



CALIFORNIA DEPARTMENT OF EDUCATION

JACK O'CONNELL, State Superintendent of Public Instruction
916-319-0800

1430 N Street Sacramento, CA 95814-5901



CALIFORNIA STATE BOARD OF EDUCATION

THEODORE R. MITCHELL, President
916-319-0827

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April 10, 2008

Kerri L. Briggs, Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, S.W., Suite 3C147
Washington, DC 20202-6100

Dear Assistant Secretary Briggs:

In response to the U.S. Department of Education's (ED's) standards and assessment peer review letter dated February 6, 2008, attached is a State Board of Education (SBE) approved timeline for the development of a revised General Mathematics California Standards Test to respond to finding 3.0-Full Assessment System. This new assessment will be developed to completely satisfy the requirements of the Elementary and Secondary Education Act (ESEA), including the alignment to Algebra I content standards and fully implemented by the spring of 2010.

California is committed to resolving this issue in a timely manner that results in a valid, reliable, and appropriate assessment for grade eight students. Based on conversations and communications between California and the ED, we have moved forward with revising our math assessment for grade eight students. In fact, test blueprints for the assessment have already been developed and are scheduled for consideration and approval by the SBE at the May 7-8, 2008, meeting.

Recent conversations between California Department of Education (CDE) and ED staff have established that the CDE and the ED are in agreement about the "ends" – specifically, the substance of this new assessment and the timeline for development. The only outstanding question is the "means" of getting to that end.

We feel strongly that California should move forward in developing this assessment as part of a timeline waiver as opposed to a compliance agreement. California has verbally requested the use of a timeline waiver as opposed to a compliance agreement. Each time, we were informed that the ED is no longer granting timeline waivers but is choosing to use compliance agreements instead. Because this new approach seems to

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be a policy decision as opposed to a legal mandate,¹ we wanted to take the opportunity to formally request the timeline waiver and explain our reasoning.

California has operated under both a compliance agreement and a timeline waiver in the past.² In our experience, the timeline waiver was a much more effective, efficient, and economical means of achieving compliance. A compliance agreement consumes a tremendous amount of resources, particularly with the required public hearings and frequent reporting. Considering the current state budget crisis in California, as well as the lean federal budget that we expect over the next few years, we feel the need to prioritize our limited resources to concentrate on more instructional and academic purposes, obviously including the development of the new math test. Considering California has a successful track record of developing and aligning assessments under a timeline waiver, this seems the more advisable way to proceed.

We recognize that in recent years the ED has chosen to enforce compliance agreements in certain states that have had deficient state assessment systems. The compliance problems in these states, however, have existed on a much greater scale than the single finding at issue in California. For example, West Virginia's 2003 compliance agreement included 77 components containing seven extensive content standard findings alone, such as the revision of the state's math and reading kindergarten through grade twelve (K-12) content standards. Montana's 2003 compliance agreement was comprised of nine extensive findings including a requirement to provide evidence that Montana's entire set of performance standards are aligned with the state content standards. The District of Columbia's 2003 compliance agreement was comprised of nine critical matters including the development or selection of an assessment that represents the full range of content standards in at least reading/language arts and mathematics at the benchmark grades. Relative to the compliance agreements used in other states, the scope of California's task simply does not justify the use of a compliance agreement.

The finding in California is limited to only one grade (eighth) and one academic subject (mathematics). Had the current finding regarding the General Mathematics Test been indicated to California in the June 2006 letter detailing the findings of the peer review, the development of a new assessment would be nearing completion. We are asking the ED to recognize that the late addition of this finding has significantly impacted California's ability to meet the requirements of the ESEA in a timely way. Considering

¹ The Secretary has the legal authority to grant a timeline waiver under section 9401 of the Elementary and Secondary Education Act of 1965 (most recently authorized under the No Child Left Behind Act of 2001).

² The compliance agreement in California concerned special education in the late 1990s, and the timeline waiver concerned development of assessments under the Improving America's Schools Act of 1994.

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the scope of the finding in California, again, a timeline waiver seems better tailored to address this issue.

In addition to the desire to avoid the considerable economical and administrative burden of a compliance agreement, we also believe there are significant other factors that weigh heavily in favor of a timeline waiver. In entering into a compliance agreement, a state must acknowledge that it is out of compliance with the law and that compliance cannot be attained through less drastic measures. We believe that, in light of the limited scope of this finding and in consideration of our overall compliance, a compliance agreement would send the wrong message to the public. California has appreciated Secretary of Education Margaret Spellings' past willingness to provide states with certain flexibilities which acknowledge the uniqueness of state systems. A timeline waiver embraces that approach by demonstrating that California can come into compliance with No Child Left Behind (NCLB) given appropriate time. A compliance agreement, on the other hand, sends a more punitive message, essentially conceding that the state could not meet the requirements in the absence of this more penalizing enforcement mechanism. As Congress is contemplating reauthorization, Secretary Spellings' position that NCLB needs "tweaking" as opposed to "overhauling" is far more strengthened by the ED granting the largest state in the nation the flexibility of a timeline waiver rather than the harsh burdens of a compliance agreement.

If you are in agreement with the approach described herein, CDE staff will immediately begin developing the formal request for the timeline waiver, including providing public notice and soliciting comments from the field.

If you have any questions regarding this subject, please contact Gavin Payne, Chief Deputy Superintendent of Public Instruction, California Department of Education, at 916-319-0794.

Sincerely,

JACK O'CONNELL
State Superintendent of Public Instruction
California Department of Education

THEODORE R. MITCHELL
President
California State Board of Education

JO/TM:ds
Attachment

**Revised General Mathematics California Standards Test
Schedule of Activities**

Task	Responsibility	Start Date	End Date
Develop draft blueprints	ETS/ CDE	February 2008	March 2008
Hold Blueprint Review meeting	ETS	April 2008	April 2008
Review Blueprint with Technical Advisory Group	ETS/CDE	April 2008	April 2008
SBE approves blueprint	SBE	May 2008	May 2008
Develop Items	ETS	May 2008	August 2008
Hold ARP Item Review meeting	ETS	September 2008	September 2008
Compose forms	ETS	October 2008	October 2008
Print field tests	ETS	November 2008	December 2008
Pack, ship, and distribute materials	ETS	January 2009	February 2009
Collect, process, and score and analyze field tests	ETS	April 2009	August 2009
Facilitate Performance Level Descriptors development panel meeting using SBE-adopted Policy Level Descriptors	ETS	May 2009	May 2009
Review, edit, Performance Level Discriptors (PLDs)	CDE/SBE staff	May 2009	July 2009
CDE presents draft PLDs to SBE for inclusion in standard setting	CDE/SBE	July 2009	July 2009
Recruits California teachers (special emphasis on middle school math teachers), ARP members, education administrators, and community members for participation in standard setting	ETS	June 2009	August 2009
Conduct Standard Setting; finalize specific PLDs	ETS/CDE/SBE staff	September 2009	September 2009
Provide recommended cut scores to CDE	ETS	October 2009	October 2009
Present cut score recommendations to SBE; SBE adopt final PLDs	CDE/SBE	November 2009	November 2009
Send proposed cut scores out for public comment	CDE/SBE Staff	January 2010	January 2010
Final cut scores adopted by SBE	SBE	March 2010	March 2010
Revised General Mathematics test becomes fully operational	STAR Contractor	Spring 2010	Spring 2010