California Department of Education

Executive Office

SBE-002 (REV. 11/2017)

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# **MEMORANDUM**

**DATE:** October 18, 2018

**TO:** MEMBERS, State Board of Education

**FROM:** TOM TORLAKSON, State Superintendent of Public Instruction

**SUBJECT:** Every Student Succeeds Act: Request for a Waiver Under Title I, Part A, Section 8401 to Align the State and Federal English Learner Progress Indicator.

## Summary of Key Issues

This Information Memorandum provides an update on California’s request for a waiver under Title I, Part A, Section 8401 to align the state and federal English learner progress indicator (ELPI).

The California Department of Education (CDE) and the California State Board of Education (SBE) received an initial denial letter, formally known as an initial determination of disapproval letter, related to California’s waiver request from the U.S. Department of Education (ED) on October 9, 2018.

## Brief History of Key Issues

After extensive research and consultation with educators and equity advocates, the SBE approved the inclusion of reclassified fluent English proficient (RFEP) students in California’s English Learner Progress Indicator (ELPI) at its September 2017 meeting. California’s definition of language proficiency is not limited to only achieving a specified score in the English language proficiency assessment, but rather a holistic standard for language fluency and use based on both quantitative and qualitative data. The goal is to ensure that English learners (ELs) are prepared for success: If they are, they are reclassified. If they are not, they continue to be eligible for language support services. Reclassification is the final and critical step in demonstrating language proficiency. Excluding whether students have been reclassified from this measure creates an unrealistic view of how well a district or school is helping all of their EL students attain language proficiency.

At the same meeting, the SBE approved a proposal strongly supported by stakeholders to provide additional weight in the ELPI calculation for long-term English learners (LTEL) who advanced at least one level on the California English Language Development Test. This additional weight is another incentive for educators and local educational agencies to continue to focus on students who have been in a U.S. school for six or more years and have struggled to make progress on the English language proficiency assessment for two or more consecutive years.

California has 1.3 million EL students – far more than any other state and one quarter of all ELs nationally – and deeply understands the urgent need to improve academic outcomes and improve access to academic content for these students. As such, California is taking a nation-leading role in designing a progress indicator that focuses on both current ELs and those who have transitioned to proficiency. Inclusion of both makes clear to educators that bringing this population to fluency and proficiency is the goal.

In April 2018, the SBE directed the CDE to request a four-year waiver from the ED that, if granted, would allow California to include recently RFEP students in measuring the progress of English learners (ELs) to achieve English language proficiency and provide additional weight for LTELs. The CDE submitted the waiver request on May 16, 2018. A copy of the waiver request is included in Attachment 1.

The CDE and the SBE received an initial denial letter related to California’s waiver request on October 9, 2018, available in Attachment 2. In Section 8401 of the Every Student Succeeds Act, the Secretary of Education my issue an initial determination of disapproval, but must offer the State Education Agency 60 days to revise and resubmit the waiver request. California resubmitted the waiver request on October 17, 2018. The Secretary has 30 days to reconsider her initial determination of the waiver request.

California’s revised waiver request is included in Attachment 3. The content of the waiver request is unchanged; rather California’s arguments in support of the request have been updated based on the content of the Secretary’s October 9, 2018, initial determination of denial letter.

The timeline below shows the actions that have occurred following the approval from the SBE.

May 16, 2018 The CDE and SBE submitted the ELPI waiver request to the ED.

October 9, 2018 The CDE and SBE received a response from the ED, which provided the CDE and SBE with an opportunity to resubmit a revised waiver request within 60 days.

October 17, 2018 The CDE and SBE resubmitted the waiver request to the ED.

## Attachment(s)

**Attachment 1:** California’s waiver request to the ED, dated May 16, 2018 (5 Pages)

**Attachment 2:** ED’s Initial Determination of Disapproval Letter dated October 9, 2018 (2 Pages)

**Attachment 3:** California’s letter to the ED, dated October 17, 2018 (8 Pages)