



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 EDfacts; 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,
- The IEP team reviews and determines 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 on December 13 through December 27, 2023, on the Office of Special Education [Engagement, Professional Development and Technical Assistance](#) website. Public comment was obtained through feedback via email. See [Broadcast Memo](#) released on December 13, 2023, for public comment processes. NJDOE received 2 public comments. A Response to the public comments will be posted within 90-days of the waiver submission on the NJDOE OSE Engagement, Professional Development and Technical Assistance website.

NJDOE response to Public Comments

The Department has carefully reviewed public comments, and after thorough consideration, no changes have been made to the State Waiver based on the feedback received.

Public Comment #1

As a Director of Special Services and professional in the field of special education since 2005, I support New Jersey's waiver request for exceeding the 1.0 percent participation cap on alternative assessments. I have seen first hand the NJDOE working hard to reduce the percentage of students participating in the alternative assessment while also considering the most appropriate assessments for students with unique learning needs. The NJDOE has worked with districts to provide guidance documents for IEP teams for appropriate consideration of criteria needed for alternate assessment participation along with helpful resources. The complex needs of students and amount of students appropriate to take an alternative assessment have increased. It is our goal at the district level and will continue to be to ensure that the right students are taking the correct assessments. It is important that we continue to meet students where they are and use available accommodations to provide students with disabilities access to NJ's State assessments. I do believe a waiver request to exceed the 1.0 percent participation cap is needed at this time. We will continue to emphasize the importance of alternative assessment appropriateness but want to be sure our students are assessed correctly. Thank you for considering this public comment.

Dr. Elizabeth McQuaid
Director of Special Services

Public Comment #2

Please see below next 3 pages for public comments made from Family Voices New Jersey and SPAN Parent Advocacy Network.



SPAN Parent Advocacy Network and Family Voices NJ comments to the NJ Department of Education on the NJ Alternative Assessment State Waiver Request for Exceeding the 1% Participation Cap: ELA, Math, and Science

December 20, 2023

Thank you for the opportunity to comment on the proposed Alternative Assessment Waiver Request for Exceeding the 1% Cap. Family Voices-NJ is the NJ affiliate for Family Voices housed at SPAN Parent Advocacy Network, dedicated to supporting the family voice in children’s healthcare. SPAN also serves as the Parent-to-Parent USA affiliate for NJ; the NJ Parent Training and Information Center and Family to Family Health Information Center; and the state organization of the National Federation of Families. Our comments today are based on our extensive experience providing support to families around special education. We support the principles contained in the factsheet jointly developed by the Advocacy Institute with the National Down Syndrome Congress.

In general, we are opposed to any exemptions to the 1% cap as only this percentage of the overall student population has significant cognitive disabilities that might lead to the need to take the alternate assessment. As noted by the Center for Law and Education in their comments opposing the Massachusetts 1% waiver request, any student wrongly assigned for alternate assessment will be adversely affected throughout their educational career.

We note that, according to Table 1, the alternate assessment participation rate was actually on target for the academic year 2020-21. We note the slippage in both 2021-22 and 2022-23 and question why this occurred. If it were strictly pandemic related learning loss, we anticipate that this would have appeared on the 2020-21 data.

We are deeply concerned that “New Jersey’s participation rate is above the 1.0 percent threshold for ELA, Math, and Science” – all three areas. In addition, NJ isn’t eligible for a waiver in Science as the State failed to test 95% of students with disabilities in this area. It is SPAN’s position that the US Department of Education should not grant NJ a waiver extension. The 1% cap is in place to “ensur[e] that all students, including children with disabilities, are held to the highest standards of academic achievement, and to protect against the inappropriate use of the alternate assessment.”⁴

Also of concern is “NJDOE will add exceeding the 1.0 percent participation rate in the alternate assessment as a criterion for LEA Annual Determinations” as this could violate ESSA regulations which say States must not prohibit an LEA from assessing more than 1%. Also concerning is the statement that “NJDOE will continue to make the Justifications Forms available to the public via email request” as ESSA requires states to make LEA justifications publicly available – not merely “by request”.

We applaud the Department for recognition of the youth mental health crisis and the development

of a webpage and family guide to address this. We also strongly support expansion of universal preschool. SPAN has always supported the NJ Tiered System of Supports. We understand that NJ “developed a tiered system of supports for the alternate assessment that began implementation 2020-2021 school year” which was apparently successful based on the data. We understand that the Department “put forth the State’s definition of ‘significant cognitive disability’ in January 2020. We appreciate the “yearly LEA trainings...on the alternative assessment”.

We acknowledge that a waiver request must be submitted at least 90 days before testing on that subject. Of note, Table 3 indicates that male students are disproportionately impacted with data indicating ELA at 2.23%, Math at 2.19%, and Science at 2.02%, while female students are consistently below the 1% in all three areas. The request for a waiver does not include any information on why male students are participating in the alternate assessment at more than twice the 1% rate, while the same is not true for female students. This is critical information.

Although we understand that LEA’s “anticipating exceed the 1.0 participation cap [must]...submit a justification form”, we question the consequences of doing so and if systemic patterns are addressed. It is noted that the Department will “continue to use the justification Form to collect individual LEA anticipated participation rate data for the alternative assessment” and again question implications for accountability.

We understand that the Department is “implementing a comprehensive action plan for monitoring” but question why this wasn’t done sooner. We also acknowledge that the Department “will create for the 2023-2024 SY the Alternative Assessment Decision-Making Tool” which we support, but again question why this wasn’t done sooner based on data. Further, we strongly encourage the Department to work with SPAN, perhaps through our NJ DOE-funded START project, to get parental input into the decision-making tool. In addition, we note that the application indicates that the Department “will add alternative assessment participation to the Special Education Date”, but this should have been done all along.

We understand that the Department will “determine if disproportionality of students participating in the alternate assessment exists.” Based on data from other states, SPAN strongly believes that there is racial disproportionality as well as gender disproportionality in the census of students taking the alternate assessment. As stated above, we would also suggest looking at male students as a disproportionate population.

We would highly recommend the use of the National Center on Educational Outcomes brief providing strategies for meeting the 1% cap.ⁱⁱ

Thank you again for the opportunity to comment on the NJ DOE’s proposed waiver to exceed the 1% cap for alternate assessment.

Sincerely,



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i Every Child Achieves Act of 2015, Report of the Committee on Health, Education, Labor, and Pensions Together with Additional Views to Accompany S.1177 (Mar. 17, 2016), at 18.

ii <https://nceo.info/Resources/publications/OnlinePubs/briefs/brief12/brief12.html>

To empower families and inform and involve professionals and other individuals interested in the healthy development and education of children, to enable all children to become fully participating and contributing members of our communities and society.

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										■		