate assessment window open in the fall (9/11/2023-12/22/2023) as an optional assessment to guide instruction for students with the most significant intellectual disabilities.
 - [Broadcast](#) for 2023-2024 SY discussing the IE Fall 2023 Assessment Window
2. NJDOE will continue to have LEAs submit their justification form via email with a [Broadcast Memo](#) released to LEAs on October 25, 2023, with a reminder of expectations and submitting the documentation required for anticipating exceeding the 1.0 percent participation rate.
 - NJDOE will update the Justification Form for the 2024-2025 SY that will collect data not only on the number of participants and their educational eligibility category, but also on the number of participants per subgroup identified in Table 2.
3. NJDOE will continue to make the Justifications Forms available to the public via email request to OSEInfo@doe.nj.gov
4. NJDOE will continue participating in national learning and networking opportunities. These opportunities include:
 - Membership in The Council of Chief State School Officers (CCSSO) State Collaborative on Assessment, Standards and Education of Students with Disabilities (ASES).
 - State Assessment Conference, sponsored by the Office of Elementary and Secondary Education (OESE), Office of School Support and Accountability (SSA).
 - The National Center for Educational Outcomes (NCEO) 1.0 Percent Community of Practice.

Appendix A
Public Comments

The 2023-2024 state waiver request was posted for public comment December 13-27, 2023. Public comment was obtained through online feedback. See Broadcast Memo released on December 13, 2023, for public comment processes.

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Appendix B
Timeline and Milestones of Action Steps for Requirement 4 (§200.6(c)(4))

Action Step	Milestone(s)	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Jul 2024	Aug 2024
Tiered System of Support	Tier 1 Universal Technical Assistance												
	Tier 2 Targeted Reviews												
	Tier 3 Comprehensive Targeted Review, if applicable												
OSE Special Education Data Dashboard	Add Alternate Assessment Participation Rates to the Special Education Data Dashboard												
Review of State Definition of Significant Intellectual Disability	Creation of Internal NJDOE OSE Review Committee												
	Review State Definition and Gather Feedback												
	Make Revisions, if appropriate, to the State Definition												
Online State Specific Supplemental Resource Library	Work with Alternate Assessment Partner (DLM) to Create Resource Library posted on DLM's website made available to New Jersey Educators and Families												
Data Addition for State Monitoring	Add Exceeding the 1.0 Percent Participation Rate in the Alternate Assessment as a Criterion in the Comprehensive Monitoring Risk Assessment												

Action Step	Milestone(s)	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Jul 2024	Aug 2024
	Add Exceeding the 1.0 Percent Participation Rate in the Alternate Assessment as a Criterion for the LEA Annual Determination												
Creation and Online Posting of Supplemental Resources	Supplemental Resources Posted and Made Available to New Jersey Educators and Families												
	Virtual Information Session for “Understanding the Participation Criteria for Students with the Most Significant Intellectual Disabilities”												
Instructionally Embedded (IE) Assessment	IE Assessment Window Available for LEAs												
Justification Forms for Exceeding the 1% Participation Cap	Broadcast Released Notifying LEAs of Justification Form Processes for 23-24 SY												
	LEAs engage in Tier 1 Universal Technical Assistance												
	LEAs submit Justification Forms to NJDOE												
	Justifications Forms Made Available by Email Request – previous years												
	Justification Forms Made Available by Request – current year												
National learning and networking	Participation and Attendance at the NCEO 1% CoP												

Action Step	Milestone(s)	Sept 2023	Oct 2023	Nov 2023	Dec 2023	Jan 2024	Feb 2024	Mar 2024	Apr 2024	May 2024	Jun 2024	Jul 2024	Aug 2024
opportunities for OSE Staff	Membership in CCSSO and Attendance at Conferences	■	■	■	■	■	■	■	■	■	■	■	■
	National Assessment Conferences		■							■			
OSE Special Education Data Dashboard	Add Alternate Assessment Participation Rates to the Special Education Data Dashboard										■		

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