



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Shannon Tahoe  
Interim Commissioner of Education  
New York State Education Department  
89 Washington Avenue  
Albany NY, 12234

February 4, 2020

Dear Interim Commissioner Tahoe:

I am writing to follow up on a letter I sent on June 4, 2019, regarding the New York State Education Department's (NYSED) percentage of students with the most significant cognitive disabilities taking an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). As you know, the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), limits the percentage of students that a State may assess with an AA-AAAS to no more than 1.0 percent of all assessed students in a State for each subject. In that letter, I noted that New York had exceeded the 1.0 percent threshold in the 2017-2018 school year in reading/language arts, mathematics, and science based on data submitted to the Department via the *EDFacts* reporting system.

I recognize that the limit on the number of students with the most significant cognitive disabilities who may be assessed with an AA-AAAS was a new requirement starting in the 2017-2018 school year, and understand that many States needed time to provide training and guidance to reduce their AA-AAAS participation rates. Because NYSED had rates of AA-AAAS participation that were greater than 1.0 percent in reading/language arts, mathematics, and science without a waiver; and had assessment participation rates that were less than 95 percent for all students in reading/language arts, mathematics and science and less than 95 percent for students with disabilities in reading/language arts, mathematics and science, the Department placed a grant condition on the State's fiscal year 2019 Title I, Part A award. This condition required that the State submit a plan for reducing the rate of AA-AAAS participation in future years in order to come into compliance with the 1.0 percent requirement. The condition also required that the State submit assessment participation data (including AA-AAAS participation) via *EDFacts* for the 2018-2019 school year by October 1, 2019. Thank you for providing both the plan and data that were requested in the June 4 letter.

In reviewing NYSED's 2018-2019 data, it appears, that while the AA-AAAS participation rates for reading/language arts, mathematics and science have slightly declined, they are still above 1.0 percent. As a result, the grant condition on NYSED's Title I, Part A grant award will continue. In order to satisfy this condition, NYSED must:

1. Provide, not later than October 1, 2020, assessment participation data in reading/language arts, mathematics and science and an update on the progress it has made in implementing its plan.
2. Provide evidence that it is assessing less than 1.0 percent of its students on an AA-AAAS for each subject.

I appreciate the plan New York developed and submitted in summer 2019 to address this issue and look forward to seeing the results of your implementation of this plan over the next year.

The Department continues to support New York and all States to ensure all students are being assessed using the right assessments. Over the past two years, the National Center on Educational Outcomes has facilitated a variety of technical assistance activities for States working to meet the 1.0 percent threshold. I note that NYSED has

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participated in some of these activities. You may find resources from these activities available at [https://nceo.info/Assessments/alternate\\_assessments](https://nceo.info/Assessments/alternate_assessments).

I appreciate the work you are doing to improve your schools and provide a high-quality education for students. If you have any questions, please contact my staff at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

Frank T. Brogan  
Assistant Secretary for  
Elementary and Secondary Education

cc: Kimberly Wilkins, Deputy Commissioner for P12 Instructional Support, New York State Education Department  
Christopher Suriano, Assistant Commissioner, Special Education, New York State Education Department  
Steven Katz, Assistant Commissioner, Office of State Assessment, New York State Education Department  
Jason Harmon, Assistant Commissioner, Office of Accountability, New York State Education Department  
Steven Early, Director, Field Support Services, New York State Education Department

