



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

March 11, 2024

The Honorable Arsenio Romero
Secretary
New Mexico Public Education Department
300 Don Gaspar Ave.
Santa Fe, NM 87501-2786

Dear Secretary Romero:

I am writing in response to the New Mexico Public Education Department's (NMPED's) request on December 8, 2023, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), which stipulates that a State may not assess more than 1.0 percent of all students in the grades assessed using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). NMPED requested this waiver because, based on State data for school year (SY) 2022-2023, NMPED has concluded that it may exceed the 1.0 percent cap on AA-AAAS in reading/language arts (R/LA), mathematics, and science.

After reviewing NMPED's waiver request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, for SY 2023-2024, a waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess more than 1.0 percent of the total number of students in the State with an AA-AAAS in R/LA, mathematics, and science.

As part of this waiver, NMPED assured that it:

- Will continue to meet all other requirements of section 1111 of the ESEA and implement regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Had assessed in SY 2022-2023 at least 95 percent of all students and all students with disabilities who are enrolled in grades for which the R/LA, mathematics, and science assessments are required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State.
- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR § 200.6(d) – excluding (d)(6) – and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.

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<http://www.ed.gov/>

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- Will implement, consistent with the plan submitted in NMPED’s waiver request, system improvements and will monitor future administrations of the AA-AAAS to avoid exceeding the 1.0 percent cap.

As a reminder, 34 CFR § 200.6(c)(3)(iv) requires a State to make publicly available the information submitted by an LEA justifying the need to assess more than 1.0 percent of its students on the AA-AAAS, provided that such information does not reveal personally identifiable information about an individual student. I also encourage you to publish your State’s plan, timeline, and progress in reducing the percentage of students taking the AA-AAAS.

Given the workplan submitted by NMPED, I expect to see positive results of this plan in SY 2023-2024 and beyond. Future requests for an extension of this waiver will be contingent on both continued progress implementing your plan and progress in reducing the percentage of students taking the AA-AAAS in all tested subjects.

There is currently a condition on the State’s Title I grant award because the State assessed more than 1.0 percent of the total number of students with an AA-AAAS in the 2021-2022 school year without receiving a waiver. Because the State has a small reduction in the number of students taking the AA-AAAS but still remains above 1.0 percent, the condition on NMPED’s Title I grant award will continue until the State demonstrates that it assessed less than 1.0 percent of its students with an AA-AAAS in R/LA, mathematics, and science.

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

Sincerely,

/s/

Adam Schott
Principal Deputy Assistant Secretary
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Lynn Vasquez, NMPED Division Director, Assessment, Research, Evaluation, & Accountability



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ARSENIO ROMERO PH.D.
SECRETARY OF EDUCATION

MICHELLE LUJAN GRISHAM
GOVERNOR

December 8, 2023

Patrick Rooney
Director, School Support and Accountability
Office of Elementary and Secondary Education | U.S. Dept of Education
400 Maryland Ave, SW | 3W118| Washington, DC 20202

Dear Director Rooney,

The communication is New Mexico's formal request for a waiver for the 2023-24 SY from the 1.0 percent cap on the percentage of students with the most significant cognitive disabilities who may be assessed with an alternate assessment aligned with alternate academic achievement standards (AA-AAAS).

The Every Student Succeeds Act (ESSA) amended a provision of Title I of the Elementary and Secondary Education Act of 1965 related to students participating in alternate assessments of each State Education Agency's (SEA's) statewide assessment. The ESSA requires SEAs to submit waiver requests to the United States Department of Education in the event they have more than 1.0 percent of their students participating in the alternate assessment. 34 CFR 200.6(c)-(d) contains requirements for the participation of students with the most significant cognitive disabilities in the alternate assessment based on alternate academic achievement standards (AA-AAAS). As described in 34 CFR 200.6(c)(3), a State may not prohibit an LEA from assessing more than 1.0 percent of its assessed students with an AA-AAAS. However, a State must require an LEA that assesses more than 1.0 percent of its assessed students in any subject with an AA-AAAS to submit information to the State justifying the need to exceed the 1.0 percent threshold. States must provide appropriate oversight of each LEA that is required to submit such a justification and must make the justification publicly available, provided that it does not reveal personally identifiable information about an individual student.

The New Mexico Public Education Department continued to exceed the alternate assessment rate during the 2022-23 administration year:

Table 1: Overall Rates of Assessment Participation for SY 2022-23

Group	All Students Grades 3-8 and 11 R/LA	Students with Disabilities Grades 3-8 and 11 R/LA
Students Assessed	157,058	30,130
Students Enrolled	160,642	31,185
Assessment Participation Rate	97.76%	96.62%
Group	All Students Grades 3-8 and 11 Math	Students with Disabilities Grades 3-8 and 11 Math
Students Assessed	156,957	30,114
Students Enrolled	160,584	31,176
Assessment Participation Rate	97.74%	96.59%
Group	All Students Grades 3-8 and 11 Science	Students with Disabilities Grades 3-8 and 11 Science
Students Assessed	67,397	12,177
Students Enrolled	69,551	12,766
Assessment Participation Rate	96.90%	95.39%

After collecting initial school-level survey information based on the preliminary count of students with disabilities that have been rostered for the State's AA-AAAS, NMPED anticipates a participation rate of 1.26% (in all content areas) for the 2023-24 school year.

Statutory and Regulatory Requirements for Requesting Waivers or Waiver Extensions from the 1.0 Percent Cap on the Percentage of Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an AA-AAAS

- *States are required in 34 CFR § 200.6(c)(4)(i) to submit their AA-AAAS waiver request (or extension request) at least 90 days prior to the start of the relevant subject testing windows.*

The New Mexico statewide alternate assessment administration window is March 11-May 10, 2024. The waiver has been submitted prior to the 90-day deadline.

- *States are required in 34 CFR § 200.6(c)(4)(ii) to submit data showing the number and percentage of students in each subgroup of students who took alternate assessments in each required subject.*

Table 2 - revised: AA-AAAS Participation Rates by Subgroup for SY 2022-23

R/LA	Total Number in Grades 3-8 & 11	Num. Taking AA-AAAS in Grades 3-8 & 11	Percent Taking AA-AAAS in Grades 3-8 & 11
All Students	157,058	2,174	1.38%
Hispanic	91,796	1,248	1.36%
American Indian/Alaskan Native	18,390	310	1.69%
Asian	2,388		
Black	4,696	76	1.62%
Hawaiian/Pacific Islander			
White	32,707	412	1.26%
Two or More Races	6,562	94	1.43%
Male	79,743	1,394	1.75%
Female	77,315	780	1.01%
English Learner	30,511	393	1.29%
Econ. Disadvantaged	125,757	1,913	1.52%
Mathematics	Total Number in Grades 3-8 & 11	Num. Taking AA-AAAS in Grades 3-8 & 11	Percent Taking AA-AAAS in Grades 3-8 & 11
All Students	156,957	2,177	1.39%
Hispanic	92,465	1,261	1.36%
American Indian/Alaskan Native	18,516	315	1.70%
Asian	2,410		
Black	4,730	77	1.63%
Hawaiian/Pacific Islander			
White	32,862	416	1.27%
Two or More Races	6,605	94	1.42%
Male	80,378	1,409	1.75%
Female	77,793	788	1.01%

English Learner	30,778	394	1.28%
Econ. Disadvantaged	126,877	1,935	1.53%
Science	Total Number in Grades 3-8 & 11	Num. Taking AA-AAAS in Grades 3-8 & 11	Percent Taking AA-AAAS in Grades 3-8 & 11
All Students	67,397	918	1.36%
Hispanic	40,185	521	1.30%
American Indian/Alaskan Native	8,009	132	1.65%
Asian			
Black	1,975	38	1.92%
Hawaiian/Pacific Islander			
White	14,297	197	1.38%
Two or More Races	2,711	39	1.44%
Male	34,710	602	1.73%
Female	33,802	338	1.00%
English Learner	12,856	152	1.18%
Econ. Disadvantaged	54,108	826	1.53%

34 CFR § 200.6(c)(4)(ii) also requires that States demonstrate that they have assessed at least 95 percent of all students and 95 percent of all students with disabilities in each required subject.

Data Table 3

Participation Rates for SY 2022-23		
	All Students	All Students with Disabilities
Mathematics	98%	97%
Language Arts	96%	95%
Science	97%	96%

34 CFR § 200.6(c)(4)(iii), requires assurances from the SEA that it verified that each district with more than 1.0 percent participation in the alternate assessment has:

- (A) Followed participation guidelines; and*
- (B) Will address any disproportionality in participation in the alternate assessment.*

On March 6, 2023, the NMPED Assessment provided an initial knowledge-building presentation to LEAs upon data analysis of the New Mexico AA-AAAS rates across the 2017-2023 test administration years. Between March through August 2023, NMPED engaged stakeholders to develop a state strategy for addressing these increasing rates. A component of the state strategy included the development collection of LEA justification and assurance forms regarding the alternate assessment placement criteria. The current year's form is available here: [2023-24 Alternate Assessment \(1.0 Percent\) LEA Justification Form](#). Within the form, LEAs were also asked to provide assurances in adhering to the test participation guideline and addressing disproportionality. The 2023-24 school year justification forms are due to NMPED by December 15, 2024. Upon receipt, the NMPED's Office of Special Education and Assessment Bureau will review each submission to determine the need for phased monitoring and technical assistance specific to each LEA.

34 CFR § 200.6(c)(4) requires a plan and timeline by which:

(A) The State will improve the implementation of its guidelines for participation in the AA-AAAS (including by reviewing and, if necessary, revising its definition of children with significant cognitive disabilities so that the State is under the cap in each subject in future school years).

The NMPED has undertaken the following improvements:

Increased Alternate Participation Awareness & Training:

NMPED expanded Alternate Assessment Participation and Eligibility Criteria training and collaborated with LEAs in New Mexico. [Training](#) was presented to Special Education Directors and District Test coordinators in March, August, and November. Frequently Asked Question documents (FAQ) were created and published based on questions and feedback from the districts.

A series of [NMPED Office hours](#) were offered for discussion of questions regarding alternate assessment participation and completion of the Justification Survey. Over the course of the same time period, the PED created an alternate assessment website and revised its Accessibility and Accommodations policy manual to highlight the state's newly developed definition for students with the most significant cognitive disabilities.

Additional Requirements for Educators Utilizing the Dynamic Learning Maps Modules:

Each year LEA designees are required to complete Dynamic Learning Map modules related to DLM test administration and processes to be completed in the DLM Kite Educator Portal. NMPED Assessment expanded the required training to include 3 new additional training modules for clarification on alternate assessment eligibility criteria which included: *Who are Students with Significant Cognitive Disabilities?*, *DLM Essential Elements Overview*, and *Individual Education Plans linked to DLM*.

Establishing a First Contact Survey Deadline:

The First Contact Survey within the Dynamic Learning Maps Alternate Assessment protocol is a series of questions for LEAs to consider in assigning the alternate assessment. These questions cover a variety of areas, including communication, academic skills, and attention. The test administrator enters the responses for each eligible student on their rosters. Responses to the survey items are used to provide an optimal system match between the student and linkage level for each essential element in the blueprint for each subject being tested.

The survey items are categorized in the following sections:

- Special Education Services/Disability
- Educational Placement
- Sensory Capabilities
- Vision
- Motor Capabilities and Health
- Computer Instruction
- Expressive Communication
- Language

- Receptive Communication
- Academic Skills
- Reading Skills
- Writing Skills
- Math Skills

Previously, the NMPED had not established a finite completion date for the First Contact Survey. By changing to a concrete deadline in November, the state is able to gather the following important data: 1) the number of pre-identified students who are rostered for the DLM/Alternate Assessment; and 2) the identification of the types of students taking the Alternate Assessment in each district.

Having these data points early into the school year allows the state to conduct early desktop monitoring of students assigned to take the alternate assessment. Additionally, these data also signal which LEAs might need technical assistance.

Develop of State Definition:

The NMPED convened an internal committee including members of the Office of Special Education, the Assessment Bureau, and the Office of General Counsel to review the requirements related to students with the most cognitive disabilities and review and revise the definition of "[Student with the Most Significant Cognitive Disability](#)" in accordance with 34 C.F.R. § 200.6(d)(1). As part of this review, the members compiled, reviewed, and analyzed varying definitions from a number of other states that had already developed definitions, either in their state rules and regulations or policies of the varying Education Departments. After this state survey and review process, the team worked to draft a definition that met the criteria of 34 C.F.R. § 200.6. The proposed definition was reviewed by varying stakeholders including members of the Technical Advisory Committee of the Assessment Bureau as well as other external stakeholders including diagnosticians and special education teachers and directors from multiple regional education cooperatives. After the stakeholder review was complete, suggested changes were considered and implemented at the committee's discretion and the definition was finalized. A memorandum was drafted and released to all LEAs notifying them of the definition and the requirement that all IEP teams consider the criteria outlined in the definition to determine if a student was a student with a most significant cognitive disability suitable for instruction using the state's alternate standards and assessment through the state's alternate assessment.

Development of IEP Resources

Following the creation of the definition, the NMPED engaged external consultants to review and revise the state's template IEP to reflect the new definition for students with the most significant cognitive disabilities. An [IEP Addendum](#) form was created to assist IEP teams in determining whether a student was a student with the most significant cognitive disability and whether that student should be educated with the state's alternate standards and assessed through the state's alternate assessment.

Revision to Graduation Guidance

The implementation of the definition of a student with the most significant cognitive disability did have some additional implications for students meeting these criteria. Specifically, those high school students who are designated as students with the most significant cognitive disabilities would likely also be assigned an ability program of study to obtain a diploma of excellence within the state of New Mexico. The ability program of study allows for some significant variations to the student's required coursework and instruction to obtain a diploma. Because of these permitted variations, the rules were recently amended to ensure that those students on an ability program of study have a right to a continued free appropriate public education after receiving a diploma through the ability program of study as the receipt of the diploma in this fashion does not meet the definition of a regular high school diploma as that term is defined in federal law. Therefore, students with the most significant cognitive disabilities will very likely have the opportunity to continue their education after receipt of the diploma unless and until they meet all state and district requirements for graduation or they reach the age of 22.

(B) The State will take additional steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0 percent of its assessed students with an AA-AAAS to ensure that only students with the most significant cognitive disabilities take an AA-AAAS. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP Team or other placement team understand and implement the guidelines established by the State so that all students are appropriately assessed.

Over the summer of 2023, NMPED Assessment, with a group of stakeholders, initiated the development of a formal [NMPED Alternate Assessment Monitoring and Support Guidance Manual](#). This manual highlights the criteria for three phases of LEA monitoring, which includes training of local school staff, including IEP Team members and staff that oversee alternate assessment placement and test administration.

Table 4: MONITORING PLAN

	Phase I		Phase 2		Phase 3
*	<i>Alternate Assessment Students predicted participation rate of <1% of students (Math, Language Arts, or Science).</i>	*	<i>Alternate Assessment Students predicted participation rate of >1% and up to 2% (Math, Language Arts, or Science).</i>	*	<i>Alternate Assessment Students predicted participation rate of >2% (Math, Language Arts, or Science).</i>
A	All District Test Coordinators (DTCs) successfully pass the required Alternate Assessment on the/DLM 7 module training by logging into DLM's Educator Portal .	A-D	Complete all Phase 1 and Phase 2 requirements.	A-G	Complete all Phase 1, Phase 2 and Phase 3 requirements.
B	Complete First Contact Survey accurately completed fall of each school year November 15. NMPED will review this data.	E	LEAs identify Special Education Directors (and other LEA identified OSE staff) to take the Alternate Assessment (DLM) 7 module training . DTCs will roster SED staff.	H	Complete Phase 3 Improvement Plan (Appendix C) .
C	DTCs prepare to be randomly sampled for PED virtual desktop audits. DTCs present evidence of LEAs and site's systems to identify students for DLM, the verification of the IEPs documentation of Participation in Alternate Assessment, and, when appropriate, completion of the OSE IEPs Addendum for Alternate Assessment Appendix A OSE Website/Alternate Assessment IEP Addendum	F	LEAs complete Alternate Assessment Root Cause Report (Appendix B) .	I	Prepare for onsite compliance monitoring visits which include review of the OSE IEP Addendum for Alternate Assessment and respond to recommended steps or corrective action (if provided).
D	Complete and submit the 1% justification survey including District Assurances to NMPED.	G	LEA's DTC and OSE Leader(s) present their practices, systems and next steps during a virtual audit to NMPED. 1% Phase 2 and 3 Monitoring Slide Deck		

Source: NMPED Assessment Bureau, *Alternate Assessment Monitoring and Support System*, Nov. 2023, pg. 10.

Table 5: 2023-2024 TIMELINE FOR ALTERNATE ASSESSMENT PARTICIPATION

Early Fall	Each LEA will have access to an Alternate Assessment 1% Participation Rates and the data will be published on the NMPED Assessment Department website.
Early Fall	DTC Required training on DLM's Educator Portal . They must achieve the DLM pass rate required to receive a certificate.
August	LEAs develop and use checklists, following NMAC 6.10.7 which requires district test coordinators to develop checklists and written procedures for internal use to: ensure all procedures for standardized testing comply with 6.10.7.12 NMAC ; and collaborate with appropriately licensed personnel to ensure appropriate accommodations and test placement for students with disabilities and English language learners.
August	DTC and OSE Professional Development regarding Alternate Assessment processes, Alternate Assessment Monitoring and Support System and NM Accommodations Manual.
August Ongoing	LEA uses Most Significant Cognitive Disability Definition and the verification of the IEPs documentation of Participation in Alternate Assessment. Also, completion of the OSE. <i>Addendum for Alternate Assessment (Appendix A).</i> Any student with an IEP that assigns students the DLM must submit within the IEP the Addendum for Alternate Assessment .
Early Fall	Review DLM Data previous years and current LEA assess data for patterns or trends LEAs know 2022-23 <i>Alternate Assessment Participation Rates</i> Alternate Assessment Participation Rates Link Review Data provided by REA
Fall	LEAs complete 1% Justification and Assurances Form Based on Spring 2023 DLM participation.
Fall	NMPED will notify LEAs of Phase 2 and Phase 3 identification regarding alternate assessment participation data above 1.0%. LEAs follow the monitoring plan and next steps.
November	Audits and Onsite Monitoring begins for Phase 2 and Phase 3 LEAs.
Nov 15	First Contact Survey Completion of the First Contact Survey and Personal Needs Profile are required before a test can be administered to a student in DLM to fit individual student needs.
Spring	PED Assessment Bureau monitors test participation during DLM administration window
May	Audits and Onsite Monitoring ends for Phase 2 and Phase 3 LEAs.
Ongoing	Review Data and Reports Educators can access First Contact Reports via the Kite Educator Portal . LEAs can provide access to parents via the Kite Parent Portal . LEAs can access Justification Survey Assurances and 1% Participation Rates .
Ongoing	Professional learning NMPED Assessment Resource Links

Source: NMPED Assessment Bureau, *Alternate Assessment Monitoring and Support System*, Nov. 2023, pg. 11-12.

(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section;

Table 6 provides possible areas for NMPED to investigate related to disproportionality. The Alternate Assessment Monitoring and Support Guidance Manual includes an **Alternate Assessment Disproportionality Root Case worksheet**, which is located in [Appendix B](#), to engage LEAs in multiple considerations.

Table 6 - revised: Risk Ratio and Likelihood of Disproportionality, with a confidence interval of 5%. Expected: There is no evidence of disproportionality when the risk ratio is at or very near 1.

Yes: The probability or “risk” of a focal group student being a participant in the alternate assessment is greater than expected. For example, a risk ratio of 2.0 indicates that a student who is a member of the focal group is twice as likely to participate in the alternate assessment.

Reference: Evans, C., & Domaleski, C. (2019a, August). Guidance for examining disproportionality of student group participation in alternate assessments (NCEO Brief #18). National Center on Educational Outcomes.

Subject	Risk Ratio			Likelihood of Disproportionality		
	R/LA	MATH	SCIENCE	R/LA	MATH	SCIENCE
Multi-year Year Total	1.20	1.20	1.24	Expected	Expected	Expected
Asian	0.89	0.89	0.76	Expected	Expected	Expected
Black	1.18	1.18	1.29	Expected	Expected	Expected
Hispanic	0.99	0.99	0.98	Expected	Expected	Expected
Multi- racial	0.99	0.98	0.92	Expected	Expected	Expected
Pacific Islander	0.78	0.77	0.63	Expected	Expected	Expected
White	0.90	0.90	0.91	Expected	Expected	Expected
Economic Disadvantage	1.11	1.10	1.12	Yes	Yes	Yes
English Learner	0.94	0.94	0.98	Expected	Expected	Expected

The monitoring plan and waiver application are currently posted for [public comment](#). To date, only two comments have been received; substantive comments will be taken into consideration in future planning.

Thank you for your consideration of New Mexico's AA-AAAS rate reduction plan. If more information is needed, please contact me at Lynn.Vasquez@ped.nm.gov or (505) 469-8967.

Sincerely,

A handwritten signature in black ink that reads "Lynn Vásquez". The signature is written in a cursive style with a large initial "L" and a stylized "V".

Lynn Vásquez
Division Director of Assessment, Accountability, Research, and Evaluation

Enc: NMPED Alternate Assessment Monitoring Manual

cc: Arsenio Romero, Ph.D., Secretary of Education
Amanda DeBell, Deputy Secretary
Gregory Frostad, Assistant Secretary
Margaret Cage, Ed.D., Director, Office of Special Education

NMPED ALTERNATE ASSESSMENT MONITORING AND SUPPORT GUIDANCE MANUAL



2023-2024

Michelle Lujan Grisham

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Acknowledgments

NMPED

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Office of Special Education (OSE)

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Attributions

The Ohio Department of Education and Kansas State Department of Education provided examples, references, and consultation.

The National Center on Educational Outcomes (NCEO)

NMPED Office of Special Education Policies and Guidance

NM PED Office of Special Education provides guidance for IEP Teams regarding the development of IEPs, including appropriate assessment of students with disabilities. This monitoring plan aims to ensure alignment of IEP decision-making to OSE guidance regarding NMPED alternate assessment placement.

Table of Contents

Table of Contents.....4

Purpose..... 5

New Mexico’s Alternate Standards & Alternate Assessment..... 5

History and Background..... 5

Why is NMPED Monitoring LEAS’ Alternate Assessment Rates?..... 6

NMPED’S Definition of Most Significant Cognitive Disability..... 6

NMPED Alternative Assessment Flow Chart.....7

DLM Module Training Requirement for All LEAs..... 8

Dynamic Learning Maps: First Contact Survey.....8

Technical Support..... 8

Overview of the Monitoring Plan.....9

 Monitoring Plan..... 10

2023-2024 Timeline for [MONITORING PLAN](#) Alternate Assessment Participation..... 11

Appendix A: OSE IEP Addendum for Alternate Assessment..... 12

Appendix B: Alternate Assessment Disproportionality Root Cause.....13

Appendix C: 2023-2024 >1% Alternate Assessment Improvement Plan..... 20

Appendix D: Most Significant Cognitive Disability Definition Memo.....23

Citations..... 23

PURPOSE OF THIS MANUAL

New Mexico Public Education Department's focus with this alternate assessment participation monitoring manual is to guide and monitor Local Education Agencies (LEA) processes and ensure students with the [most significant cognitive disabilities](#) are instructed and assessed using the appropriate standards.

NEW MEXICO'S ALTERNATE STANDARDS & ALTERNATE ASSESSMENT

Students with the most significant cognitive disabilities are taught using alternate academic standards and assessed using an alternate assessment.

New Mexico's [state-adopted](#) alternate academic standards are the Essential Elements in [Math](#), [Language Arts](#), and [Science](#). The Essential Elements (EE) are aligned to challenging academic content state standards, promote access to the general education curriculum, and reflect a professional judgment of the highest possible standards achievable. DLM measures student proficiency in the EEs of English Language Arts, Math, and Science. EEs are the state-adopted alternate standards aligned to the Common Core State Standards and Next Generation Science Standards, although at less-complex skill levels.

New Mexico uses Dynamic Learning Maps (DLM) alternate assessments are designed for students with the most significant cognitive disabilities for whom, even with accommodations, the general state assessments are not appropriate. DLM assessments offer these students a way to show what they know and can do in mathematics, English language arts, and science.

HISTORY AND BACKGROUND OF SERVING THIS STUDENT POPULATION

The Individuals with Disabilities Education Act ("IDEA") requires children with disabilities to participate in all general State and district-level assessments unless they cannot participate in these assessments as indicated in their [individualized education programs \(20 U.S.C. § 1412\(a\)\(16\)\(C\)\)](#). The implementing regulations of IDEA require states to adopt alternate academic achievement standards and to issue guidelines for determining who are the students with the *most significant cognitive disabilities* for participation in alternate assessments.

The goal of [Every Student Succeeds Act \(2015\)](#) is to provide all children significant opportunity to receive a fair, equitable, and high-quality education to close the achievement gaps. ESSA is designed to support all students, including students with disabilities, in expanding educational opportunities and improving students' outcomes. Title I of ESSA permits states to develop and adopt alternate assessment standards and to develop alternate assessments aligned to alternate standards.

Starting in 2017, federal law limited the total number of students with the *most significant cognitive disabilities* who are assessed statewide with a reading/English language arts, mathematics, or science Alternate Assessment to 1% of the total number of students in the state who are assessed statewide in each of these same subject areas ([ESEA section 1111\(b\)\(2\)\(D\)\(i\)\(I\)](#)). This 1% threshold raises the importance of ensuring that appropriate students participate in the Alternate Assessment, in part because of the additional requirements placed on states and districts when a state exceeds the threshold.¹

In 2019, New Mexico joined the [Dynamic Learning Maps](#), a multi-state alternate assessment consortium. New Mexico administers the DLM in math, language arts and science for students with the *most significant cognitive disabilities* in lieu of general education assessments.

¹ Hinkle, A. R., Thurlow, M. L., Lazarus, S. S., & Strunk, K. (2022). *State approaches to monitoring AA-AAAS participation decisions* (NCEO Report 432). National Center on Educational Outcomes.

WHY IS NMPED MONITORING LEAS' ALTERNATE ASSESSMENT RATES?

In recent years, New Mexico has exceeded the 1% threshold in one or more statewide assessed content areas. States that anticipate exceeding the threshold are able to seek a waiver from the U.S. Department of Education (USED) in the fall prior to the spring assessment window. In order to submit a waiver, NMPED must include assurances, one of which that NMPED has verified that each LEA that assesses more than 1% of its students in any subject using an Alternate Assessment has followed the State's guidelines for participation in the Alternate Assessment (34 CFR § 200.6(c)(4)). A state requesting a waiver from the 1% requirement must provide details about what it will do with Local Education Agencies (LEA)² that are expected to exceed the threshold. This document and the tools within meet USED requirements:

- Develop a plan for supporting and providing oversight to those LEAs,
- Develop a timeline for providing additional support and oversight to those LEAs, and
- Provide an explanation of how the state will monitor and evaluate the LEA's training that is designed to ensure that IEP team members understand and implement the state Alternate Assessment participation guidelines.

NMPED'S DEFINITION OF MOST SIGNIFICANT COGNITIVE DISABILITY

In August 2023, NMPED issued a memorandum and definition [NMPED Memorandum and Definition of Most Significant Cognitive Disability](#) for the identification of students with the most significant cognitive disabilities:

Students with the most significant cognitive disabilities

A. For a local education agency to classify a student as having a most significant cognitive disability, all of the following must be true:

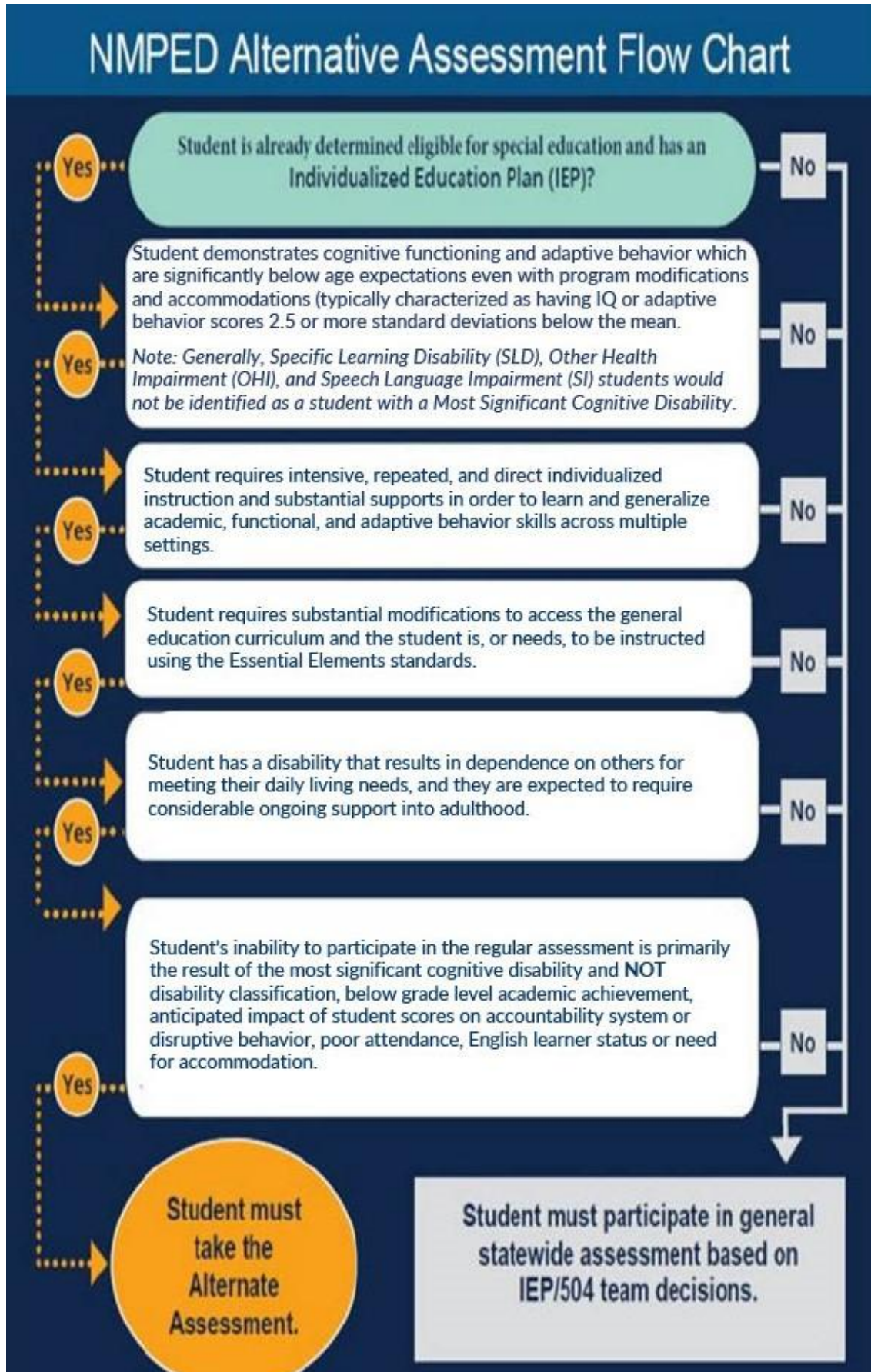
- Student is already determined eligible for special education and has an IEP;
- Student demonstrates cognitive functioning and adaptive behavior which are significantly below age expectations even with program modifications and accommodations (typically characterized as having IQ or adaptive behavior scores 2.5 or more standard deviations below the mean);
- Student requires intensive, repeated, and direct individualized instruction and substantial supports in order to learn and generalize academic, functional, and adaptive behavior skills across multiple settings;
- Student requires substantial modifications to access the general education curriculum; and
- Student has a disability that results in dependence on others for meeting their daily living needs and they are expected to require considerable ongoing support into adulthood.

B. A local education agency shall not classify a student as having a most significant cognitive disability based solely on:

- disability classification;
- below grade level academic achievement;
- expected poor performance on the general assessment;
- anticipated impact of student's scores on accountability system;
- anticipated disruptive behavior if student takes general assessment;
- poor attendance;
- English learner status; or
- need for accommodations to participate in the general assessment.

² *Local education agencies includes districts, charter schools, and state supported schools

NMPED ALTERNATIVE ASSESSMENT FLOW CHART



DLM [MODULE](#) TRAINING REQUIREMENT FOR ALL LEAs

Educational leaders and staff who have eligible students for Alternate Assessment placement need to be familiar with the assessment options, accommodations, and instructionally embedded assessments.

In support of professionals who may need more information, [DLM Professional development](#) can be assigned by the DTC.

All **Special Education leaders** whose LEAs are projected for **Phase 2** and **Phase 3** monitoring are **required** to successfully complete the [7 DLM Modules](#). The seven modules are:

- Overview of the Dynamic Learning Maps® Alternate Assessment
- Understanding and Delivering Testlets
- Test Administration and Scoring
- Becoming Familiar with DLM Resources
- Who are the students with significant cognitive disabilities
- DLM Essential Elements Overview
- Individual Education Programs Linked to the DLM Essential Elements

DYNAMIC LEARNING MAPS: FIRST CONTACT SURVEY

LEAs' via special education lead or district test coordinator (DTC) are required to complete and submit the First Contact Survey on or near the **15th of November each year**. The data from each survey provides details on the number of students projected to complete an alternate assessment, disability type, and the number of students being assessed by each district/school.

TECHNICAL SUPPORT

The NMPED Office of Special Education and Assessment Bureau will provide LEAs training and technical assistance in regards to systems and policies that help support the placement of students in the most appropriate assessment. PED will continue to monitor the effectiveness of PED's Alternate Assessment Monitoring and Support System by:

- Reviewing district feedback regarding the changes implemented due to the decision-making procedures and monitoring;
- Reviewing what practices were developed and implemented by districts after the decision-making procedures and monitoring training was provided by the NMPED; and
- Evaluating how the decision-making procedures and monitoring training contributed to alternate assessment participation decisions.

NMPED's [Assessment website](#) for and link for [DLM Resources](#) provides many resources for LEAs, staff, and parents.

OVERVIEW OF THE MONITORING PLAN

There are three phases to PED's alternate assessment monitoring. Based on a review of LEA's data, there are [NMPED phased requirements](#) for LEAs to evaluate systems and processes to ensure that students are assigned the correct assessment based on a student's IEP and adhering to the 2023-2024 guidance from NMPED. **LEA rates are posted on the NMPED Alternate Assessment Monitoring website.**

Note: All LEA's must provide a justification form to NMPED Assessment. This includes districts that are under 1%. For monitoring purposes, the highest rate in any subject area will determine the appropriate monitoring phase for the LEA.

LEA Monitoring Phase	Projected Threshold Ranges
Phase I	The LEA's projected Alternate Assessment participation rate for 2023-2024 is <1% of students in either Math, Language Arts, and/or Science.
Phase 2	The LEA's projected Alternate Assessment participation rate for 2023-2024 is >1% and up to 2% of students in either Math, Language Arts, and/or Science.
Phase 3	The LEA's projected Alternate Assessment participation rate for 2023-2024 is >2% of students in either Math, Language Arts, and/or Science.

MONITORING PLAN

	Phase 1		Phase 2		Phase 3
	*		*		
	<i>Alternate Assessment Students predicted participation rate of <1% of students (Math, Language Arts, or Science).</i>		<i>Alternate Assessment Students predicted participation rate of >1% and up to 2% (Math, Language Arts, or Science).</i>		<i>Alternate Assessment Students predicted participation rate of >2% (Math, Language Arts, or Science).</i>
A	All District Test Coordinators (DTCs) successfully pass the required Alternate Assessment on the/DLM 7 module training by logging into DLM's Educator Portal .	A-D	Complete all Phase 1 and Phase 2 requirements.	A-G	Complete all Phase 1, Phase 2 and Phase 3 requirements.
B	Complete First Contact Survey accurately completed fall of each school year November 15. NMPED will review this data.	E	LEAs identify Special Education Directors (and other LEA identified OSE staff) to take the Alternate Assessment (DLM) 7 module training . DTCs will roster SED staff.	H	Complete Phase 3 Improvement Plan (Appendix C).
C	DTCs prepare to be randomly sampled for PED virtual desktop audits. DTCs present evidence of LEAs and site's systems to identification of the IEPs documentation of Participation in Alternate Assessment, and, when appropriate, completion of the OSE IEPs Addendum for Alternate Assessment Appendix A OSE Website/Alternate Assessment IEP Addendum	F	LEAs complete Alternate Assessment Root Cause Report (Appendix B).	I	Prepare for onsite compliance monitoring visits which include review of the OSE IEP Addendum for Alternate Assessment, and respond to recommended steps or corrective action (if provided).
D	Complete and submit the 1% justification survey including District Assurances to NMPED.	G	LEA's DTC and OSE Leader(s) present their practices, systems and next steps during a virtual audit to NMPED. 1% Phase 2 and 3 Monitoring Slide Deck		

2023-2024 TIMELINE FOR ALTERNATE ASSESSMENT PARTICIPATION

Early Fall	Each LEA will have access to an Alternate Assessment 1% Participation Rates and the data will be published on the NMPED Assessment Department website.
Early Fall	DTC Required training on DLM's Educator Portal . They must achieve the DLM pass rate required to receive a certificate.
August	LEAs develop and use checklists, following NMAC 6.10.7 which requires district test coordinators to develop checklists and written procedures for internal use to: <ul style="list-style-type: none"> ■ ensure all procedures for standardized testing comply with 6.10.7.12 NMAC; and ■ collaborate with appropriately licensed personnel to ensure appropriate accommodations and test placement for students with disabilities and English language learners.
August	DTC and OSE Professional Development regarding Alternate Assessment processes, Alternate Assessment Monitoring and Support System and NM Accommodations Manual.
August Ongoing	LEA uses Most Significant Cognitive Disability Definition and the verification of the IEPs documentation of Participation in Alternate Assessment. Also, completion of the OSE <i>Addendum for Alternate Assessment</i> (Appendix A). <ul style="list-style-type: none"> ● Any student with an IEP that assigns students the DLM must submit within the IEP the Addendum for Alternate Assessment.
Early Fall	Review DLM Data previous years and current <ul style="list-style-type: none"> ● LEA assess data for patterns or trends ● LEAs know 2022-23 <i>Alternate Assessment Participation Rates</i> Alternate Assessment Participation Rates Link ● Review Data provided by REA
Fall	LEAs complete 1% Justification and Assurances Form Based on Spring 2023 DLM participation.
Fall	NMPED will notify LEAs of Phase 2 and Phase 3 identification regarding alternate assessment participation data above 1.0%. LEAs follow the monitoring plan and next steps.
November	Audits and Onsite Monitoring begins for Phase 2 and Phase 3 LEAs.
Nov 15	First Contact Survey <ul style="list-style-type: none"> ● Completion of the First Contact Survey and Personal Needs Profile are required before a test can be administered to a student in DLM to fit individual student needs.
Spring	PED Assessment Bureau monitors test participation during DLM administration window
May	Audits and Onsite Monitoring ends for Phase 2 and Phase 3 LEAs.
Ongoing	Review Data and Reports <ul style="list-style-type: none"> ● Educators can access First Contact Reports via the Kite Educator Portal; ● LEAs can provide access to parents via the Kite Parent Portal. ● LEAs can access Justification Survey Assurances and 1% Participation Rates.

APPENDIX A: OSE IEP ADDENDUM FOR ALTERNATE ASSESSMENT

Also Located on OSE Website [Alternate Assessment IEP Addendum](#)

Addendum for Alternate Assessment §300.320(a)(6)

This addendum must be completed for any child who demonstrates a “most significant cognitive disability,” even if this is not identified as the child’s primary disability. This tool assists IEP teams in determining if the child must take an alternate assessment instead of a particular regular State or district wide assessment of student achievement and documenting that discussion and decision.

This addendum must be completed within the context of an IEP meeting. It is not appropriate for this addendum to be completed without participation of the full IEP team.

Note: IEP teams are encouraged to use the Alternate Assessment Decision-Making Tool when determining if a child is eligible for the Alternate Assessment.

Did the IEP team determine that this child demonstrates a “most significant cognitive disability” as evidenced by meeting the following criteria **and not** based solely on the following factors: *disability classification, below grade level academic achievement, expected poor performance on the general assessment, anticipated impact of student scores on accountability system, anticipated disruptive behavior if student takes general assessment, poor attendance, English learner status, or need for accommodations to participate in the general assessment:*

Cognitive functioning and adaptive behavior significantly below age expectations, even with program modifications and accommodations **and not based solely on the factors listed above:**

Does the child’s past and present performance in multiple settings (i.e., home, school, community, etc.) indicate that a disability(ies) is present that significantly impacts the child’s **intellectual functioning** and **adaptive behavior** (skills essential for someone to live independently and to function safely in daily life)?

Justification and documentation:

Does the child require **intensive, pervasive, or extensive levels of support** in school, home, and community settings?

Justification and documentation:

Is the child primarily taught (or instructed) in alternative content standards (e.g., DLM Essential Elements) **and** require extensive direct individualized instruction and substantial support to achieve measurable gains in the grade- and age-appropriate curriculum?

Justification and documentation:

*If the answer to **all three questions above** is “YES,” the IEP team may determine that the child is*

most appropriately assessed using an alternate assessment in one or more subject areas.

Has the IEP team determined that the child will participate in the alternate assessment in one or more subject areas?

✦

If “yes,” specify which subject areas:

English Language Arts Mathematics Science

A member of the IEP is responsible for communicating this decision with the District Testing Coordinator prior to rostering the student for the DLM to ensure the student has access to the appropriate assessment.

Appendix B :ALTERNATE ASSESSMENT DISPROPORTIONALITY ROOT CAUSE

Phase 2F and Phase 3H

District Name:

The LEA team is required to review and discuss the questions, summarize, and determine areas of concern. As an area of concern is identified, the team needs to determine the root cause. **The LEA must identify a local team to complete the root cause analysis. Examples of members are provided below.**

Phase 2 LEA (>1% and <2%): This document is used for reflection. The questions and LEA's answers will be part of the [1% Phase 2 and 3 Monitoring Slide Deck](#) and virtual audit with NMPED.

Phase 3 LEA (exceeding 2%): This document is used for investigation. The questions and LEA's answers will be part of the [1% Phase 2 and 3 Monitoring Slide Deck](#) with NMPED. This document guides LEA's Improvement Plan including short and long term goals.

Phase 2 and 3 Audit and Monitor

Insert LEA Name, Date of Audit

Insert LEA Responsible Parties on the Call

A consultant from NMPED Assessment and/or Special Education or a special education consultant from your REC **must** be a member of the LEA team and collaborate in completing the Alternate Assessment Improvement Plan.

Phase 3 LEAs must complete and upload the completed slide deck and Alternate Assessment Improvement Plan if disproportionality exceeds 2% to Canvas [1% Phase 2 and 3 Monitoring Slide Deck](#) for review.

Print Name	LEA Team Member Title (e.g.)	Phone #/Email	Date
	OSE Administrative Representative		
	Administrator		
	Regular Education Teacher		
	NMPED Assessment or REC, or OSE Representative (Phase 3)		
	Person Submitting		

Section A
Accurate Student Placement in Alternate Assessment

Guiding Question

What are the processes to review, collaborate with experts regarding each student, ensure careful consideration of the student’s future, and analyze participation rates in the state’s alternate assessment (DLM) for students identified with a *most significant cognitive disability*?

Process to discern Alternate Assessment Eligibility	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>A. How does the LEA determine alternate assessment placement in the IEP process?</p> <p>B. Has the LEA applied PED’s definition of most significant cognitive disability as part of the IEP decision making process? What evidence can the LEA provide that this definition is being applied?</p>			

Section A: Summarize LEA’s process to discern Alternate Assessment Eligibility:

What is working?

What needs to change?

**Section B
Verifying Data Errors**

Guiding Question

What is the process the LEA has in place to enter data correctly within the student information system, STARS, share data with PED, identify errors and/or correct errors?

Data Transfer from IEP documentation and entry	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>How does your LEA know that the Alternate Assessment related information is accurate and complete:</p> <ol style="list-style-type: none"> 1) In the local SIS and PED's data system (i.e., STARS/NOVA)? 2) For review of the First Contact Survey, Verification of Enrollment, and Rostering? 			
Data Revision and Correction	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>Who is responsible for:</p> <ol style="list-style-type: none"> 1) Revising/updating and correcting data reporting to include STARS/NOVA error codes? 2) Submitting the First Contact Survey information? 3) Validating the students roster in DLM before and after testing? 			

Section B: Summarize Data Review Process and Verification:

What is working?

What needs to change?

Section C
Professional Development regarding Alternate Assessment

Guiding Question

How does the LEA ensure that staff has the required and necessary information and professional development regarding the new MSCD definition, SED IEP processes, IEP addendums, and impact on students?

Professional Development on Alternate Assessment	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>A. How is the completion of Alternate Assessment required training(s) verified at site level and LEA level?</p> <p>B. What monitoring, coaching or supports are provided as follow-up to district professional learning in regards to Accommodations and Alternate Assessment?</p>			

Section C: Summarize required Professional Development verification and monitoring

What is working?

What needs to change?

Section D
Examining Data Trends and Patterns

Guiding Question

What do the data trends and patterns tell your LEA about DLM testing and assignments?

Data Trends and Patterns	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>A. Examine assessment patterns of students assigned to the Alternate Assessment. Typically students <u>do not change</u> assessments during their K-12 education. Examine if students were assigned a different test for one grade level only, and what is the reason for the change?</p> <p>B. Are any students identified that are outside the definition for <i>most significant cognitive disability</i>?</p> <p>C. Explore data patterns separately for possible commonalities.</p> <ul style="list-style-type: none"> a. Enrollment in general education courses b. Building, grade level, teacher, school, school psychologist, receiving services outside the district, etc. patterns that may indicate over identification. <p>D. Examine First Contact Survey for patterns and trends.</p>			

Section D: Summarize required Data Trends and Patterns

What is working?

What needs to change?

Section E
Examining Disproportionality

Guiding Question

NMPED must provide assurances, one of which that NMPED has verified that each LEA that assesses more than 1% of its students in any subject using an Alternate Assessment has followed the State’s guidelines for participation in the Alternate Assessment (34 CFR § 200.6(c)(4)).

What is the process the LEA has in place to reduce participation in alternate assessments not solely to meet federal requirements but to ensure each student has access to rigorous curriculum and assessments that prepare them for future success?

Here are some resources:

- [Equity in Special Education: Disproportionality](#)
- [National Center for Educational Outcomes Disproportionality Guidance](#)
- [NMPED Identity, Equity and Transformation](#)
- [Disproportionality Calculator from NCEO](#)

Disproportionality Trends	Data Summary	Area of Concern? (Y/N)	Root Cause:
<p>Disproportionality</p> <p>A. How are participation rates different for subgroups (e.g. African-American, Native American, Hispanic, Asian, Caucasian, English Learners, Economically Disadvantaged) compared to other subgroups?</p> <p>B. Are trends evident that show participation of a subgroup increasing or decreasing over time (i.e., three years)?</p> <p>C. Are there high numbers of students consistently performing above or near proficient in content areas on the alternate assessment?</p> <p>D. Is there a particular disability identified for the DLM? Example, all “specific learning disabilities” are MSDC; Examine First Contact Survey for patterns and trends.</p> <p>E. What other factors within the district may be causing a higher number of students being alternately assessed (enrollment changes, expansion of</p>	<p>Data Summary:</p>	<p>Area of Concern? (Y/N)</p>	<p>Root Cause:</p>

services, other)?

Section E: Summarize disproportionality trends for participation in the alternate assessment.

What is working?

What needs to change?

By signing you attest to being part of the data review and Alternate Assessment Root Cause Report.

School District Representative (Name/Date) _____

Special Education Director (Name/Date) _____

Intervention Specialist (Name/Date) _____

General Education Teacher (Name/Date) _____

Parent/Guardian (Name/Date) _____

NOTE:

*This Root Cause Tool was modeled after the Ohio Department of Education's Root Cause Tool and Process.
See Citation Section

**APPENDIX C: 2023-2024 >1% ALTERNATE ASSESSMENT
IMPROVEMENT PLAN**

Phase 3 Required Documentation

District Name _____

District Plan for Improvement
What are the identified area(s) for improvement?
Summary - Based on the <i>Alternate Assessment Disproportionality Root Cause</i> , summarize the area(s) of concern:
Reflection – What are key factors affecting your high participation rates in the Alternate Assessment/DLM?
Long-Term Goal(s) - Write the long-term goal with deadline dates to address specific area(s) of concern: <u>Goal/Evidence/Date</u>
Short-Term Goal(s) – Write the short-term goal(s) and deadline dates for addressing specific concerns: 1.) 2.)

SHORT TERM GOALS DOCUMENTATION			
Activity	Resources	Timeline	Completion
Describe activities designed to achieve the short-term goal(s) – Items 1-3 are required for all identified districts. Districts can add additional activities needed for improvement (Describe Who, What, Where, When, How):	List the resources needed for activity:	Activities must be completed by Feb. 1, 2023:	Evidence of completed activity (training materials, agendas, sign- in sheets, procedure manuals...)
<i>Example:</i> <i>Short-Term Goal 1. LEAs DTC and SED leaders will collaborate to ensure all required module training is completed by Dec. 1, 2023. A tracking system will be developed and monitored by the DTC.</i>	7 DLM Modules	<i>Dec. 1, 2023</i>	LEA Tracker (hyperlinked)

To add a row for an additional activity – Left click in last row of the table and select + when it appears at the end of the row.

Please upload signatures and plan as one document. Do not separate.

District Title of Personnel Responsible for Implementation			
Title:	Name:	Signature:	Email:

Superintendent		
Name:	Signature:	Email:

Sponsor			
Organization:	Contact Name:	Signature:	Email:

State Support Team			
NMPED Representative	Name:	Signature:	Email:
REC/OSE Specialist	Consultant Name:	Signature:	Email:
Comment:			

Improvement Plan approval and next steps by the NMPED will be noted in and communicated to the district

APPENDIX D: MOST SIGNIFICANT COGNITIVE DISABILITY MEMORANDUM

Citations

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Boyter, Lauren

From: Boyter, Lauren
Sent: Thursday, February 1, 2024 8:43 AM
To: Vasquez, Lynn, PED
Cc: Peasley, Donald; OESE.ESEA.Assessment; Paola.Peacock-Villa, PED; Winjum, David, PED; DeBell, Amanda, PED; Cage, Margaret, PED; Davis, Margenia, PED; Pacheco, Lorie, PED; Fernandez, Kristina, PED; Alvarez, Alexis, PED
Subject: RE: [EXTERNAL] RE: NMPED's Spring 2024 Alternate Assessment Participation Cap Waiver

Lynn,

Good morning. I added your team (those on this email) to the meeting invite in case they wanted to join in tomorrow. Please let me know if you would like me to add anyone. Also, I just wanted to let you know that I added one more follow up question to the shared Google doc to discuss during our call.

Thanks,

Lauren

Lauren Boyter

Assessment Team, School Support and Accountability (SSA)
Office of Elementary and Secondary Education (OESE)
U.S. Department of Education
Lauren.Boyter@ed.gov

From: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>
Sent: Monday, January 29, 2024 9:01 AM
To: Boyter, Lauren <Lauren.Boyter@ed.gov>
Cc: Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>; Paola.Peacock-Villa, PED <Paola.Peacock-Villa@ped.nm.gov>; Winjum, David, PED <david.winjum@ped.nm.gov>; DeBell, Amanda, PED <amanda.debell@ped.nm.gov>; Cage, Margaret, PED <margaret.cage@ped.nm.gov>; Davis, Margenia, PED <margenia.davis@ped.nm.gov>; Pacheco, Lorie, PED <Lorie.Pacheco@ped.nm.gov>; Fernandez, Kristina, PED <Kristina.Fernandez@ped.nm.gov>; Alvarez, Alexis, PED <Alexis.Alvarez@ped.nm.gov>
Subject: RE: [EXTERNAL] RE: NMPED's Spring 2024 Alternate Assessment Participation Cap Waiver

You don't often get email from lynn.vasquez@ped.nm.gov. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Lauren:

In preparation for our call this week, please note that I have moved the USED questions to this Google doc and added links to the evidence requested: [NMPED 1% Waiver Follow Up Questions from USED.docx - Google Docs](#).

Kind regards,

Lynn Vásquez | Division Director, AREA
Assessment, Research, Evaluation, & Accountability
New Mexico Public Education Department
300 Don Gaspar Ave. | Santa Fe, NM 87501
C: (505) 469-8967 | Help Desk: (505) 827-5800



EQUITY • EXCELLENCE • RELEVANCE

From: Vasquez, Lynn, PED
Sent: Thursday, January 25, 2024 9:02 AM
To: Boyter, Lauren <Lauren.Boyter@ed.gov>
Cc: Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>; Paola.Peacock-Villa, PED <Paola.Peacock-Villa@ped.nm.gov>; Winjum, David, PED <david.winjum@ped.nm.gov>; DeBell, Amanda, PED <amanda.debell@ped.nm.gov>; Cage, Margaret, PED <margaret.cage@ped.nm.gov>; Davis, Margenia, PED <margenia.davis@ped.nm.gov>; Pacheco, Lorie, PED <Lorie.Pacheco@ped.nm.gov>; Fernandez, Kristina, PED <Kristina.Fernandez@ped.nm.gov>; Alvarez, Alexis, PED <Alexis.Alvarez@ped.nm.gov>
Subject: RE: [EXTERNAL] RE: NMPED's Spring 2024 Alternate Assessment Participation Cap Waiver

Good morning, Lauren:

Yes, please see below. These MT periods should work for your time zone as well.

- Thursday, Feb 1 @ 9-12 [9AM MT works for NM]
- Friday, Feb 2 @ 10-12:30; 2:30-3:30 [anytime between 9AM MT - 4PM MT works for NM]

Thank you,
Lynn

Lynn Vásquez | Division Director, AREA
Assessment, Research, Evaluation, & Accountability
New Mexico Public Education Department
300 Don Gaspar Ave. | Santa Fe, NM 87501
C: (505) 469-8967 | Help Desk: (505) 827-5800



EQUITY • EXCELLENCE • RELEVANCE

From: Boyter, Lauren <Lauren.Boyter@ed.gov>
Sent: Thursday, January 25, 2024 8:49 AM
To: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>
Cc: Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Subject: [EXTERNAL] RE: NMPED's Spring 2024 Alternate Assessment Participation Cap Waiver

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Good morning Lynn,

We have been working on your State's 1.0% waiver request and we have several follow up questions we would like to discuss on a Teams call. I have attached a document with the questions to discuss. Please review when time allows, and we can discuss on our call.

One of the questions we want to follow up with is about the overall participation data reported in EdFacts versus the data reported in your waiver request. In the document attached, I have provided 2 tables comparing **Table 1** (Overall Rates of Assessment Participation) data reported to EdFacts vs. reported data in the waiver request. Below, is the detailed data reported to EdFacts and calculation details.

NEW MEXICO	Math
a. Did not participate	6211
b. Medical exemption	30
c. Participated - alternate assessment based on alternate achievement standards	1989
d. Participated - English language proficiency assessment	
e. Participated - regular assessment based on grade-level achievement standards with accommodations	29782
f. Participated - regular assessment based on grade-level achievement standards without accommodations	98999
g. Participated in high school regular assessment I, with accommodations	2571
h. Participated in high school regular assessment I, without accommodations	16985

$$\text{Alt \%} = C / (C+D+E+F+G+H)$$

$$\% \text{ Participation for all Students} = (C+D+E+F+G+H) / (A+C+D+E+F+G+H)$$

D is erroneous data I think....

Our team has the following dates/times available. Please select 1-hour time slot. If these times do not work, please let me know your availability.

Possible Meeting Dates/Times (all times are EST)

- Monday, Jan 29 @ 9-11; 1-3:30
- Tuesday, Jan 30 @ 2-3:30
- Thursday, Feb 1 @ 9-12 [Lynn: 9AM MT works for my team]
- Friday, Feb 2 @ 10-12:30; 2:30-3:30 [anytime between 9AM MT -4PM MT works for my team]
- Monday, Feb 5 @ 9-11:00; 12:30-3:30
- Thursday, Feb 8 @ 9-12
- Friday, Feb 9 @ 10-3:30.

Please let me know if you have any questions. We look forward to discussing this with you.

Thanks,
Lauren

Don Peasley- Donald.peasley@ed.gov
 Kathleen Banks- Kathleen.banks@ed.gov
 Clayton Hollingshead- Clayton.hollingshead@ed.gov
 Lauren Boyter- Lauren.boyter@ed.gov

State Assessment Team, School Support and Accountability (SSA)
 Office of Elementary and Secondary Education (OESE)

US Department of Education
Email the OESE Assessment Team at ESEA.Assessment@ed.gov

From: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>
Sent: Friday, December 8, 2023 6:22 PM
To: OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>; Hollingshead, Clayton <Clayton.Hollingshead@ed.gov>
Cc: Cage, Margaret, PED <margaret.cage@ped.nm.gov>; Romero, Arsenio, PED <arsenio.romero@ped.nm.gov>; DeBell, Amanda, PED <amanda.debell@ped.nm.gov>; Peasley, Donald <Donald.Peasley@ed.gov>; Lozano, Miguel, PED <Miguel.Lozano@ped.nm.gov>; Pacheco, Lorie, PED <Lorie.Pacheco@ped.nm.gov>; Davis, Margenia, PED <margenia.davis@ped.nm.gov>; Paola.Peacock-Villa, PED <Paola.Peacock-Villa@ped.nm.gov>
Subject: NMPED's Spring 2024 Alternate Assessment Participation Cap Waiver

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Dear Clayton,

Please find New Mexico's Spring 2024 AA-AAAS participation rate waiver, attached.

A restful weekend to all,
Lynn

Lynn Vásquez | Division Director, AREA
Assessment, Research, Evaluation, & Accountability
New Mexico Public Education Department
300 Don Gaspar Ave. | Santa Fe, NM 87501
C: (505) 469-8967 | Help Desk: (505) 827-5800



EQUITY • EXCELLENCE • RELEVANCE

From: Peasley, Donald <Donald.Peasley@ed.gov>
Sent: Wednesday, November 22, 2023 5:11 AM
To: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>
Cc: Cage, Margaret, PED <margaret.cage@ped.nm.gov>; Romero, Arsenio, PED <arsenio.romero@ped.nm.gov>; DeBell, Amanda, PED <amanda.debell@ped.nm.gov>; Hollingshead, Clayton <Clayton.Hollingshead@ed.gov>; Paola.Peacock-Villa, PED <Paola.Peacock-Villa@ped.nm.gov>; Lozano, Miguel, PED <Miguel.Lozano@ped.nm.gov>; Pacheco, Lorie, PED <Lorie.Pacheco@ped.nm.gov>; Davis, Margenia, PED <margenia.davis@ped.nm.gov>; Costales, Jacqueline, PED <Jacqueline.Costales@ped.nm.gov>
Subject: RE: PED Response Letter RE: [EXTERNAL] Letter from US Department of Education regarding alternate assessment participation rates for the 2021-2022 school year

Hello.
We are acknowledging receipt. We will review and let you know if we have any questions.

Don
Donald Peasley, Ph.D.
Assessment Team Lead, School Support and Accountability (SSA)
Office of Elementary and Secondary Education (OESE)

US Department of Education

Donald.peasley@ed.gov Ph. 202 453 7982

Email the OESE Assessment team at ESEA.Assessment@ed.gov

See ED Standards and Assessments Information at <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/standards-and-assessments/>

From: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>

Sent: Tuesday, November 21, 2023 6:37 PM

To: Peasley, Donald <Donald.Peasley@ed.gov>; OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>

Cc: Cage, Margaret, PED <margaret.cage@ped.nm.gov>; Romero, Arsenio, PED <arsenio.romero@ped.nm.gov>; DeBell, Amanda, PED <amanda.debell@ped.nm.gov>; Hollingshead, Clayton <Clayton.Hollingshead@ed.gov>; Paola.Peacock-Villa, PED <Paola.Peacock-Villa@ped.nm.gov>; Lozano, Miguel, PED <Miguel.Lozano@ped.nm.gov>; Pacheco, Lorie, PED <Lorie.Pacheco@ped.nm.gov>; Davis, Margenia, PED <margenia.davis@ped.nm.gov>; Costales, Jacqueline, PED <Jacqueline.Costales@ped.nm.gov>

Subject: PED Response Letter RE: [EXTERNAL] Letter from US Department of Education regarding alternate assessment participation rates for the 2021-2022 school year

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Good afternoon, Dr. Peasley:

Please find PED's response and enclosures, submitted in response to USED's October 27th AA-AAAS rate letter, attached. This response letter is submitted within the 30-day deadline.

We wish you and your team a pleasant holiday season.

-Lynn

Lynn Vásquez | Director of Assessment

New Mexico Public Education Department

300 Don Gaspar Ave. | Santa Fe, NM 87501

C: (505) 469-8967 | Help Desk: (505) 827-5800

Check us out here: [Assessment](#)



EQUITY • EXCELLENCE • RELEVANCE

From: Peasley, Donald <Donald.Peasley@ed.gov>

Sent: Friday, October 27, 2023 11:29 AM

To: Romero, Arsenio, PED <arsenio.romero@ped.nm.gov>

Cc: Vasquez, Lynn, PED <Lynn.Vasquez@ped.nm.gov>; Cage, Margaret, PED <margaret.cage@ped.nm.gov>;

OESE.ESEA.Assessment <ESEA.Assessment@ed.gov>

Subject: [EXTERNAL] Letter from US Department of Education regarding alternate assessment participation rates for the 2021-2022 school year

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

The Honorable Arsenio Romero
Secretary of Education
New Mexico Public Education Department

Dear Secretary Romero:

Please find attached a letter regarding the participation rate of children assessed with an alternate assessment of alternate academic achievement standards in New Mexico in the 2021-2022 school year. Please share this letter internally as appropriate. Your team may contact the OESE State assessment team at ESEA.Assessment@ed.gov if there are any questions. Thank you.

Don
Donald Peasley, Ph.D.
Assessment Team Lead, School Support and Accountability (SSA)
Office of Elementary and Secondary Education (OESE)
US Department of Education
Donald.peasley@ed.gov Ph. 202 453 7982
Email the OESE Assessment team at ESEA.Assessment@ed.gov
See ED Standards and Assessments Information at <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/standards-and-assessments/>

Statutory or Regulatory Requirement for this Request	Information Needed	NMPED Response																																				
<p>Public Comment</p>	<p>When was the waiver posted and how long was it open for comment?</p> <p>Waiver only states, "The monitoring plan and waiver application are currently posted for public comment. To date, only two comments have been received; substantive comments will be taken into consideration in future planning."</p> <p>Could you please provide the comments?</p>	<p>The waiver was posted on December 4, 2023 – December 15, 2023.</p> <p>A screenshot of the posted can be viewed here: Waiver Public Comment Posted 12 4 2023 to 12 15 2023.docx - Google Docs</p> <p>Yes, the comments are available here: Public Comments for NM Alternate Assessment 1% Participation Waiver (Responses) - Google Sheets</p>																																				
<p><i>34 CFR §200.6(c)(4)(ii) also requires that States demonstrate that they have assessed at least 95% of all students and 95% of all students with disabilities in each required subject.</i></p>	<p>NMPED’s participation data submitted in EdFacts is different from NMPED’s reported data in Table 1.</p> <table border="1" data-bbox="562 938 1018 1409"> <thead> <tr> <th colspan="3" data-bbox="562 938 1018 966">ALL STUDENTS</th> </tr> <tr> <th data-bbox="562 966 688 1089"></th> <th data-bbox="688 966 856 1089">Reported to EdFacts by NMPED</th> <th data-bbox="856 966 1018 1089">Reported in waiver request by NMPED</th> </tr> </thead> <tbody> <tr> <td data-bbox="562 1089 688 1122">R/LA</td> <td data-bbox="688 1089 856 1122"></td> <td data-bbox="856 1089 1018 1122"></td> </tr> <tr> <td data-bbox="562 1122 688 1154">Assessed</td> <td data-bbox="688 1122 856 1154">300,660</td> <td data-bbox="856 1122 1018 1154">157,058</td> </tr> <tr> <td data-bbox="562 1154 688 1187">Enrolled</td> <td data-bbox="688 1154 856 1187">306,897</td> <td data-bbox="856 1154 1018 1187">160,642</td> </tr> <tr> <td data-bbox="562 1187 688 1219">Rate</td> <td data-bbox="688 1187 856 1219">97.97%</td> <td data-bbox="856 1187 1018 1219">97.76%</td> </tr> <tr> <td data-bbox="562 1219 1018 1252">MATH</td> <td data-bbox="688 1219 856 1252"></td> <td data-bbox="856 1219 1018 1252"></td> </tr> <tr> <td data-bbox="562 1252 688 1284">Assessed</td> <td data-bbox="688 1252 856 1284">150,326</td> <td data-bbox="856 1252 1018 1284">156,957</td> </tr> <tr> <td data-bbox="562 1284 688 1317">Enrolled</td> <td data-bbox="688 1284 856 1317">156,567</td> <td data-bbox="856 1284 1018 1317">160,584</td> </tr> <tr> <td data-bbox="562 1317 688 1349">Rate</td> <td data-bbox="688 1317 856 1349">96.01%</td> <td data-bbox="856 1317 1018 1349">97.74%</td> </tr> <tr> <td data-bbox="562 1349 1018 1382">Science</td> <td data-bbox="688 1349 856 1382"></td> <td data-bbox="856 1349 1018 1382"></td> </tr> <tr> <td data-bbox="562 1382 688 1409">Assessed</td> <td data-bbox="688 1382 856 1409">64,755</td> <td data-bbox="856 1382 1018 1409">67,397</td> </tr> </tbody> </table>	ALL STUDENTS				Reported to EdFacts by NMPED	Reported in waiver request by NMPED	R/LA			Assessed	300,660	157,058	Enrolled	306,897	160,642	Rate	97.97%	97.76%	MATH			Assessed	150,326	156,957	Enrolled	156,567	160,584	Rate	96.01%	97.74%	Science			Assessed	64,755	67,397	<p>This discrepancy stems from an error in R/LA EDfacts reporting.</p> <p>The numbers should be 150,331 students assessed and 156,568 students enrolled.</p> <p>The reason the R/LA numbers submitted to EDfacts are above 300,000 is that tests are being double counted.</p> <p>FS188, the EDfacts directions for R/LA participation, requires reporting of the subtotal of students who participated in the R/LA assessment (PARTELP) in addition to its other counts of students by participation status. The subtotal is not required for MATH or Science.</p> <p>It appears that the subtotal of students participating in R/LA—150,330—is being added to both the number assessed</p>
ALL STUDENTS																																						
	Reported to EdFacts by NMPED	Reported in waiver request by NMPED																																				
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Science																																						
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Enrolled	68,075	69,551
Rate	95.12%	96.90%

The **highlighted data** in both tables are the biggest concern.

Children with one or more disabilities (IDEA)

	Reported to EdFacts by NMPED	Reported in waiver request by NMPED
R/LA		
Assessed	57,494	30,130
Enrolled	58,953	31,185
Rate	97.53%	96.62%
MATH		
Assessed	28,724	30,114
Enrolled	30,206	31,176
Rate	95.09%	96.59%
Science		
Assessed	11,693	12,177
Enrolled	12,408	12,766
Rate	94.24%	95.39%

and the number enrolled.

The **smaller discrepancy** between the ED Facts submission and the waiver request for MATH and Science participation (and the true values of R/LA participation) **is caused by the accountability model** being applied in the ED Facts submission but not the waiver request.

The accountability model is used for test proficiency so that each student's test score can be assigned to the school that is most responsible for the results of the test. It is not used in participation calculations, because what AREA wants to know is whether each LEA met its responsibilities to administer tests.

ED Facts, however, requires a match between the total in the proficiency submission and the subtotal of participants in the participation submission. It was necessary to apply the accountability model to participation to make the numbers match, which makes the ED Facts submission differ from NMPED's other reports.

The number enrolled reported for Science in ED Facts would be higher, were the accountability model not applied. Overall the participation rate in Mexico New Mexico exceeds the 95% requirement. However, due to ED Facts Participation requirements, the numbers reported in ED Facts result in a lower participation rate.

Additional smaller differences between ED Facts data and waiver request data:

- The waiver data includes ACCESS tests and the ED Facts data does not (+129 R/LA tests assessed and enrolled).
- The waiver data includes grade 3,4,6, & 7 science tests, and the ED Facts data does not (+6 students with disabilities assessed and enrolled).
- The ED Facts data excludes observations from

		<p>medical, treatment, and juvenile detention facilities, while the waiver data does not (+191 enrolled students).</p> <ul style="list-style-type: none"> • The ED Facts data (I believe, I cannot be certain from the raw counts provided) includes students with medical waivers as enrolled but not assessed, while the waiver data includes them as both enrolled and assessed (+30 assessed and enrolled students).
<p><i>34 CFR §200.6(c)(4)(iii), requires assurances from the SEA that it has verified that each district with more than 1.0% participation in the alternate assessment has (A). followed participation guidelines and</i></p>	<p>The blank LEA justification and assurances form was provided with the waiver, but could you please provide completed/signed forms (for at least five districts) that has been completed by an LEA for 2022-23? You may redact the LEA specific information if you wish, but we need to see the content of these forms and would like to see the nature of the responses provided by an LEA.</p> <p>Are there any LEAs who did not submit a justification form. If so, what is your plan and timeline for collecting the remaining forms.</p>	<p>Completed and submitted justifications forms can be found in this drive, shared: Submit Completed & Signed Justification Form (File responses) - Google Drive.</p> <p>NMPED Assessment Developed a tracking process for missing Justification Forms:</p> <ol style="list-style-type: none"> 1. Beginning 12/15/2023 NMPED Assessment created a tracking list of all missing LEA Justification forms .There were over 65 Forms missing on 12/28/2023. Original list 12/15/2023: https://drive.google.com/drive/u/0/folders/1a6vABkLkRwEIPxt7jICvoRjyqeUImvxt 2. NMPED Assessment emailed each LEA missing district a reminder on 1/3/2024. NMPED Assessment emailed each LEA missing on 1/12/2024 regarding missing signatures. 3. OSE/NMPED Assessment emailed each LEA on 1/25/2024. There were 26 missing Justification Surveys on 1/25/24 and as of 1/30/24 there are 12 missing Justification forms). 4. Timeline is to obtain all forms by 2/15/2024. 5. Current Missing List https://docs.google.com/spreadsheets/d/1RlggKBHqWTFKlaE8688ynW-zrAOgmFo/edit#gid=

		1304150464
<p><i>34 CFR §200.6(c)(4) requires a plan and timeline by which:</i></p> <p><i>(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section</i></p>	<p>Has NMPED adopted a threshold criteria that is used for identifying the extent to which disproportionality exists in the assessment data?</p> <p>Are districts trained on how to calculate disproportionality using their own assessment data?</p> <p>Can you please describe <i>Table 6</i> on page 9 of your waiver request.</p>	

From: [Davis, Margenia \(Contractor\), PED](#)
To: [Boyer, Lauren](#)
Cc: [Vasquez, Lynn, PED](#)
Subject: Missing Justification Form Documents
Date: Friday, February 2, 2024 10:38:26 AM
Attachments: [Outlook-430zvcwv.png](#)
[Missing Justifications 1_30_2024.xlsx](#)
[Missing Justifications 01.02 | 10_30 AM - Sheet1 \(2\).pdf](#)
Importance: High

You don't often get email from margenia.davis@ped.nm.gov. [Learn why this is important](#)

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Hi Lauren,

It was a pleasure to meet everyone this morning. Here are the two files for easier access for you.

1. The Original Missing Justification Survey list 1/2/2024
2. Current Missing Justification Survey list 1/30/2024 (Updated today 2/2/2024)
3. We are now missing 12 districts Justification Forms which I will follow up again with those districts.

If you have any further questions on this, I will be happy to assist you.

Margenia

Margenia Davis | DLM Assessment Coordinator

New Mexico Public Education Department

300 Don Gaspar Ave. | Santa Fe, NM 87501

Help Desk: (505) 827-5800

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District Name	District Code			
RESERVE	2			
MAXWELL	11			
ROY	27			
MOSQUERO	28			
CORONA	38			
HONDO	39			
CAPITAN	40			
WAGON MOUND	45			
TULAROSA	47			
TUCUMCARI	49			
HOUSE	50			
SAN JON	52			
ESPANOLA	55			
BERNALILLO	61	Missing a signature on their form, have to resubmit		
JEMEZ VALLEY	63			
WEST LAS VEGAS	68			
PECOS	70			
POJOAQUE	72			
SOCORRO	74			
TAOS	76			
MORIARTY-EDGE	81			
NM SCHOOL FOR	93			
NM SCHOOL FOR	94			
UNMH Mimbres	95			
SEQUOYAH	97			
SEQUOYAH	97			
MEDIA ARTS COL	501			
NM SCHOOL FOR	509			
ABQ SCHOOL OF	516			

THE ASK ACADEM	520			
TAOS INTEGRATE	521			
MONTESSORI ELI	529			
J PAUL TAYLOR A	535			
THE GREAT ACAD	536			
RED RIVER VALLE	539			
MISSION ACHIEV	542			
SW AERONAUTIC	544			
ESTANCIA VALLEY	550			
WALATOWA HIGI	552			
TAOS INTERNATI	555			
LA ACADEMIA DC	560			
DEAP	562			
SANDOVAL ACAD	563			
TIERRA ENCANTA	565			
ROOTS AND WIN	570			
HOZHO ACADEM	573			
ALBUQUERQUE C	574			
ALTURA PREPARA	575			
SOLARE COLLEGI	576			
ACES Technical C	579			
21st CENTURY PU	580			
RIO GRANDE ACA	583			
LAGUNA DOE	BIE-615			
Navajo Preparato	BIE-620			
SANTA FE INDIAN	BIE-630			
Haak'u Communi	BIE-631			

District Name	District Code
CORONA	38
ESPANOLA	55
UNMH Mimbres School (Childen's Psych)	95
SEQUOYAH	97
SEQUOYAH	97
TAOS INTERNATIONAL SCHOOL	555
SANDOVAL ACADEMY OF BILINGUAL EDUCATION	563
ACES Technical Charter School	579
Navajo Preparatory School	BIE-620
SANTA FE INDIAN SCHOOL	BIE-630
Haak'u Community Academy	BIE-631