

WAIVER NO:

State of New Mexico

Public Education Department

REVISED: 03.05.2025

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| **Alternate Assessment One Percent Proficiency Limit** |

**WAIVER REQUEST**

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| **Instructions:** Please complete this form electronically from the email of the superintendent, charter school administrator, or designee. Email waiver to Waivers.PED@state.nm.us in word document format.**Note**: The response boxes throughout this form expand automatically as you add text. |

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| District/School (if applicable): |
| Superintendent or Charter School Administrator: |
| Phone: | Email: |
| Mailing Address: | State: NM Zip Code:  |

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| Secondary Contact: | Title: |
| Phone: | Email: |
| Date of Submission: |

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| **Federal Requirements**  |
| Federal regulation 34 CFR §200.13(c) specifies that the State must include assessment scores of all students with disabilities in determinations of adequate yearly progress (AYP) of schools and school districts. The State may include proficient and advanced assessment scores of students with the most significant cognitive disabilities based on alternate achievement standards such that the number of those scores does not exceed 1.0 percent of all students assessed in reading/language arts and in math at the school district and State levels. The State may grant a school district an exception to the 1.0 percent limit if school, community, or health programs have drawn large numbers of students with the most significant cognitive disabilities, or if the school district has such a small overall student population that only a few students with such disabilities causes the district to exceed the 1.0 percent limit; and if the school district follows and documents use of the State’s guidelines for administration of the State’s alternate assessment based on alternate achievement standards. For the purpose of this waiver, the State identifies school districts with fewer than one hundred students as small districts.  |

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| **State Guidelines** |
| State regulation ((NMAC 6.31.2.11(E), 3, a-(c)) requires that IEP teams use the following criteria when determining a student’s eligibility to take the alternate assessment based on alternate achievement standards. Further, IEP teams must use sufficient documentation from multiple sources to demonstrate that the requirements in the criteria have been met in each determination. Specifically, the1. student’s past and present performance in multiple settings (i.e., home, school, community) must indicate that a significant cognitive disability is present;
2. student needs intensive, pervasive, or extensive levels of support in school, home, and community settings;
3. student’s current cognitive and adaptive skills and performance levels require direct instruction to accomplish the acquisition, maintenance, and generalization of skills in multiple settings (i.e., home, school, community);
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| 1. information evaluated for criteria 1 through 3 demonstrates to the IEP team that the student “cannot participate in the regular assessment; and, the particular [alternate] assessment selected is appropriate for the child (based on requirements specified in § 612, d, 1, A, VI, bb, AA-BB, IDEA 2004)”; and
2. student’s parents have been informed of the potential consequences of having their student assessed against alternative achievement standards (i.e., potential limitations to postsecondary educational opportunities).

If all of the above stated conditions are not met, the State shall count as non-proficient in determinations of school district and state AYP the proficient and advanced scores that exceed the 1.0 percent cap, as specified in the New Mexico Consolidated State Application Accountability Workbook, July 28, 2008 (p. 27).  |

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| **Statement of Exception to One Percent Rule** |
| 1. Please describe the circumstances or conditions that support the school district’s request for a waiver of the One Percent Rule.
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| 1. What is the estimated number of students that are expected to take the alternate assessment based on alternate achievement standards during the upcoming testing window?
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| 1. Have all of these students met the State’s eligibility requirements specified above for the administration of the alternate assessment based on alternate achievement standards?
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| **Note:** This Application of Waiver must be submitted annually to the New Mexico Public Education Department, **eight weeks prior** to the beginning of the test administration window.  |

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| **Recommendation of Assessment and Accountability Division** |
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| **FOR PED INTERNAL USE ONLY** |
| Reviewed by: | Date: |
| **Rational For Approval:** |
| Concur with staff recommendations for approval.Mariana D. PadillaSecretary of Public Education | Date: |
| **Rational For Non-Approval:**  |
| Concur with staff recommendations for non-approval.Mariana D. PadillaSecretary of Public Education | Date: |
| Returned to superintendent/charter school administrator by: | Date: |

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