



New York State
EDUCATION DEPARTMENT
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1.0 Percent Cap on New York State Alternate Assessment (NYSAA) Participation

Spring 2022



Webinar Overview

- Individuals with Disabilities Education Act (IDEA) and Every Student Succeeds Act (ESSA) Assessment Requirements
- ESSA 1.0 Percent State-level Cap Requirements
- NYSAA Process and Participation Criteria
- NYSED Oversight



IDEA & ESSA Assessment Requirements (1 of 4)

- All students with disabilities must be included in general State and districtwide assessment programs, with appropriate accommodations
 - alternate assessments for students with most significant cognitive disabilities as necessary and as indicated on individualized education programs (IEPs)*

*IEP Team = Committee on Special Education



IDEA & ESSA Assessment Requirements

(2 of 4)

- States must have guidelines for IEP teams* in determining on a case-by-case basis whether a student is most appropriately assessed with an alternate assessment
 - IEP teams must determine a student's participation consistent with State guidelines
- Guidelines must include State definition of “students with the most significant cognitive disabilities”
- Definition should address factors related to cognitive functioning and adaptive behavior, such that:
 - Identification as having a particular disability or being an English learner does not determine whether a student is a student with the most significant cognitive disabilities.



IDEA & ESSA Assessment Requirements (3 of 4)

Definition should also address:

- A student with the most significant cognitive disabilities is not identified solely on basis of student's previous:
 - low academic achievement; or
 - need for accommodations to participate in general State or districtwide assessments.
- A student is identified as having the most significant cognitive disabilities because the student requires **extensive, direct individualized instruction and substantial supports** to achieve measurable gains on the challenging State academic content standards for the grade in which the student is enrolled.



IDEA & ESSA Assessment Requirements (4 of 4)

- IEPs of alternately assessed students must include statement of why—
 - the student cannot participate in regular assessment; and
 - the particular alternate assessment selected is appropriate.
- States must ensure staff receive training and know how to:
 - administer assessments, including alternate assessments; and
 - make use of appropriate assessment accommodations.

ESSA 1.0 Percent Cap Requirements (1 of 3)

The total number of students in the State assessed with an alternate assessment based on alternate academic achievement standards (AA-AAAS) cannot exceed **1.0 percent** of all tested students for each subject assessed.



ESSA 1.0 Percent Cap Requirements (2 of 3)

- States may not prohibit local educational agencies (LEA) from assessing more than 1.0 percent of students with an alternate assessment
- 1.0 percent cap at State level
- LEAs must submit information justifying need to exceed 1.0 percent

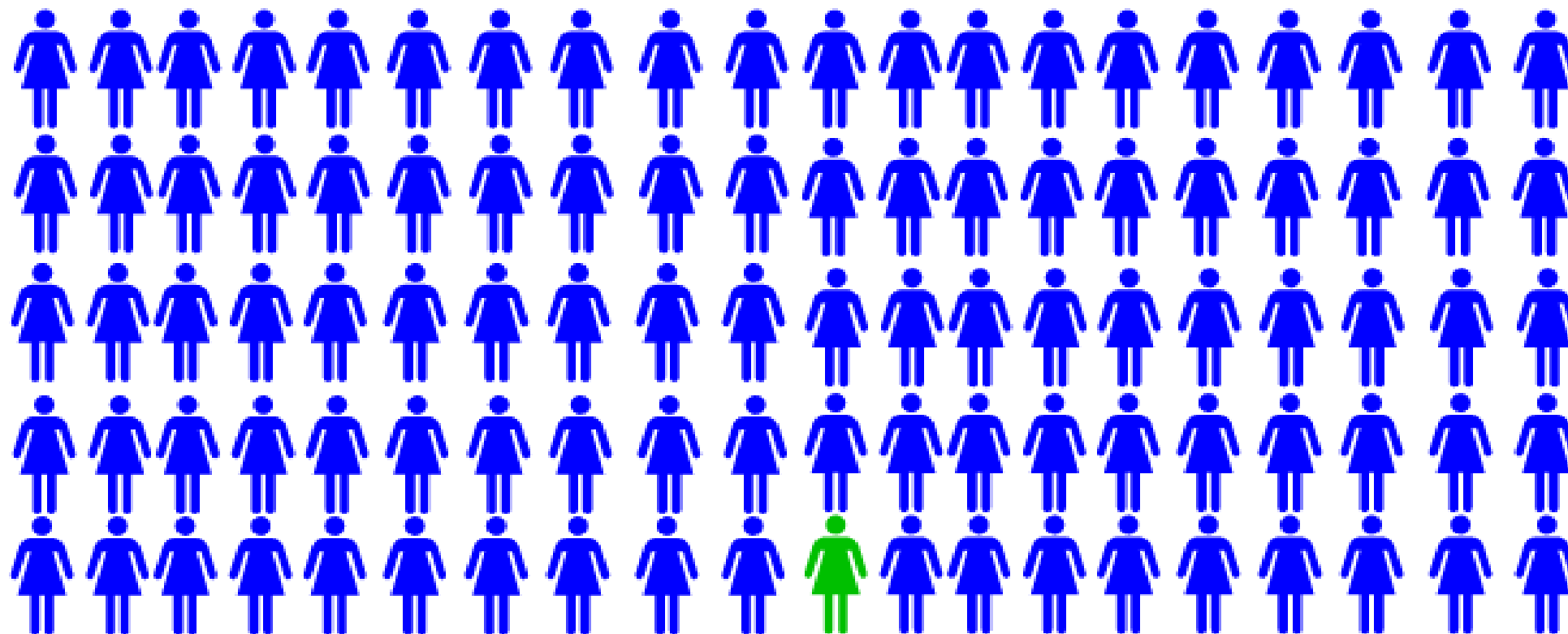




ESSA 1.0 Percent Cap Requirements (3 of 3)

- States must provide appropriate oversight of LEAs submitting justifications and make justifications publicly available
- Parents (as part of IEP process) must be clearly informed:
 - that their child's academic achievement will be measured based on alternate achievement standards; and
 - how participation in alternate assessment may delay or otherwise affect completing requirements for a regular high school diploma.

Who are Students with the Most Significant Cognitive Disabilities?



Adapted from Wisconsin Department of Public Instruction
“Who Are Students with the Most Significant Cognitive Disabilities?”
February 2017 Presentation

Who are “students with severe disabilities” in New York State?

“Students with severe disabilities means 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, physical/verbal supports and/or prompts and assistive technology devices.”

8 NYCRR section 100.1(t)(2)(iv)



What is the NYSAA? (1 of 2)

“NYSAA is part of the New York State testing program that measures the attainment of the State’s learning standards in the areas of English language arts (ELA), mathematics, and science for all students with the most severe disabilities in Grades 3-8 and high school.”

Office of State Assessment - <http://www.nysed.gov/state-assessment/new-york-state-alternate-assessment>

What is the NYSAA? (2 of 2)

- Students are assessed using the Dynamic Learning Maps (DLM) alternate assessment:
 - computer-delivered adaptive assessment
 - measures student achievement of NYS learning standards at a reduced level of depth, breadth, and complexity.



NYSAA Guidelines

Process Criteria

Guidance to Committees on Special Education on the decision-making process

Eligibility and Participation Criteria

Guidance on who should participate in the NYSAA

Eligibility and Participation Criteria - NYSAA

Definition of a Student with a Severe Disability (Section 100.1 of the Regulations of the Commissioner of Education)

"Students with severe disabilities" refers to students who have limited cognitive abilities combined with behavioral and/or physical limitations and who require highly specialized education and/or 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 challenging behaviors that interfere with learning and socialization opportunities. These students may also have extremely fragile physiological conditions and may require personal care, physical/verbal supports, and assistive technology devices.

NYSAA Eligibility The process of determining eligibility begins with the Committee on Special Education (CSE). 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 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.

NYSAA Participation Criteria

Only students with severe cognitive disabilities are eligible for the New York State Alternate Assessment (NYSAA). The CSE determines whether a student with a severe cognitive 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



NYSAA Process Criteria (1 of 2)

- Process of determining eligibility begins with committees on special education (CSE) determining on individual basis whether student will participate in:
 - NYS's general assessment with or without accommodations;
 - NYSAA with or without accommodations; or
 - Combination of NYS's general assessment for some content areas and NYSAA for other content areas.



NYSAA Process Criteria (2 of 2)

- CSE must ensure:
 - decisions are not based on:
 - category of disability,
 - excessive or extended absences,
 - language differences,
 - or cultural or environmental factors
 - student has individualized system of communication
 - tests and assessments used to evaluate a student with a disability are conducted in accordance with State and federal regulations



NYSAA Eligibility and Participation Criteria

- Only students with severe cognitive disabilities* are eligible for the NYSAA
- The CSE must determine whether a student is eligible for the NYSAA based on NYSED's eligibility criteria

* [8 NYCRR §100.1\(t\)\(2\)\(iv\)](#) - Definition of Students with Severe Disabilities



NYSAA Eligibility Requirements

- CSEs must determine on an individual basis whether a student with a severe cognitive disability is eligible to take NYSAA based on the following criteria:
 - student has a severe cognitive disability and significant deficits in communication/language and significant deficits in adaptive behavior;
AND
 - 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
 - student requires educational support systems, such as:
 - assistive technology,
 - personal care services,
 - health/medical services, or
 - behavioral intervention.



CSE Considerations

- CSEs must:
 - **annually** review and determine a student's NYSAA eligibility based on NYSED's [Eligibility and Participation Criteria](#)
 - thoughtfully consider how participation in NYSAA will impact the student's:
 - participation and progress in general curriculum; and
 - opportunity to earn NYS diploma



What Do Parents Need to Know about their Child Taking the NYSAA?

- Parents must be clearly informed:
 - Child's performance will be measured based on alternate achievement standards that:
 - are reduced in depth, breadth and complexity
 - do not meet expectations necessary to earn local or Regents diploma
 - How participation in the NYSAA will affect child from completing diploma requirements
 - Students who participate in the NYSAA for one or more subjects in high school will not be able to meet the assessment requirements for a NYS diploma

NYSAA Participation (cont'd)



The University of the State of New York
New York State Education Department
Office of Special Education

May 2019

Eligibility Criteria for Participation in the New York State Alternate Assessment (NYSAA)

This is one in a series of policy briefs prepared by the New York State Education Department on topics pertaining to Implementation of the Individuals with Disabilities Education Act (IDEA) and the Every Student Succeeds Act (ESSA) in New York State.

Which students must participate in State or district-wide assessments?

The federal Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) require that all students, including students with the most significant disabilities, be included in State or district-wide assessment programs. These requirements do not allow students to be excluded from statewide assessments. However, for students who are unable to participate in the State's general assessment system because of the severity of their disabilities, even with accommodations, states are required to develop and implement an alternate assessment.

"High-quality assessments are essential to effectively educating students, measuring progress, and promoting equity. Done well and thoughtfully, they provide critical information for educators, families, the public, and students themselves and create the basis for improving outcomes for all learners." (Every Student Succeeds Act Assessments under Title I, Part A & Title I, Part B: Summary of Final Regulations [https://www2.ed.gov/policy/elsec/essa/essaassessmentsfactsheet1207.pdf])

What is the New York State Alternate Assessment (NYSAA)?

NYSAA is part of the New York State (NYS) testing program that measures attainment of the State's learning standards for students with the most severe disabilities in grades 3-8 and high school in the areas of English language arts and mathematics, as well as science once in each grade span (i.e., 3-5, 6-9, 10-12).

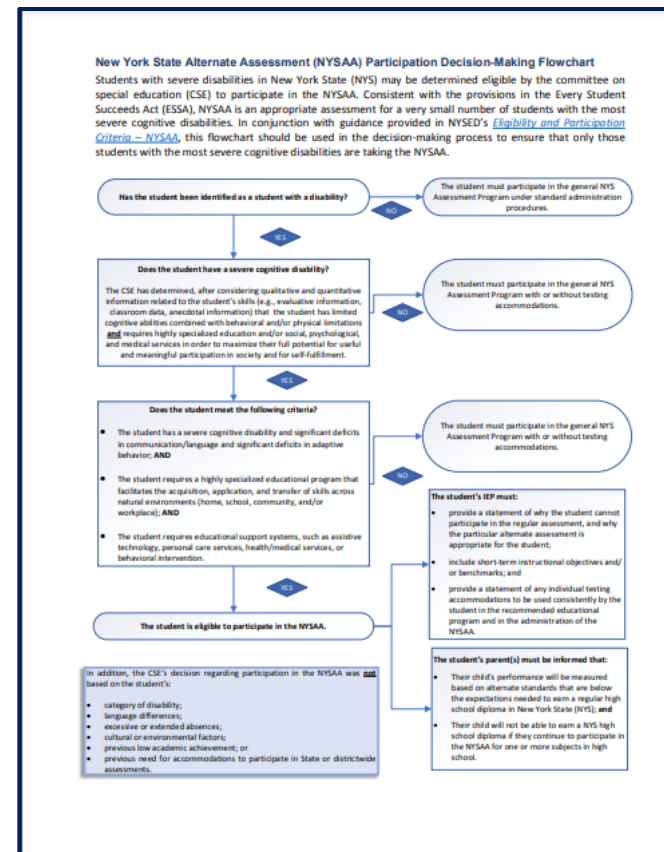
Which students are eligible to participate in NYSA?

Students with severe disabilities, as defined in [8 NYCRR section 100.11\(c\)\(2\)\(iv\)](#) [https://govt.westlaw.com], are eligible for participation in NYSA. "Students with severe disabilities" refers to students who have limited cognitive abilities combined with behavioral and/or physical limitations and who require highly specialized education and/or 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 challenging behaviors that interfere with learning and socialization opportunities. These students may also have extremely fragile physiological conditions and may require personal care, physical/verbal supports, and assistive technology devices.

How is a student determined eligible to participate in NYSA?

The committee on special education (CSE) is responsible for determining whether a student is eligible to participate in NYSA. At each annual review meeting, the CSE must determine on an individual basis whether the student will participate in:

- the State's general assessment with or without accommodations;



New York State Alternate Assessment (NYSAA) Participation Decision-Making Checklist

The checklist below **may** be used in conjunction with guidance provided in the New York State Education Department's (NYSED) [Eligibility and Participation Criteria – NYSA](#) in the decision-making process to ensure that only those students with the most severe cognitive disabilities are taking NYSA. The committee on special education (CSE) must determine annually whether a student will participate in NYSA on a particular State assessment of student achievement (i.e., English language arts, mathematics, and/or science) and document this decision in the student's individualized education program. If the CSE indicates "YES" for **all** items below, the student may be determined eligible to participate in NYSA. This checklist is for local use only. Do **not** submit this form to NYSED. However, a copy should be retained in the student's special education record.

Student: _____ Date: _____

Persons Involved in Decision-Making: _____

Eligibility Criteria	YES	NO	Comments/Evidence
The student has a severe cognitive disability and significant deficits in communication/language and significant deficits in adaptive behavior.	<input type="checkbox"/>	<input type="checkbox"/>	
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).	<input type="checkbox"/>	<input type="checkbox"/>	
The student requires educational support systems, such as assistive technology, personal care services, health/medical services, or behavioral intervention.	<input type="checkbox"/>	<input type="checkbox"/>	
Both qualitative and quantitative information (e.g., evaluative information, classroom data, anecdotal information) have been considered to inform decisions on the above-listed criteria.	<input type="checkbox"/>	<input type="checkbox"/>	

Check the recommendation that is most appropriate in meeting the needs of this student:

☐ The student is recommended by the CSE to participate in the general New York State Assessment Program (with or without testing accommodations) for:
☐ English ☐ Math ☐ Science

☐ The student is recommended by the CSE to participate in NYSA (with or without testing accommodations) for:
☐ English ☐ Math ☐ Science

Parental Understanding: If my child has been determined eligible to participate in NYSA, I have been informed of and understand the following statements:

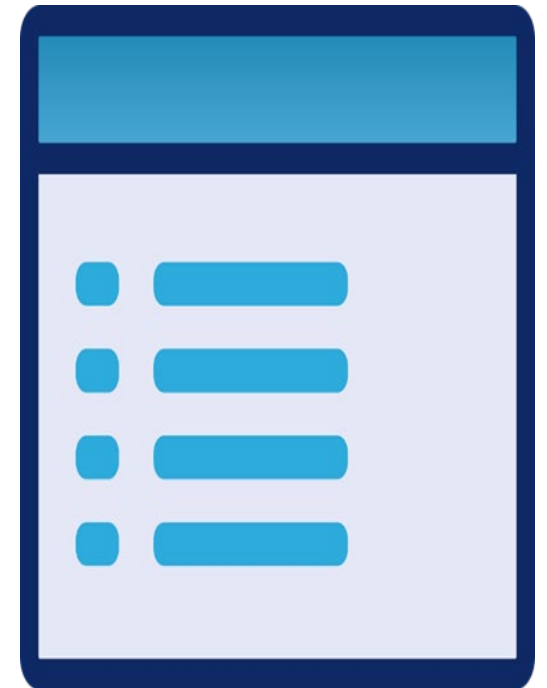
☐ My child's performance will be measured against alternate achievement standards that do not meet the expectations needed to earn a regular high school diploma (i.e., local or Regents diploma) in New York State (NYS).

☐ In order to earn a diploma in NYSED, students must earn required course credits and participate in required Regents examinations, and my child will not be able to earn a NYS high school diploma if he/she continues to participate in NYSA for one or more subjects in high school.

* The decision for the student's participation in NYSA was **not** based on the following: category of disability, language differences; excessive or extended absences; cultural or environmental factors; previous low academic achievement; or previous need for accommodations to participate in State or district-wide assessments.

Justification for Exceeding 1.0 Percent

- Based on NYSSA participation data, each year-an LEA that assesses more than 1.0 percent of students with the NYSAA, is required to:
 1. Submit information justifying the need to exceed the 1.0 percent State-level cap (consistent with federal requirements);
 2. Participate in technical assistance; and
 3. Submit assurances attesting to participation in technical assistance and adherence to NYSAA CSE processes and eligibility determination guidance
- All justifications are publicly posted on NYSED's website
- NYSED provides oversight through system of tiered interventions





NYSAA 1 Percent Tiered Oversight and Support

Tier 1 Universal Technical Assistance/Supports	<p>Available to all LEAs, but access and participation is required for LEAs exceeding 1.0 percent NYSAA participation</p> <ul style="list-style-type: none">• Reviewing resources related to NYSAA eligibility• Participate in online recorded training and complete quiz• Submit assurance of participation in Tier 1 activities with their justification form
Tier 2 Targeted Supports	<p>Required for LEAs with higher NYSAA participation rates</p> <ul style="list-style-type: none">• Participation in targeted support/skills regional groups• Follow-up/progress monitoring
Tier 3 Intensive Supports	<p>LEAs with highest NYSAA participation rates and determined through follow-up activity to need more focused, ongoing technical assistance</p>



Tier 1 - Universal Technical Assistance/ Supports

- All LEAs exceeding the 1.0 percent NYSAA participation cap in ELA, mathematics, and/or science, must:
 1. Review NYSED resources relating to NYSAA eligibility
 2. Participate in this webinar
 3. Complete NYSED online quiz relating to appropriate decision-making regarding NYSAA participation
 4. Provide assurance that district completed steps #1-3
- LEAs may also wish to review the DLM video - "Who are students with the most significant cognitive disabilities?"
- LEAs required to participate in Tier 2 and 3 supports will be notified by NYSED

NYSAA Participation Data Review and NYSED Oversight Activities

All LEAs must review their NYSAA participation data to determine if they exceed the 1.0 percent State-level cap for students participating in the NYSAA in English language arts, mathematics, and/or science

LEAs exceeding 1.0 percent in one or more subject area(s) must participate in Tier 1 activities

LEAs exceeding 1.0 percent must complete the online Justification for Exceeding 1.0 Percent Cap form and provide assurance of participation in Tier 1 activities

LEAs with higher NYSAA participation rates must participate in Tier 2 supports as determined by NYSED

LEAs with higher NYSAA participation rates that need more focused, ongoing technical assistance must participate in Tier 3 supports as determined by NYSED



Office of Special Education Educational Partnership Tiered Support & Professional Development

12 Regional
Partnership Centers

Systems Change Work Providing a Variety of Supports to Educational Organizations in New York State

14 School-Age Family
and Community
Engagement Centers

1

Regional Learning

2

Targeted Skills/Support Groups

3

Support Plans

14 Early Childhood
Family and Community
Engagement Centers

Additional Resources for Analyzing NYSAA Data

- [1% Toolkit: Data Analysis and Use Planning Tool for Examining AA-AAAS Participation: Addressing the Percentage of Students Participating in the Alternate Assessment \(National Center for Educational Outcomes \(NCEO\) Tool #2\)](https://nceo.umn.edu/docs/OnlinePubs/Tool2DataAnalysisAndUse.pdf) (<https://nceo.umn.edu/docs/OnlinePubs/Tool2DataAnalysisAndUse.pdf>)
- [1% Toolkit: State-District Data Display Templates: Addressing the Percentage of Students Participating in the Alternate Assessment \(NCEO Tool #3\)](https://nceo.umn.edu/docs/OnlinePubs/Tool3DataDisplayTemplates.pdf) (<https://nceo.umn.edu/docs/OnlinePubs/Tool3DataDisplayTemplates.pdf>)
- [1% Toolkit: District Dialogue Guide: Addressing the Percentage of Students Participating in the Alternate Assessment \(NCEO Tool #4\)](https://nceo.umn.edu/docs/OnlinePubs/Tool4DialogueGuide.pdf) (<https://nceo.umn.edu/docs/OnlinePubs/Tool4DialogueGuide.pdf>)
- [NCEO Brief 18. *Guidance for Examining Disproportionality of Student Group Participation in Alternate Assessments.* National Center on Educational Outcomes.](https://nceo.info/Resources/publications/OnlinePubs/briefs/briefOct2018/default.html)
<https://nceo.info/Resources/publications/OnlinePubs/briefs/briefOct2018/default.html>
- National Center for the Improvement of Educational Assessment (NCIEA) & NCEO [Guidance for Examining Participation Rates and Disproportionality: A Video Training Module](https://vimeo.com/325082455) (<https://vimeo.com/325082455>)

Additional Information on NYSAA

- Office of Special Education's Information Related to the New York State Alternate Assessment (NYSAA)
(<http://www.p12.nysed.gov/specialed/new-york-state-alternate-assessment.html>)
- Office of State Assessment (<http://www.nysed.gov/state-assessment/new-york-state-alternate-assessment>)
- DLM video - "Who are students with the most significant cognitive disabilities?" (<https://www.dlmpd.com/who-are-students-with-the-most-significant-cognitive-disabilities/>)

