



Advocates respond to New York's off-grade request

New York state education officials are poised to seek a waiver to test a small portion of students with significant cognitive disabilities at their instructional level rather than their grade level.

The state requested a similar waiver in 2014 but was denied. In a June 5, 2015, [letter](#) to New York education officials, ED wrote that all students must be assessed annually on academic content and academic standards for the grades in which they are enrolled. The only exemption was for EL students who had attended schools in the U.S. for less than one year.

"This requirement is necessary to ensure that schools are held accountable for the academic achievement of all students, including ELs and students with disabilities," ED said.

Disability advocates including Candace Cortiella, director of [The Advocacy Institute](#), and Ricki Sabia, senior education policy advisor of the [National Down Syndrome Congress](#), said they are disappointed N.Y. education officials are making this request again and that they do not know of any other state making a similar request.

Sabia said the language in ESSA regulations is even stronger than that under NCLB in calling for all students to be assessed on the content standards for the grade in which they are enrolled.

"NYSED should be focused on improving instruction for students who are not meeting the state standards, rather than on advocating for a waiver of ESSA requirements," she said.

Cortiella said the focus on a small portion of students with disabilities discriminates against this group because it deprives them of equal educational opportunities and benefits available to nondisabled students.

Additionally, ESSA has no reporting requirement for students tested at below grade level, the advocates said. ESSA and the IDEA require states to report on the number and percentage of students with disabilities who are assessed using the general

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assessment -- and whether or not accommodations were used -- and the alternate assessment based on alternate achievement standards, Cortiella wrote in a [letter](#) to NYSED.

NYSED spokesman Jonathan Burman said that if the state is granted the waiver, the number of the students who participate in the below-grade-level testing will be included on school report cards.

The [Advocates for Children of New York](#) group also opposes the waiver. In a letter to NYSED, the group's Executive Director Kim Sweet wrote that parents get frustrated when their children must take tests that they are not prepared for. But the acceptance of a below-grade-level testing system would result in schools setting lower expectations and standards for these students, she said.

"Over time, the denial of access to age-appropriate instruction will lead students with disabilities to fall further and further behind their peers and will decrease their chances of graduating with a high school diploma," Sweet wrote.

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