



INFORMATION BULLETIN

Alternate Assessment for Students with Significant Disabilities

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act (NCLB) of 2001 require all students with disabilities to be included in the state's assessment system. Title I of ESEA further requires that the assessment results for all students who have been enrolled in a school for a full academic year be used in calculating adequate yearly progress (AYP) for the district and the state. On December 9, 2003, the United States Department of Education (USDOE) released final regulations, effective January 8, 2004, clarifying the accountability provisions for students with the most significant cognitive disabilities.

This bulletin highlights information in a question and answer format on the New York State Alternate Assessment (NYSAA) for students with severe disabilities and "Advice to Local Leaders." This information is excerpted from New York State Education Department (NYSED) and USDOE memoranda related to this topic.

No. 200914

August 2009

Updates & Replaces 200814 & 200903

DOC74307

*For further information, contact your regional
Labor Relations Specialist or Research & Educational Services*
NYSUT, Research and Educational Services
800 Troy-Schenectady Road, Latham, New York 12110
(800) 342-9810 λ (518) 213-6000 λ Fax: (518) 213-6450

Highlights of Federal Regulations Concerning Assessments for Students with Severe Cognitive Disabilities

Additional information on these changes is provided in the question and answer section of this document.

- ◆ **The IEP Team decides which students have “Significant Cognitive Disabilities”**

Section 200.6(a) (2) (i) of the Code of Federal Regulations requires states to implement guidelines for individualized educational program (IEP) teams (called Committees on Special Education in New York State) so that they may determine which students require assessments based on alternate achievement standards. Please refer to Questions 3 and 4 for additional information on the IEP team responsibilities.

- ◆ **One percent cap now applies to AYP calculations for the State, District, and School**

The Regulations include a provision that limits the number of proficient and “advanced” scores based on alternate achievement standards to 1 percent of all students in the grades tested. The new regulations, however, impose consequences for going beyond the 1 percent limit. Exceeding the 1 percent cap could impact a school’s ability to make AYP. Section 200.13 (c) (7) (i) of the regulations requires that passing scores exceeding the cap must be relabeled as “not proficient.” Please refer to Questions 6 and 7 for additional information on AYP calculations.

- ◆ **Requirements for waiving the 1 percent cap**

Section 200.13(c) (i) (b) of the regulations allows states and districts to request a waiver of the 1 percent cap, if they can document that they have an unusually large percentage of students with severe cognitive disabilities. States would apply to the United States Department of Education and districts would apply to the State Education Department. Please refer to Question 6 for additional information on waiver requirements.

This information is excerpted from the following documents:

Alternate Achievement Standards for Students with the Most Significant Cognitive Disabilities - Non-Regulatory Guidance (US Department of Education, August 2005)
<http://www.ed.gov/policy/elsec/guid/altguidance.doc>

2009-10 New York State Alternate Assessment (NYSAA) Administration Manual (New York State Education Department, September 2009)
<http://www.emsc.nysed.gov/osa/nysaa/nysaa-manual-0910.html>

1. What are alternate assessments?

The Elementary and Secondary Education Act (ESEA) as amended by the No Child Left Behind Act (NCLB) requires that all students participate in State assessments in English language arts (ELA) and mathematics in grades 3 through 8 and high school, and in science at the elementary, middle, and high school levels, and that those performance results are reported. The Individuals with Disabilities Education Act (IDEA) requires that all students with disabilities have access to the core curriculum with appropriate accommodations and supports as recommended by the Committee on Special Education (CSE).

An alternate assessment is an assessment designed for the small number of students with disabilities who are unable to participate in the regular grade-level State assessment, even with appropriate accommodations. Under the IDEA Amendments of 1997, all States were required to implement an alternate assessment not later than the 2000-2001 school year. To qualify as an assessment under Title I of the ESEA, an alternate assessment must be aligned with the State's content standards, must yield results separately in both reading/language arts and mathematics, and must be designed and implemented in a manner that supports use of the results as an indicator of Adequate Yearly Progress (AYP).

New York State conducts a statewide testing program on an annual basis for all students in grades 3 through 8 and high school. The New York State Alternate Assessment (NYSAA) is part of this statewide testing program. Visit the NYSAA home page at www.emsc.nysed.gov/osa/nysaa/home.shtml.

Designed for students with severe cognitive disabilities, NYSAA is a datafolio-style assessment that measures student achievement toward meeting the learning standards established for all students in the academic content areas of ELA, mathematics, science and social studies. NYSAA ensures that students with severe cognitive disabilities are included in the State Assessment Program and that their results are accounted for as required by the ESEA and the IDEA.

The State Education Department (SED) and the State's contractor, Measured Progress, designed the alternate assessment process to ensure that the knowledge, skills and understanding to be assessed are individualized and appropriately reflect high expectations for students with severe cognitive disabilities. NYSAA also meets the federal requirement for participation by students who are unable to participate in the State's general assessment, even with accommodations.

2. What is an alternate achievement standard?

An alternate achievement standard sets an expectation of performance that differs in complexity from a grade-level achievement standard. The December 9, 2003 federal regulations clarify that a State is permitted to use alternate achievement standards to evaluate the performance of students with the most significant cognitive disabilities.

In general, alternate achievement standards must be aligned with a State's academic content standards, promote access to the general curriculum, and reflect professional judgment of the highest achievement standards possible. (See §200.1(d) of the Code of Federal Regulations.)

All students, including those with severe cognitive disabilities, are required by federal law to have access to the general education curriculum. While the content is reduced in scope and complexity, students with severe cognitive disabilities are held to high expectations in order to achieve the New York State Learning Standards. SED has aligned alternate grade level indicators (AGLIs) with the core curriculum in ELA, mathematics, science and social studies for the administration of NYSAA. The content area subject matter assessed by NYSAA is clearly related to the grade level content.

3. Who is eligible to participate in alternate assessments based on alternate achievement standards?

Only students with the most significant cognitive disabilities may be assessed based on alternate achievement standards. The regulation does not create a new category of disability. Rather, the USDOE intended the term "students with the most significant cognitive disabilities" to include that small number of students who are:

1. within one or more of the existing categories of disability under the IDEA (e.g., autism, multiple disabilities, traumatic brain injury, etc.); and
2. whose cognitive impairments may prevent them from attaining grade-level achievement standards, even with the very best instruction?

It is the State's responsibility to define which students have the most significant cognitive disabilities. It also is the State's responsibility to establish clear and appropriate guidelines for CSEs to use when deciding if an alternate assessment based on alternate achievement standards is justified for an individual child. Guidelines should provide parameters and direction to ensure that students are not assessed based on alternate achievement standards merely because of their placement outside the regular classroom, their disability category, or their racial or economic background.

In most schools, students with the most significant cognitive disabilities represent a small portion of students with disabilities who would appropriately participate in an assessment based on alternate achievement standards; all other students with disabilities must be assessed against grade-level standards. In general, the USDOE estimates that about 9 percent of students with disabilities (approximately one percent of all students) have significant cognitive disabilities that qualify them to participate in an assessment based on alternate achievement standards.

In New York State, the CSE determines whether a student with a severe cognitive disability is eligible to take 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.

Students eligible for NYSAA, as determined by their CSE, must be assessed on grade appropriate content consistent with the student's chronological age based on the chart found in Appendix A. It is important to remember that the content of the student's assessment is based on the student's chronological age, not on the grade in which the student is enrolled.

4. What are State responsibilities in supporting sound CSE decisions?

As specified through IDEA, CSEs have ultimate responsibility for making instructional, curricular, and assessment decisions for each student with a disability. However, in fulfilling this responsibility, the State plays an important supportive role. States, as required by the December 9, 2003 federal regulation, must provide appropriate guidance to CSEs about alternate assessments, accommodations, and alternate achievement standards. Further the IDEA, as amended in 2004, also requires that States have developed and implemented guidelines for appropriate accommodations and for the participation of children with disabilities in alternate assessments. For example, the State must provide CSEs the list of the accommodations approved for use with the statewide assessment. The State can also support sound CSE decisions by evaluating the effectiveness of accommodations and by encouraging local monitoring of test administration to ensure that students actually receive the accommodations recommended. Regular analysis of accommodations use may also indicate a need for additional training.

As previously noted, the process of determining eligibility begins with the CSE, and the CSE determines on an individual basis whether the student will participate in:

- + the State's general assessment with or without accommodations;
- + the State's alternate assessment with or without accommodations; or
- + a combination of the State's general assessment for some content areas
- + and the State's alternate assessment for other content areas.

The CSE ensures that decisions regarding participation in the State testing program are not based on:

- + category of disability,
- + language differences,
- + excessive or extended absences, or
- + cultural or environmental factors.

The CSE also ensures that each student has a personalized system of communication that addresses his/her needs regarding disability, culture, and native language so the student can demonstrate his/her present level of performance. Tests and other assessment procedures are conducted according to the requirements of section 200.4(b)(6) of the Regulations of the Commissioner of Education and section 300.320(a)(6) of the Code of Federal Regulations

5. What is the sequence of events for NYSAA administration?

The NYSAA is offered during the school year within a specific administration period defined by SED. For the 2009-10 school year, the administration period is from Monday, October 5, 2009

through Friday, February 12, 2010. The general sequence of events for administering NYSAA is as follows:

1. Each student's CSE determines how a student participates in the New York State Testing Program. The CSE uses SED guidelines regarding eligibility and participation criteria to guide their decision-making.
2. For each content area assessed, the student's instructional team, headed by the Lead Special Education Teacher (LSET) provides academic instruction, so that the student can achieve proficiency on two different AGLIs in each content area assessed. Two AGLIs are required for each content area assessed (ELA, mathematics, science and social studies).
3. Parents meet with the LSET to discuss how NYSAA is administered and which specific AGLIs will be used to assess their child. Parents also complete the Parent/Family/Guardian Survey.
4. For each AGLI, the student is required to perform one assessment task connected to the AGLI on three different dates.
5. Members of the student's instructional team conduct assessment tasks and document and rate student performance. This process includes collecting evidence on the last two dates of student performance.
6. The LSET assembles a datafolio containing the evidence of student performance and the ratings of the student's level of accuracy and level of independence. The completed datafolio is submitted to the building administrator for shipping to the scoring center by the predetermined date. The scoring period for the 2009-10 NYSAA is from March 15, 2010 to May 6, 2010.
7. The NYSAA datafolios are scored at regional NYSAA scoring institutes.
8. Student reports are created and are made available to school districts, teachers and parents.

6. What is the 1.0 percent cap?

Under the December 9, 2003 federal regulation, when measuring AYP, States and local education agencies (LEAs) have the flexibility to count the proficient scores of students with the most significant cognitive disabilities who take alternate assessments based on alternate achievement standards—so long as the number of those proficient scores does not exceed 1.0 percent of all students in the grades assessed (about nine percent of students with disabilities) at the LEA and State levels. The 1.0 percent cap is based on current incidence rates of students with the most significant cognitive disabilities, allowing for reasonable local variation in prevalence.

The 1.0 percent cap does not restrict the number of students who may participate in an alternate assessment. It does limit the number of proficient and advanced scores based on alternate achievement standards that may be used in the calculation of AYP. A limit is required to ensure a thoughtful application of alternate achievement standards and to protect CSEs from pressure to assign low-performing students to assessments and curricula that are inappropriately restricted in scope, thus limiting educational opportunity for these students.

A State may grant permission to an LEA to exceed the 1.0 percent cap. As States consider whether to allow any exceptions, however, they should be mindful of how individual LEA exceptions will affect the overall 1.0 percent cap that applies at the State level. Exceptions should not be granted on the basis of poor or inaccurate identification or the inappropriate use of alternate achievement standards. Instead, exception requests might be granted if an LEA addresses

satisfactorily certain issues, such as incidence rates of students with the most significant cognitive disabilities; circumstances in the LEA that would explain the higher incidence rates (such as specialized health programs or facilities); and documentation that the LEA has implemented several safeguards that limit the inappropriate use of alternate achievement standards. These safeguards include implementing State guidelines through the CSE process; informing parents about the actual achievement of students; reporting, to the extent possible, on test-taking patterns; including these students in the general curriculum; providing information about the use of appropriate accommodations; and ensuring that teachers and other educators participate in appropriate professional development about alternate assessments.

In New York State, LEAs may request an exception from SED to exceed the 1.0 percent cap in counting as proficient and advanced for accountability purposes the scores of students with the most significant cognitive disabilities based on alternate academic achievement standards. Only LEAs, including Charter Schools and Special Act School Districts, that are subject to accountability under ESEA and that are able to document extraordinary circumstances should submit this application. The application can be accessed at <http://www.vesid.nysed.gov/specialed/applications/>.

7. What if a State or LEA has more than 1.0 percent of its students scoring proficient on an alternate assessment based on alternate achievement standards?

The 1.0 percent cap (calculated at the State and LEA levels) is a limit on the number of proficient or advanced scores based on alternate achievement standards that may count as proficient or advanced for AYP purposes. The following example illustrates the implications for an LEA where more than 1.0 percent of its students score proficient on an alternate assessment based on alternate achievement standards.

The 1.0 percent cap requires that an LEA with 10,000 students in the grades assessed may count for AYP purposes the scores of no more than 100 students scoring as proficient on an alternate assessment based on alternate achievement standards. If 150 students in this LEA score proficient or advanced on an alternate assessment based on alternate achievement standards, (and the LEA has not received an exception from the State to exceed the 1.0 percent cap), the LEA must:

- 1) Determine which 50 proficient scores will be considered not proficient, and
- 2) Count these excess 50 scores as not proficient in each subgroup that each student is in (e.g., all students, a racial/ethnic group, and students with disabilities).

Advice to Local Leaders

- + Local Leaders should assess the impact of the development, administration and scoring of the datafolio on teachers and other school personnel in relation to terms and conditions of employment such as time, additional duties, and instructional day.
- + Local Leaders should work with school district administrators to ensure school personnel involved with the alternate assessment receives timely information on changes related to the datafolio and appropriate professional development.
- + Local Leaders should work with school administration to ensure that members of the Committee on Special Education are appropriately trained to make decisions on student eligibility for the alternate assessment.
- + Local Leaders should periodically review the NYSUT website for the latest information on this assessment.



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

David Abrams, Assistant Commissioner
Office of Standards, Assessment and Reporting

March 2009

TO: District Superintendents
Superintendents of Schools
Special Education Directors
Chairpersons of Committees on Special Education
Project Managers for the Level I Data Repositories

FROM: David Abrams

SUBJECT: Age Ranges for Students with Disabilities Participating in the 2009-10
New York State Alternate Assessment (NYSAA)

NYSAA is a datafolio assessment that measures student progress in achieving the learning standards through alternate grade level indicators. All students in the following age ranges who are eligible to take NYSAA must be tested in 2009-10. Students with severe disabilities are assessed according to chronological ages aligned with grade levels as indicated below. Students should be tested only once at each grade and in all the content areas indicated for each grade.

Age Ranges for Testing on NYSAA in 2009–10		
Assessment	Birth Date	Reaches Age Given Between September 1, 2009 and August 31, 2010
Grade 3 ELA, Mathematics	September 1, 2000—August 31, 2001	9
Grade 4 ELA, Mathematics, Science	September 1, 1999—August 31, 2000	10
Grade 5 ELA, Mathematics, Social Studies	September 1, 1998—August 31, 1999	11
Grade 6 ELA, Mathematics	September 1, 1997—August 31, 1998	12
Grade 7 ELA, Mathematics	September 1, 1996—August 31, 1997	13
Grade 8 ELA, Mathematics, Science, Social Studies	September 1, 1995—August 31, 1996	14
Secondary-Level ELA, Mathematics, Science, Social Studies	September 1, 1991—August 31, 1992	18*

***Note:** NYSAA-eligible students who do not meet the age criteria above and will be leaving school before they reach their eighteenth birthday must take the secondary-level NYSAA before

they leave school (i.e., when they are 17 years old). NYSAA-eligible students with a birth date prior to September 1, 1991 who have not been assessed at the secondary-level must be assessed in 2009-10 before they leave school. Please contact Cynthia Wilson at 518-474-5900 if you have any questions regarding the age ranges for students participating in the NYSAA.

c: Alan Ray