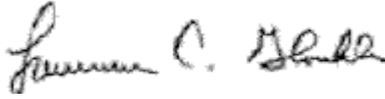
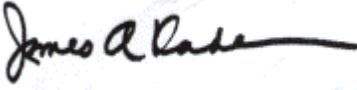




March 2002

To: District Superintendents
Presidents of Boards of Education
Superintendents of Public and Nonpublic Schools
Superintendents of Special Act School Districts
Assistant Superintendents of Curriculum and Instruction
Organizations, Parents & Individuals Concerned with Special Education
Superintendents of State-Operated and State-Supported Schools
Principals of Public and Nonpublic Schools
Directors of Special Education
Chairpersons of Committees on Special Education
Directors of Pupil Personnel Services
SETRC Professional Development Specialists
Staff Curriculum and Development Network
Commissioner's Advisory Panel for Special Education Services
Impartial Hearing Officers
Community Dispute Resolution Centers
Colleges with Special Education and General Education Teacher Training
Regional School Support Centers
Schools Operated by Other Agencies
Charter Schools

From: Lawrence C. Gloeckler 
Deputy Commissioner of Vocational and Educational Services for
Individuals with Disabilities

James A. Kadamus 
Deputy Commissioner of Elementary, Middle, Secondary and Continuing
Education

Subject: Supplemental Guidelines for Participation of Students with Disabilities in
State Assessments: Locally Selected Assessments

This memorandum provides supplemental guidelines for Committees on Special Education (CSEs) on the participation of students with disabilities in State assessments for the remainder of this school year and for the 2002-3 school year. Prior guidelines on the participation of students with disabilities in State assessments were issued in March 2001 (Policy 01-02): *The State Alternate Assessment for Students with Severe Disabilities*.

These guidelines focus on the provision of locally selected assessments in lieu of State assessments (elementary 4th and 5th grade, intermediate 8th grade and commencement assessments) for certain students with disabilities. The identified group of students who may qualify for locally selected assessments in lieu of the State assessments are those students who, due to a performance gap resulting from the students' unique disability needs, are unable to meet the grade/age level expectations to take the regular State assessments and who do not meet the eligibility criteria for the State Alternate Assessment for Students with Severe Disabilities (NYSAA). The administration of locally selected assessments to this group of students will ensure that objective and appropriate measures of students' progress toward the New York State learning standards are available for all students. Results of such assessments will provide important information to direct instruction to these students and to provide a measure of accountability for schools.

This memorandum identifies:

1. criteria for locally selected assessments;
2. when students must participate in locally selected assessments;
3. the participation criteria for determining which students will participate in locally selected assessments in lieu of a State assessment or the NYSAA;
4. the role of the CSE in recommending students to participate in locally selected assessments; and
5. requirements to report student participation in locally selected assessments.

Background Information

The evaluation and individualized education program (IEP) provisions of the Individuals with Disabilities Education Act (IDEA) place great emphasis on the involvement and progress of children with disabilities in general curriculum and assessments. The term "general curriculum" means the same curriculum that is used with nondisabled children. In New York State, all students with disabilities must be participating in instruction, based on curriculum designed to achieve the learning standards at the appropriate performance level for the student. This is required regardless of where a student attends school or the type of school he or she attends (i.e., public or approved private school, Board of Cooperative Educational Services program or State-operated/State-supported school).

Most students with disabilities are recommended by CSEs to participate in general State assessments and a small percentage of students with disabilities are recommended for participation in the New York State Alternate Assessment (NYSAA). NYSAA measures a student's progress on the learning standards and performance indicators at the alternate level. These alternate performance indicators are on a basic functioning level of approximately 5 years of age and are listed in *The Learning Standards and Alternate Performance Indicators for Students with Severe Disabilities*.

There are some students with disabilities who may not be appropriate for participation in the State assessments and who do not meet the participation criteria for the NYSAA. However, these students are grade/age eligible for participation in elementary¹, intermediate² or commencement level³ State assessments and must participate in an assessment under Federal and State law. The appropriate assessment of all students is essential in the State's System of Accountability for Student Success (SASS) to raise student results statewide and close the gap in student performance.

Criteria for Locally Selected Assessments

The district should identify those assessments that meet the criteria designated below that will be used in the schools to assess any student with a disability who is determined by the CSE as not being able to participate in the State assessment system or in the NYSAA. The specific locally selected assessment appropriate for the performance level for each student would be determined based on input from the student's special education teacher and educators with knowledge about the general curriculum and the learning standards.

The locally selected assessment must:

- be a standardized assessment;
- measure a student's achievement of the New York State learning standards;
- be of demonstrated technical quality so progress can be measured at the appropriate performance indicator level that the student is working on; and
- meet the standards contained in *Standards for Educational and Psychological Testing* (American Educational Research Association, National Council on Measurement in Education and American Psychological Association, 1999).

Locally selected assessments must be aligned to the New York State learning standards meaning that the assessment must measure a student's level of performance in the same standards areas that the State assessment measures. For example, if a student with a disability will be participating in a locally selected assessment in lieu of the elementary State assessment for English language arts, the locally selected assessment must provide a measure of progress towards those same standards. Schools should review the content of the assessment to determine that it is consistent with the student's instructional program.

The results of locally selected assessments should provide an objective measure of the student's progress in the general education curriculum. Results of the assessment should be used to monitor the student's progress on the learning

¹ Elementary – 4th and 5th grade State Assessments

² Intermediate – 8th grade State Assessments

³ Commencement – Regents Examinations and Regents Competency tests (RCTs are a safety net provision for students with disabilities)

standards, to determine appropriate curriculum and instruction for the student and to provide a measure of accountability for schools for all students. Results must be shared with parents.

When Students Participate in Locally Selected Assessments

Each student with a disability who is recommended for participation in locally selected assessments must be assessed generally at the same time and towards the same standards as students participating in State assessments, as summarized below:

Elementary: Ages 9-10

Math, English Language Arts, Science and Social Studies

State assessments at the elementary level measure a student's progress in the K-4 State standards in the areas of math, English language arts, science and social studies. They are administered to students ages 9-10 at the 4th grade or beginning of the 5th grade.

Intermediate: Ages 13-14

English Language Arts, Math, Science and Social Studies

State assessments at the intermediate level measure a student's progress in the 5-8 State standards in the areas of English language arts, math, science, social studies and technology. They are administered to students ages 13-14 at the 8th grade.

Secondary: Prior to School Year in which the Student turns Age 18

English, Math, Science and Social Studies

State assessments at the secondary level are required for graduation with a local or Regents diploma. To graduate with a Regents diploma, all students must earn the required units of credits and meet the minimum testing requirements in the areas of English, math, social studies and science. If a student with a disability will be participating in a locally selected assessment in lieu of the State Regents examination (or RCT), that student will not have met the assessment requirements for a local or Regents diploma but will be eligible for an IEP diploma.

If a secondary level student is recommended to participate in locally selected assessments, the school must ensure that the student receives an assessment(s) in the same curriculum areas as are assessed by the required Regents examinations. Each such student must, prior to end of the school year in which the student turns age 18, participate in a locally selected assessment(s) to ascertain the student's progress toward meeting the State standards in the areas of English, math, science, social studies at the student's appropriate level. The schedule for the administration of such assessments should be aligned with when the student completes the related coursework to prepare him or her for that assessment.

Student Eligibility Criteria for Participation in Locally Selected Assessments

To determine if an individual student will participate in a locally selected assessment, the CSE needs to apply the following participation criteria:

The student, because of such factors as cognitive deficits or intellectual capacity, is not able to meet grade/age level expectations even with appropriate instructional programs and supports:

- The nature or severity of the student's disability is such that, even with the use of supplementary aids and services, the student has a significant gap resulting from his or her disability between the curriculum the student is receiving based on his/her academic performance level and the curriculum generally appropriate for non-disabled students of the same age. A significant gap is when a student is:
 - participating in a general education first grade level curriculum when non-disabled peers are participating in the elementary level examinations;
 - participating in a general education grade 1-4 level curriculum when non-disabled peers are participating in the intermediate level examinations;
 - participating in a general education grade 1-5 level curriculum when non-disabled peers are participating in high school Regents examinations; and
- the student does not meet the participation criteria for the NYSAA.

The determination that a student requires a locally selected assessment should not be based solely on such factors as the student's category of disability, excessive or extended absences unrelated to the disability, language differences or cultural or environmental factors.

Role of the CSE

CSEs must recommend the specially-designed instruction, supports and services a student needs (1) to address his or her unique disability needs; (2) to support the student's successful participation and progress in the general curriculum and in State and district-wide assessment programs; (3) to achieve the measurable goals in his or her Individualized Education Program (IEP); and (4) to be educated in the least restrictive environment and to the maximum extent appropriate, with his or her nondisabled peers. The CSE must address on the IEP the student's participation in each State (i.e., English language arts, math, social studies and science) and district-wide assessment. The CSE must individually determine and document on the IEP if the student will not participate in each State and local general assessment; (1) why not and (2) how the student will be assessed (8 NYCRR 200.4(d)(2)(vi)).

Under federal law, students with disabilities must participate in the State and local assessment program and the CSE may not exempt any student from such

participation. Prior guidelines indicated that all students must either participate in the regular State assessments or the NYSAA. However, for the remainder of this school year and for the 2002-3 school year, CSEs may recommend participation in a locally selected assessment in lieu of a State assessment for certain students with disabilities using the above stated participation criteria. We would expect that these students demonstrate skills in the subject that are at or below those described for level 1 performance on the elementary or intermediate level assessments.

The IEPs of such students must:

- indicate each State assessment (or part of the assessment) the student would not participate in;
- state why that assessment is not appropriate for the student; and
- state how the student will be assessed. In stating how the student will be assessed, the IEP would state “locally selected assessment” and the standards area (e.g., English language arts) to be assessed. Additionally, the IEP could indicate the *particular* locally selected assessment to be used and/or provide information to identify an assessment that corresponds to the level appropriate to the student’s needs.

If the CSE recommends that a student participate in a locally selected assessment in lieu of a Regents examination (or for the Safety Net, a Regents Competency Examination), that student will not have met the assessment requirements for a local or Regents diploma but the student will be eligible for an IEP diploma.

The district would select the specific assessment appropriate for the performance level for each student with input from the student’s special education teacher and general educators with knowledge about the general curriculum and learning standards.

Reporting of Student Participation in Locally Selected Assessments

For the two school years for which this provision is in place, districts will include records for students participating in locally selected assessments in student data files submitted to the State Education Department. Records for students taking these assessments in lieu of elementary- and middle-grade State assessments should be submitted in the Local Education Agency Program (LEAP) file. Records for students taking these assessments in lieu of secondary-level State assessments should be submitted in the System for Tracking Student Progress (STEP) file. Directions for submitting data on these students can be found in the LEAP and STEP Reporting Manuals.

The School Report Card will publish the number of students participating in locally selected assessments at each grade level. For purposes of school and district accountability, students who participate in the locally selected assessment will be counted as though they performed at level 1 on the elementary and Middle-level State

assessments in English language arts and mathematics. The Department will not include these students when reporting results on these assessments in other contexts.

Secondary-level students who participate in locally selected assessments will not be removed from the school accountability cohort. These students will not be counted as meeting the assessment requirements for a local or Regents diploma.

State Education Department Next Steps

The Department will be conducting pilot elementary and intermediate assessments of students who have been recommended by the CSEs for participation in locally selected assessments in lieu of the State assessments or NYSAA. The purpose of the pilot assessments is to observe their performance and to determine what assessments are appropriate for them. This will provide the Department with information to make recommendations for the State examinations to be administered in the 2003-04 school year.

If you have questions regarding this information, please contact the Office of State Assessment at (518) 474-5099 or the Special Education Policy Unit at (518) 473-2878. Questions may also be directed to your Regional Associate at one of the following Special Education Quality Assurance Regional Offices:

Central New York Regional Office	(315) 471-4796
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(914) 245-0010
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2112, ext. 420