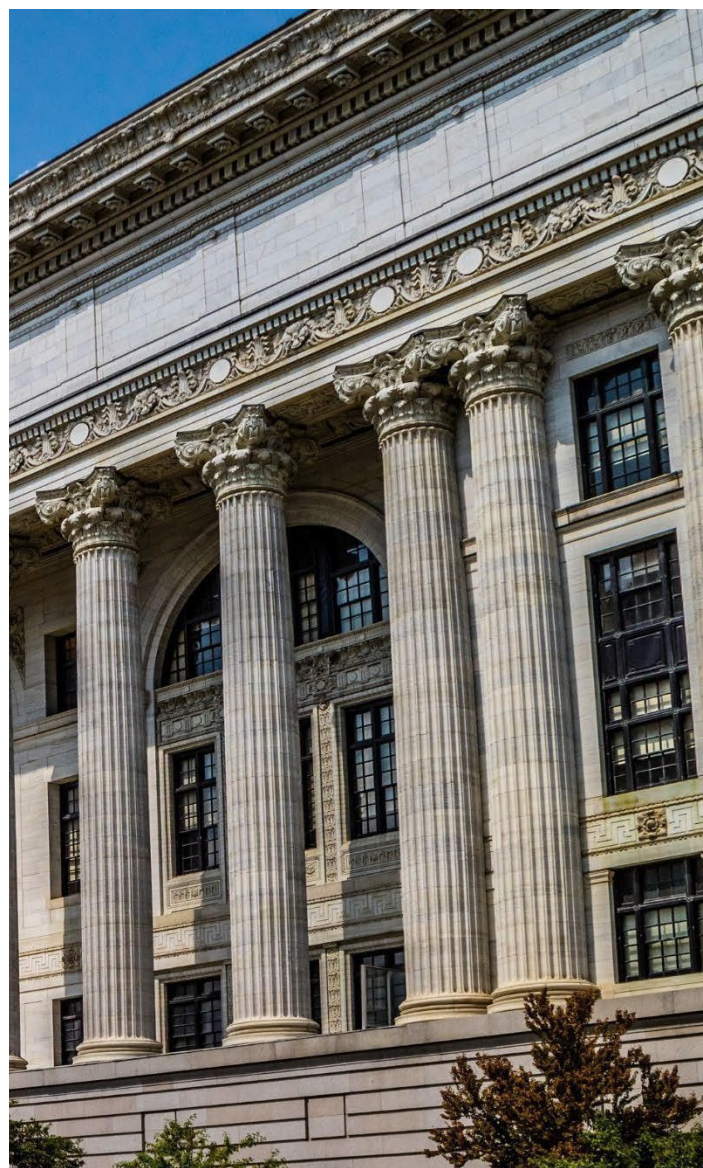

NYSED Updated 2024 Plan for Compliance with NYSAA 1.0 Percent Cap



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**Office of Special
Education (OSE)**



NYSED Updated 2024 Plan for Compliance with NYSAA 1.0 Percent Cap

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Background Information

The New York State Alternate Assessment (NYSAA) is New York's Alternate Assessment Based on Alternate Academic Achievement Standards (AA-AAAS) that are used to measure attainment of the state's learning standards for students with severe cognitive disabilities in grades 3-8 and high school who cannot participate in the general statewide assessment program, even with appropriate accommodations. Students taking NYSAA in English language arts (ELA), mathematics and science are assessed using the Dynamic Learning Maps (DLM) alternate assessment. The DLM alternate assessment is a computer-based adaptive assessment measuring a student's achievement of the state's ELA, mathematics, and science learning standards at a reduced level of depth, breadth, and complexity.

Only students with severe cognitive disabilities that meet the NYSED eligibility and participation criteria are eligible to take the NYSAA. NYS defines *students with severe disabilities* in NYS's Commissioner's Regulations [section 100.1\(t\)\(2\)\(iv\)](#) to mean:

“students who have limited cognitive abilities combined with behavioral and/or physical limitations and who require highly specialized education, social, psychological and medical services in order to maximize their full potential for useful and meaningful participation in society and for self-fulfillment. Students with severe disabilities may experience severe speech, language, and/or perceptual-cognitive impairments, and evidence challenging behaviors that interfere with learning and socialization opportunities. These students may also have extremely fragile physiological conditions and may require personal care”.

The committee on special education (CSE) [NYS's individualized education program (IEP) team pursuant to [34 CFR §300.321](#)] is required to use NYS's [Eligibility and Participation Criteria-NYSAA](#), in determining on an annual basis, whether a student has a severe cognitive disability and is eligible to participate in the NYSAA. The CSE determines whether a student with disability is eligible to take the NYSAA based on the following criteria:

- the student has a severe cognitive disability and significant deficits in communication/language and significant deficits in adaptive behavior; and
- the student requires a highly specialized educational program that facilitates the acquisition, application, and transfer of skills across natural environments (home, school, community, and/or workplace); and
- the student requires educational support systems, such as assistive technology, personal care services, health/medical services, or behavioral intervention.

The CSE must also ensure that decisions regarding participation in the Statewide assessment program are *not* based on:

- category of disability;
- language differences;

- excessive or extended absences; or
- cultural or environmental factors.

NYSAA 1.0 Percent 2019 Plan **Overview**

On June 4, 2019, the United States Department of Education (USDE) issued a letter informing NYSED that, based on AA-AAAS data reported for the 2017-2018 school year, NYSED was out of compliance with the ESEA 1.0 percent cap requirement and a condition was being placed on New York's FY 2019 Title I, Part A award, pending either a demonstration of compliance of the requirement by NYSED or a waiver requested of and granted by the USDE. Since this condition was placed, NYSED has worked to improve participation rates by following an improvement plan developed in 2019 that included the following 5 components:

NYSAA Technical Assistance Resources

NYSED took to assist educators and administrators in NYS in understanding the State's guidelines for participation in the NYSAA. In 2019, as a means of continued support for LEAs in determining whether the NYSAA is the appropriate assessment for an individual student, NYSED issued in-depth guidance to the field including:

- [*Eligibility Criteria for Participation in the New York State Alternate Assessment \(NYSAA\) Policy Brief*](#) identifying which students are eligible to participate in the NYSAA, how a student is determined eligible, considerations when making recommendations regarding a student's participation in State assessments, what information parents need to know about their child's participation in the NYSAA, and information about the 1.0 percent cap on students assessed with the NYSAA;
- [*New York State Alternate Assessment \(NYSAA\) Participation Decision- Making Flowchart*](#) and [*New York State Alternate Assessment \(NYSAA\) Participation Decision-Making Checklist*](#) to be used in conjunction with the [*Eligibility and Participation Criteria - NYSAA*](#) in the CSE decision-making process to ensure only those students with severe cognitive disabilities are taking the NYSAA; and
- [*Parent Notification of Participation in the New York State Alternate Assessment \(Sample Letter\)*](#) to assist LEAs in ensuring that parents are appropriately informed that their child's academic achievement will be measured based on alternate academic achievement standards that do not meet the expectations necessary to earn a regular high school diploma in NYS and how participation in the NYSAA will affect their child from completing the requirements for a regular NYS high school diploma.

In follow up to the above guidance, during the 2018-2019, 2019-2020, 2020-2021 and 2022-2023 school years, NYSED issued web-based training entitled, [*1.0 Percent Cap on New York State Alternate Assessment \(NYSAA\) Participation*](#), to further support the appropriate participation of students with severe cognitive disabilities in the NYSAA. This training reviews the assessment requirements under the Individuals with Disabilities Education Act and the ESEA, the ESEA 1.0 percent state-level cap requirements, NYS's NYSAA eligibility and participation criteria, and NYS's oversight process relating to the 1.0 percent state-level cap.

State Assessment Participation Technical Assistance Resources

NYSED has also taken steps to address participation rate on the State assessments through the development of guidance to the field, which includes the following:

- [ESSA Fact Sheets](#) for parents, educators, and school board members to explain NYS's ESSA plan;
- [Parent Resources - Elementary/Intermediate Tests](#) including information that parents, and other stakeholders should know about student participation in State assessments as well as frequently asked questions about NYS's ELA and mathematics assessments.

Tiered Intervention and Monitoring Plan

NYSED has and continues to work to ensure appropriate participation in the NYSAA in alignment with the ESEA 1.0 percent cap requirement through a multi-faceted approach. In addition to oversight through data analysis and review of submitted justification forms, a system of tiered interventions is utilized to assist LEAs identified as exceeding the 1.0 percent state-level cap. The intensity of services provided to each LEA follows a deeper data analysis of the NYSAA participation data and the justifications submitted to NYSED. The goal of the tiered Interventions is to increase understanding and LEA implementation of the NYS [NYSSA Eligibility and Participation Criteria](#). Implementation of a system of tiered interventions includes ensuring the continuation of the practices and resources already in place to address the appropriate identification of students with severe cognitive disabilities taking the NYSAA and an identification of policies, procedures, and practices requiring additional focus and attention. Those LEAs with the highest level of need receive more intensive oversight.

Additional Strategies

NYSED has shared detailed information on the 1.0 percent cap provisions under the ESEA and the NYSED NYSAA guidance and participation decision-making tools with the NYSAA Educator Advisory Panel (EAP) for review and discussion. The EAP was established to advise NYSED on the implementation of the NYSAA and consists of approximately 15 members who come from a variety of roles in both State approved-private and public-school districts, including teachers and administrators, as well as a parent member. NYSED will continue to seek the EAP's input on upcoming changes to [NYSAA Eligibility and Participation Criteria](#), as well as on additional strategies to support NYS coming into compliance with the 1.0 percent cap requirement.

Additionally, training specialists from DLM, NYS's vendor for the NYSAA, their sub-vendor, and NYSED staff annually provide statewide trainings on the administration of the NYSAA for teachers and administrators who have been identified to provide regional and local turnkey trainings. The EAP members provide input and feedback on statewide trainings and materials. As part of the annual Fall NYSAA Administration Training sessions, participants are provided with information on the 1.0 percent cap provisions under the

ESEA and NYSAA guidance and decision-making tools developed by NYSED to assist CSEs in determining whether the NYSAA is the appropriate assessment for a student. Participants are also provided with information on [NYSAA Eligibility and Participation Criteria](#) and the definition of students with severe disabilities, as well as on additional strategies to address NYSAA participation rate. The expectation is that the participants share this information with teachers and administrators in their LEA.

National Technical Assistance to Support NYSED

NYSED continues to avail itself of the technical assistance supported by the USDE. NYSED participates in the “NCEO 1% Cap Community of Practice (CoP).” The CoP, which meets biweekly, focuses on learning what states are doing related to the various components of their NYSAA 1.0 percent cap work. NYSED considers the information and tools developed/shared by NCEO and other states during the peer learning group (PLG) and CoP to help inform decisions about NYS’s 1.0 percent cap justification and oversight/monitoring procedures.

Progress Update

Since the implementation of the NYSED 2019 improvement plan to come into compliance with the NYSAA 1.0 percent cap condition, participation rates have fluctuated, but have shown improvement. As the chart below shows, there have been minor fluctuations in the participation rates year to year. However, from 2018-2019 to 2022-2023, the participation rates by subject area have decreased with a range of .23 to .33 percentage points.

	NYSAA 1.0 Percent Cap Participation Rates By Subject Area Trend Data 2018-2023					Rate of Improvement
	2018-19	2019-20	2020-21	2021-22	2022-23	2018 to 2023
ELA	1.73%	No testing due to COVID	1.92%	1.49%	1.40%	.33 percentage points
Math	1.71%		1.74%	1.38%	1.44%	.27 percentage points
Science	1.54%		1.56%	1.12%	1.31%	.23 percentage points

Despite improvements in participation rates, NYS remains over the NYSAA 1.0 percent cap. Therefore, NYSED will be employing the following targeted strategies in an updated 2024 improvement plan:

- Clarification of Participation Criteria;
- Revision to the NYSED NYSAA 1.0 Percent Cap Guidance Materials (Tier 1 Activities); and
- Revision to Tier 2 and 3 Activities

NYSAA 1.0 Percent Updated 2024 Plan Overview

Focus Area of Improvement #1- Clarification of Participation Criteria

In the 2024-2025 school year, NYSED will clarify its NYSAA Participation Criteria to ensure that eligibility decisions are consistent with NYS's definition of *students with severe disabilities* in NYS's Commissioner's Regulations [section 100.1\(t\)\(2\)\(iv\)](#). NYSED will seek stakeholder feedback on recommendations for clarifying the NYSAA Participation Criteria from teachers, school district administrators, parents, others who participate in CSE meetings, Statewide Network for Special Education, and the NYSED Commissioner Advisory Panel and Youth Advisory Panel. NYSED is particularly interested in clarifying if the current participation criteria guidance and resources need updating. Specifically, we seek input on whether the following criteria are clear and support IEP team members in making appropriate decisions for students who are eligible to participate in the NYSAA. Current criteria are as follows:

- the student has a severe cognitive disability and significant deficits in communication/language and significant deficits in adaptive behavior; and
- the student requires a highly specialized educational program that facilitates the acquisition, application, and transfer of skills across natural environments (home, school, community, and/or workplace); and
- the student requires educational support systems, such as assistive technology, personal care services, health/medical services, or behavioral intervention.

The information obtained from stakeholder events will then be used to ensure that NYSAA Participation Criteria is clear, so that only students who have severe cognitive disabilities will be eligible to participate in the NYSAA program and assessed with an alternate assessment.

In addition, NYSED will seek stakeholder feedback in identifying specific disability categories that may indicate that a student may not be eligible to take the NYSAA. Some disability categories that could require IEP teams to carefully consider a student NYSAA eligible consistent with section [100.1\(t\)\(2\)\(iv\)](#) may include:

- Speech and language impairments,
- Other health impairments,
- Emotional/mental disturbances, and
- Physical impairments.

The goal of this improvement strategy would be to develop a new tool to inform all parties who are involved in decision-making regarding the eligibility of students who will participate in the NYSAA, to be able to identify students with severe cognitive disabilities consistent with section [100.1\(t\)\(2\)\(iv\)](#).

Focus Area of Improvement #2- Revision of New York State Alternate Assessment Universal Technical Assistance and Supports (Tier 1 Activities)

In the 2024-2025 school year, NYSED will update its NYSAA support resources and tools in the following ways:

- **Eligibility Criteria for Participation in the New York State Alternate Assessment**—stakeholder events will gather information on how to clarify eligibility criteria for NYSAA participation, as stated above, and this will be used to reinforce what is stated in the NYSED current guidance document, [Eligibility and Participation Criteria- NYSAA](#).
- **New York State Alternate Assessment (NYSAA) Participation Decision-Making Flowchart and New York State Alternate Assessment (NYSAA) Participation Decision-Making Checklist**—the purpose of the NYSAA Decision-Making flowchart and checklist is to assist stakeholders in making appropriate decisions about students who will participate in the NYSAA program and be alternately assessed. These resources will be updated, and possibly combined, to include further clarification about eligibility criteria. This tool will also be used to document evaluative information (e.g., classroom data, anecdotal information, assessment records) with the goal of using this information for eligibility purposes. By revising the section, *Eligibility and Participation Criteria*, this will ensure that only those students with the most severe cognitive disabilities will be taking NYSAA. This update will provide more clarity to all stakeholders involved in the decision-making process with the objective of improving the NYSAA 1.0 percent cap to be in compliance with ESSA requirements.
- **Eligibility Criteria for Participation in NYSAA Policy Brief**—based on stakeholder feedback, this guidance will be updated to clarify which students are eligible to participate in the NYSAA, how a student is determined eligible, considerations when making recommendations regarding a student's participation in State assessments, what information parents need to know about their child's participation in the NYSAA, and information about the 1.0 percent cap on students assessed with the NYSAA.
- **1% Cap New York State Alternate Assessment (NYSAA) Webinar**—based on stakeholder feedback, NYSED will add new or updated information in the current webinar training on the NYSAA Participation Criteria, Individuals with Disabilities Education Act (IDEA), Every Student Succeeds Act (ESSA) Assessment Requirements, the ESSA 1.0 Percent Cap Requirements, the NYSAA Process, and NYSED Oversight.
- **New York State Alternate Assessment (NYSAA) Online Quiz**—this activity will be updated to include questions regarding relevant updates on eligibility criteria, such as students with specific disability categories that are not typically eligible for NYSAA.

Focus Area of Improvement #3- Revision to Tier 2 and 3 Activities

Tier 2 - Targeted Support (which includes required participation in all Tier 1 support): In the 2024-2025 school year, targeted support will be provided to LEAs with higher NYSAA participation rates who, through review of submitted justification information and review of responses submitted following Tier 1 interventions, have been determined to need additional support and technical assistance in changing CSE decision-making processes/procedures.

- Targeted support/skills regional groups will be facilitated in the Spring by the NYSED funded technical assistance providers to provide focused, professional development to identified LEAs, under the direction of NYSED staff, around systems and procedures that promote appropriate, data-driven decision-making consistent with the NYSAA eligibility criteria. Targeted support/skills groups also provide a forum for shared reflection and discussion of root cause(s) contributing to NYSAA participation data trends and patterns and inform local, sustainable implementation improvement efforts.
- Follow-up/progress monitoring conducted by NYSED's funded technical assistance providers in the Spring to assess whether there is a change in behavior/practice as a result of support provided.

Tier 3 - Intensive Support (which includes required participation in all Tier 1 supports): Provided to LEAs with the highest NYSAA participation rates who, through review of submitted justification information and review of responses submitted following Tier 1 interventions have been determined to need embedded, ongoing technical assistance and support to change their policies, practices and procedures.

- A Support Plan will be facilitated by the NYSED funded technical assistance providers to provide focused, professional development to identified LEAs, under the direction of NYSED staff, around systems and procedures that promote appropriate, data-driven decision-making consistent with the NYSAA eligibility criteria. Each LEA will receive weekly embedded support from the NYSED funded technical assistance providers through a Support Plan which will include targeted goals and activities with regular progress monitoring to ensure CSEs are appropriately identifying students with severe disabilities as eligible to take the NYSAA.
- The NYSED funded technical assistance providers will regularly report to NYSED on the Support Plan progress monitoring data to assess whether there is a change in behavior/practice as a result of support provided.

Additional Strategies

NYSED continues to share detailed information on the 1.0 percent cap provisions under the ESEA and NYSED's NYSAA guidance and participation decision-making tools with the NYSAA Educator Advisory Panel (EAP) for review and discussion. The EAP was established to advise NYSED on the implementation of the NYSAA and consists of approximately 15 members who come from a variety of roles in both State approved-private and public-school districts, including teachers and administrators, as well as a parent member. NYSED will continue to seek the EAP's input on upcoming changes to [NYSAA Eligibility and Participation Criteria](#), as well as on additional strategies to support NYS coming into compliance with the NYSAA 1.0 percent cap requirement.

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NYSED continues to avail itself of the technical assistance supported by the USDE. NYSED participates in the "NCEO 1% Cap Community of Practice (CoP)." The CoP, which meets biweekly, focuses on learning what states are doing related to the various components of their 1.0 percent work. NYSED considers the information and tools developed/shared by the National Center on Education Outcomes and other states during the PLGs and CoP to help inform decisions about NYS's 1.0 percent cap justification and oversight/monitoring procedures.