



# Strategies for Meeting the 1% State-level Cap on Participation in the Alternate Assessment

States have been implementing alternate assessments for more than 15 years. These assessments were first identified in the Individuals with Disabilities Education Act (IDEA) reauthorization of 1997, with implementation required by the year 2000.

The purpose and nature of alternate assessments have evolved since the time when they were first required. Likewise, participation in alternate assessments has increased over time. In 2003, regulations for the Elementary and Secondary Education Act (ESEA) reauthorization of 2001 allowed for proficient performance on alternate achievement standards to be counted in with proficient performance on grade-level achievement standards.

The 2003 ESEA regulations placed a 1% cap on the percentage of the total tested student population that could count as **proficient** on the alternate assessment based on alternate achievement standards. This was not a cap on participation in the assessment.

Data collected through biennial performance reports before the 2003 enactment of the accountability regulation indicated that participation in the alternate assessment was less than 1% of the total tested population in nearly every state. Specifically, in the 38 states that were able to provide data on participation in 2000-01 assessments, 35 of them indicated that the participation rate in the alternate assessment was less than 1% of the total tested student population; 21 of these 35 states reported less than 0.5%. Alternate assessment participation rates have increased steadily since that time.

## Alternate Assessment Provisions in the Every Student Succeeds Act

In 2015, with the reauthorization of ESEA as the Every Student Succeeds Act (ESSA), the requirement changed for the alternate assessment based on alternate academic achievement standards—AA-AAAS (hereafter referred to as the alternate assessment because all other alternate assessments were eliminated by the law). ESSA reaffirmed that the alternate assessment is an appropriate assessment for students with the most significant cognitive disabilities to demonstrate their knowledge and skills, but rather than placing a cap on accountability proficiency rates for the alternate assessment, ESSA places a 1% cap on **participation** in the assessment (see first box). The establishment of this cap is consistent with research showing that some students assigned to the alternate assessment more appropriately should have been assessed with the general assessment in which all other students participated.<sup>1</sup>

This shift in policy means that states, districts, schools, and Individualized Education Program (IEP) teams need to think carefully about which students should be included in the alternate assessment, which, as indicated in ESSA, is for students with the

<sup>1</sup>Cho, H., & Kingston, N. (2011). Capturing implicit policy from NCLB test type assignments of students with disabilities. *Exceptional Children*, 78(1), 58-72; Cho, H., & Kingston, N. (2015). Examining teachers' decisions on test-type assignment for statewide assessments. *Journal of Special Education*, 49(1), 16-27.

### ESSA Language on Alternate Assessments

(D) ALTERNATE ASSESSMENTS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.—

(i) ALTERNATE ASSESSMENTS ALIGNED WITH ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.—A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1) (E) for students with the most significant cognitive disabilities, if the State—

(I) consistent with clause (ii), ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;

most significant cognitive disabilities. Participation in the alternate assessment may have implications for coverage of the depth and breadth of the general curriculum, often meaning reduced exposure to the full depth and breadth of the curriculum. This reduced exposure could delay progress toward a student being able to complete the requirements for a regular high school diploma. ESSA indicates that parents are to be informed of this possibility when a decision is made for the student to participate in the alternate assessment (see box below).

The purpose of this Brief is to assist states in identifying strategies to use to meet the state 1% cap on participation in the alternate assessment. ESSA imposes the 1% cap at the state level and prohibits

### ESSA Language on Informing Parents and Diploma Implications

(II) ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C.1414(d)(1)(A)))—

(aa) that their child's academic achievement will be measured based on such alternate standards; and

(bb) how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;

the placement of a cap on district, school, or IEP team assessment participation decisions (see box below). Because of these provisions, the strategies presented in this Brief do not involve restricting district, school, or IEP team decisions about the participation of individual students in the alternate assessment.

### ESSA Language on Prohibition of Local Cap

(D)(ii)(II) PROHIBITION ON LOCAL CAP.—Nothing in this subparagraph shall be construed to permit the Secretary or a State educational agency to impose on any local educational agency a cap on the percentage of students administered an alternate assessment under this subparagraph, except that a local educational agency exceeding the cap applied to the State under clause (i)(I) shall submit information to the State educational agency justifying the need to exceed such cap.

ESSA provides the opportunity for states to request a waiver from the 1% cap by meeting several criteria delineated in the assessment regulations enacted in December, 2016 (see Appendix). Waiver requests must be submitted 90 days prior to the start of the testing window for the subject area in which the cap is expected to be exceeded. Specific data must accompany the request, such as the number and percentage of each subgroup of students who took the alternate assessment, and data showing that at least 95% of all students and 95% of students with disabilities participated in the subject area assessments. The state also must provide assurances that each LEA expected to exceed the 1% cap followed each of the state's guidelines for participation and will address any disproportionality in the percentage of students in any subgroup taking the alternate. The state is required to provide a plan and a timeline for meeting the 1% cap in future school years.

The requirements for requesting a waiver entail significant effort by the state. States may instead strive to avoid the need to apply for this waiver by thinking carefully about strategies they might employ to meet the 1% participation cap.

### Considerations for Meeting the 1% Cap

Data from 2014-15 alternate assessments based on alternate academic achievement standards indicate that more than half of the states need to address the

1% cap on participation in the alternate assessment because they exceed the 1% cap (see Figure 1). The wide range of participation rates in the alternate assessment (from less than 0.6% to over 2.0%) suggests that some states have been able to address alternate assessment participation rates.

Much has been learned during the past several years about the characteristics of students with the most significant cognitive disabilities. Recognizing these characteristics can help states think about how to address the 1% cap.

Available data confirm that most students with significant cognitive disabilities are in the categories of intellectual disabilities, autism, and multiple disabilities.<sup>2</sup> Although these are not the only disability categories reflected in the population of students with the most significant cognitive disabilities, they are the most prevalent. Even though disability category or EL status cannot determine whether a student is one with a significant cognitive disability, states may want to study those cases in which students with learning disabilities, other health impairments, and speech-language impairments are participating in the state alternate assessment to confirm that it is the most appropriate assessment for each student.

Available data also indicate that some students with the most significant cognitive disabilities come from homes where a language other than English is spoken. Estimates of the percentage of students with the most significant cognitive disabilities who are also English learners (ELs) ranged in one study of 18 states from 3% to 36%.<sup>3</sup>

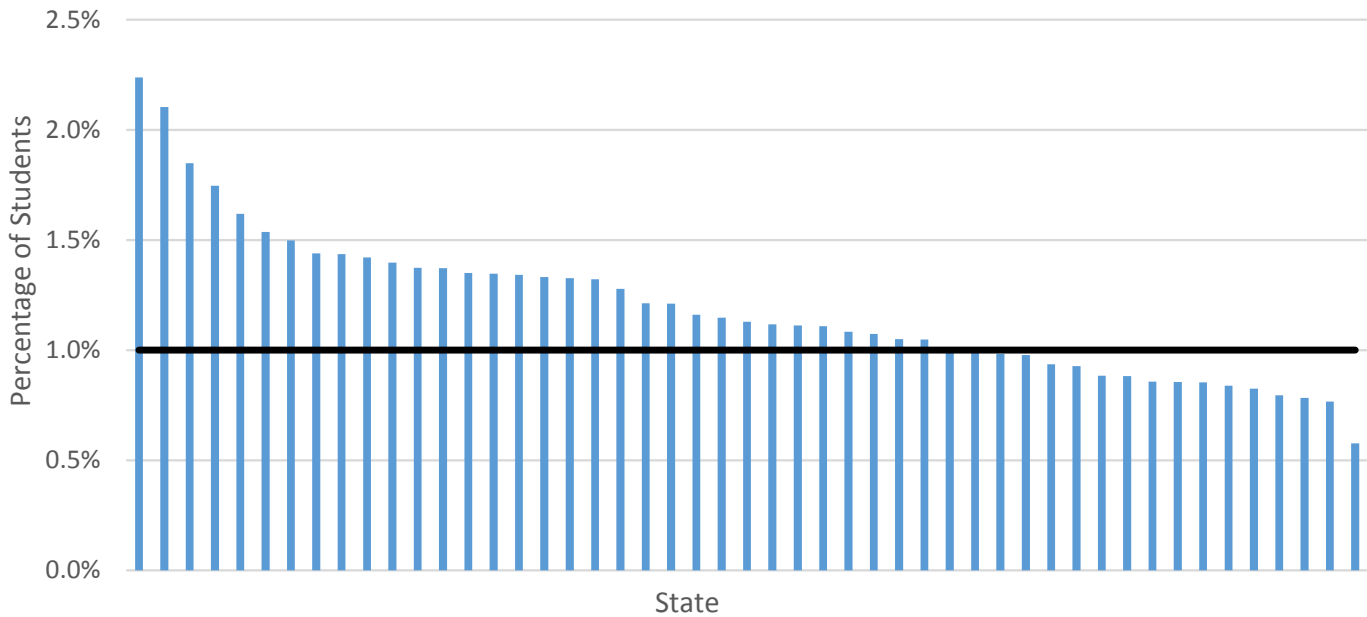
Additional characteristics of students with the most significant cognitive disabilities who are likely to participate in the alternate assessment include students with diverse receptive and expressive communication skills.<sup>4</sup> The **expressive communication skills** of students with the most significant cognitive disabilities—based on teachers' perceptions—

<sup>2</sup> Kearns, J. F., Towles-Reeves, E., Kleinert, H. L., Kleinert, J. O., & Thomas, M. K. (2011). Characteristics of and implications for students participating in alternate assessments based on alternate academic achievement standards. *Journal of Special Education, 45*(1), 3-14.

<sup>3</sup> Towles-Reeves, E., Kearns, J., Flowers, C., Hart, L., Kerbel, A., Kleinert, H., Quenemoen, R., & Thurlow, M. (2012). *Learners characteristics inventory project report (A product of the NCSC validity evaluation)*. Minneapolis, MN: University of Minnesota, National Center and State Collaborative.

<sup>4</sup> Kearns, J. F., Towles-Reeves, E., Kleinert, H. L., Kleinert, J. O., & Thomas, M. K. (2011). Characteristics of and implications for students participating in alternate assessments based on alternate academic achievement standards. *Journal of Special Education, 45*(1), 3-14.

**Figure 1. Percentage of Students with the Most Significant Cognitive Disabilities Participating in the English Language Arts (ELA) Alternate Assessment (Based on the Total Student Enrollment During the Testing Window) in States with Available Data**



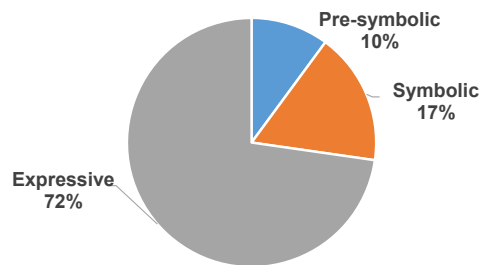
Source: 2014-15 data. Three states did not have data for participation rates due to data quality issues. Participation rates in this figure are based on enrollment data during the testing window.

generally range from those having only pre-symbolic communication skills such as cries (about 10% of students who participate in alternate assessments), to those having emerging symbolic communication skills such as gestures, pictures, use of objects (about 17%), to those having expressive communication skills using verbal or written words, signs, braille, or language-based augmentative and alternative communication (about 72%) (see Figure 2). With intensive intervention, it is likely that a communication system can be identified for many students at the pre-symbolic and emerging symbolic levels.<sup>5</sup> States may want to investigate the expressive communication skills of their students who participate in the alternate assessment.

**Receptive communication skills** also are evident in students with the most significant cognitive disabilities who participate in the alternate assessment. Less than 3% of these students do not have an evident response to stimuli in their environment, and another 9% show an alert response

<sup>5</sup> Kleinert, H. L., Kleiner, J. E., & Kearns, J. F. (2016). *Communicative competence for students with the most significant cognitive disabilities: A three-tiered model of intervention* (NCSC GSEG Policy Paper). Minneapolis, MN: University of Minnesota, National Center and State Collaborative. Also see Kleinert, H., Kleiner, J., & Kearns, J. (2016). *NCSC GSEG practice brief: Communicative competence for students with the most significant cognitive disabilities: A three-tiered model of intervention*. Minneapolis, MN: University of Minnesota, National Center and State Collaborative.

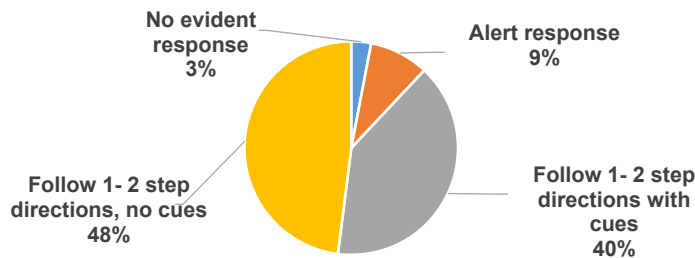
**Figure 2. Expressive Communication Skills of Students in Alternate Assessments**



Source Kearns et al., 2011 (see Footnote 2).

to stimuli but do not follow simple directions unless they are given physical assistance. Approximately 40% of students with the most significant cognitive disabilities who participate in the alternate assessment are able to follow one- to two-step directions when provided supporting cues such as pictures or objects; another 48% are able to follow one- to two-step directions presented through words without additional cues (see Figure 3). As with expressive communication skills, it is likely that receptive communication skills can be identified for many students who do not seem to be responding to stimuli. States may want to investigate the receptive communication skills of their students who participate in the alternate assessment.

**Figure 3. Receptive Communication Skills of Students in Alternate Assessment**



Source: Kearns et al., 2011 (see Footnote 2).

Studies have indicated that participation rates in a state’s general assessment are related to the accessibility features and accommodations provided for the assessment (see Footnote 2). As indicated by ESSA, these findings suggest that incorporating the principles of universal design in the development of the general assessment and providing appropriate accessibility features and accommodations for that assessment enable more students with disabilities to participate in the state’s general assessment. To the extent that this happens, participation rates in the alternate assessment are likely to be lower.

Educators recognize that the complexity of content increases with grade level. This suggests that some students with the most significant cognitive disabilities will be able to participate in an assessment based on grade-level achievement standards in the earlier grades, but will require the adjustment to depth and complexity reflected in alternate academic achievement standards as their grade level increases.<sup>6</sup>

## Recommended Strategies

States may want to consider several strategies to meet the 1% cap on participation in the state alternate assessment. Five strategies may be helpful in meeting the 1% cap.

### 1. Gather district and school data on current participation rates in the alternate assessment.

It is important to know the landscape of participation rates in the alternate assessment in districts and in schools throughout the state. In addition, knowing the rates by grade level will be useful. These data will help in understanding whether there are (a)

<sup>6</sup> Thurlow, M. L., Elliott, J. L., & Ysseldyke, J. E. (2003). *Testing students with disabilities: Practical strategies for complying with district and state requirements* (2nd ed.). Thousand Oaks, CA: Corwin.

pockets of schools or districts in which the numbers are higher than expected, and (b) certain grades in which participation in the alternate assessment is higher than might be expected. Districts or schools with higher rates than other districts or schools might be investigated further to determine whether there are unique reasons for higher numbers of students participating in the alternate assessment. Similarly, unusual grade patterns may require additional investigation. Although it might be reasonable to expect that the percentages of students with significant cognitive disabilities included in the alternate assessment would increase by grade, unusual spikes in participation should be checked. States also should share the data with districts, and invite conversations with those exceeding the 1% cap as well as other districts.

### 2. Gather data on the characteristics of students participating in the alternate assessment.

Information on the characteristics of students with the most significant cognitive disabilities now has been gathered in many states. These data provide a general picture of most students with significant cognitive disabilities, and a benchmark for judging whether it is possible that students are participating in the alternate assessment who do not have significant cognitive disabilities. Use of an instrument to collect information on those students participating in the alternate assessment may prove valuable in exploring the characteristics of students participating in the alternate assessment in certain districts, schools, or even in grades.<sup>7</sup> States also may want to share the data that are collected with districts so that they can see similarities and differences in their students taking the alternate assessment with students in other districts in the state taking the same assessment.

### 3. Create or examine a state definition of “students with the most significant cognitive disabilities” and revise guidelines, as needed, for determining whether a student should participate in the alternate assessment.

ESSA regulations indicate that each state must define “students with the most significant cognitive

<sup>7</sup> Dynamic Learning Maps Consortium. (2014). *How to complete First Contact Survey*. Available at <http://www.d11.org/edss/COALT%20DLM/DLM%20First%20Contact%20Survey%20Guide%20ELA-Math.pdf>. Kearns, J. F., Kleinert, H. L., Kleinert, J. O., & Towles-Reeves, E. (2006). *Learner characteristics inventory*. Lexington: University of Kentucky, National Alternate Assessment Center.

disabilities,” and provide clear guidelines for decision makers that are consistent with that definition. The definition should address factors related to cognitive functioning and adaptive behavior. A particular disability or English learner (EL) designation should not determine whether a student is a student with the most significant cognitive disabilities, nor should the student be identified solely on the basis of the student’s previous low academic achievement or need for accommodations. The definition should include the need that students with the most significant cognitive disabilities have for extensive, direct individualized instruction, as well as their need for substantial supports to achieve measurable gains on challenging grade-level academic content standards.

#### **4. Provide professional development for IEP team members and other educators on the nature of the alternate assessment and who should participate in it.**

IEP team members need to understand the purpose of the alternate assessment and the characteristics of students who most appropriately participate in that assessment. Training should be provided by states to lay out these and other key considerations when making participation decisions. Ideally, states would provide training to district personnel, who would then train educators in their schools, or would provide training directly to all schools.

All educators, including those who are not members of IEP teams, should have a solid understanding of how to make appropriate instruction and assessment decisions for all students, including students who may be candidates for the alternate assessment. It is important to consider the accessibility features and accommodations available for the general assessment because they can enable many students to meaningfully participate in the general assessment. Training needs include:

- Using participation guidelines to make assessment participation decisions
- Differentiating instruction and providing better access to academic content
- Selecting, implementing, and evaluating accessibility features and accommodations for instruction and assessments.

IEP teams especially must understand the possible effects of student participation in the alternate assessment. It may have implications for the type of

diploma the student receives, as well as the student’s postsecondary and career readiness. Although ESSA indicates that participation in an alternate assessment should not preclude a student from attempting to meet the requirements of a regular diploma, it is important that IEP team members know their state’s graduation requirements and how students who participate in alternate assessments are addressed in those requirements. Ideally, members of IEP teams who make the decision to place a student in an alternate assessment would sign a document indicating their understanding of the implications of the decision to assess a student with an alternate assessment.

#### **5. Provide information sessions for parents of students with disabilities so that they can participate in the IEP decision-making process about the assessment in which their child participates.**

The decision about which assessment a student participates in has major implications, yet parents often do not have the information needed to confidently participate in the IEP decision-making process. Information sessions for parents can help them better understand the state’s assessment options, and enable them to be more informed IEP team members. Understanding participation guidelines, the characteristics of the alternate assessment, what the participation experience is like, and possible accessibility features and accommodations options that might enable their child to participate in the general assessment will enable them to better advocate for their child.

## **Conclusion**

Data on participation in the alternate assessment for students with the most significant cognitive disabilities indicate that the percentage of students participating in this assessment exceeds 1% in more than half the states. This percentage has grown over time, possibly because under the 2003 ESEA regulations states could count as proficient on the alternate assessment up to 1% of the total tested population.

The 1% cap on participation in the state alternate assessment in ESSA means that states should identify strategies to meet the 1% cap at the state level without placing a cap on participation at the district level. Although this seems challenging, there are several strategies that states can employ to ensure

that the criteria for participation in the alternate assessment are clear, and that district administrators and IEP team members understand those criteria and can apply them to individual cases. The strategies

included in this Brief can be used to help ensure that all students, including students with significant cognitive disabilities, are assigned to the appropriate assessment.

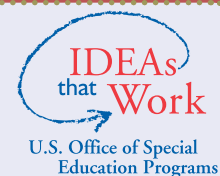
## Appendix

### ESSA 1% Cap Waiver Requirements in Assessment Regulations

State waiver requests must...

- (i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;
- (ii) Provide State-level data, from the current or previous school year, to show—
  - (A) The number and percentage of students in each subgroup of students defined in section 1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards; and
  - (B) The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under §200.5(a);
- (iii) Include assurances from the State that it has verified that each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are administered under §200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—
  - (A) Followed each of the State's guidelines under paragraph (d) of this section, except paragraph (d)(6); and
  - (B) Will address any disproportionality in the percentage of students in any subgroup under section 1111(c)(2)(A), (B), or (D) of the Act taking an alternate assessment aligned with alternate academic achievement standards;
- (iv) Include a plan and timeline by which—
  - (A) The State will improve the implementation of its guidelines under paragraph (d) of this section, including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in paragraph (c)(2) of this section in each subject for which assessments are administered under §200.2(a)(1) in future school years;
  - (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 in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. 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 under paragraph (d) of this section so that all students are appropriately assessed; and
  - (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;...

Source: Section 200.6(c)(4)ii-v.



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