

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jul22item03

# California State Board of EducationJuly 2022 AgendaItem #07

## Subject

Additional Proposed Revisions to the California Assessment of Student Performance and Progress and English Language Proficiency Assessments for California Regulations: Approve Commencement of a 15‑Day Public Comment Period for Proposed Amendments to California Code of Regulations, Title 5, Sections 850, 851.5, 853, 854.5, 854.9, 855, 857, 859, and 863 and the Proposed Deletions of Sections 854.1, 854.2, 854.3 and 854.4 to Implement California *Education Code* Section 60640 and for Proposed Amendments to California Code of Regulations, Title 5, Sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.35, 11518.37, 11518.40, 11518.50, and 11518.65 and the Addition of Section 11518.16 to Implement *Education Code* Sections 313 and 60810.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

At the January 2022 California State Board of Education (SBE) meeting, the California Department of Education (CDE) recommended proposed amended regulations to remove the listing of available accessibility resources, add language to address remote testing, and revise language throughout to align regulations with updated operational practices for the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessments for California (ELPAC) systems. The SBE approved the proposed changes and directed that the changes be circulated for a 45-day comment period in accordance with the Administrative Procedures Act.

Although no comments were received from the public during the initial 45-day public comment period after the SBE’s approval, upon further review of the proposed regulations, CDE staff has decided it is necessary to further amend the originally proposed regulations in an effort to provide additional clarity to the testing field. Those additional changes are summarized under the subheading, “Highlights of Proposed Changes,” in this item. If approved, the proposed changes to the regulations would go into effect for the 2023–24 CAASPP and ELPAC test administrations.

## Recommendation

The CDE recommends the SBE take the following actions:

* Approve the proposed changes to the proposed regulations
* Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act
* If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval
* If any relevant comments to the proposed changes are received during the 15‑day public comment period, the CDE is directed to place the proposed regulations on the SBE’s November 2022 agenda for action
* Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file

## Brief History of Key Issues

The CAASPP system includes the following assessments: the Smarter Balanced Assessment Consortium (Consortium) computer-based summative assessments for English language arts/literacy (ELA) and mathematics; the California Science Test (CAST); the California Alternate Assessments for Science, ELA, and Mathematics; and the California Spanish Assessment (CSA). The ELPAC system includes the following assessments: the Summative ELPAC, the Initial ELPAC, and the Alternate ELPAC.

CAASPP and ELPAC test results are important pieces of data used by schools and local educational agencies (LEAs) to improve teaching and learning in California. In addition, each of the CAASPP and ELPAC assessments are developed, administered, and reported in accordance with state and federal requirements.

For a number of years, California implemented a statewide testing program as required by federal law through the Standardized Testing and Reporting (STAR) Program. On October 2, 2013, Governor Brown signed Assembly Bill (AB) 484, deleting the provisions of the *Education Code* referencing the STAR Program and establishing the CAASPP system.

Pursuant to *Education Code* Section 60640(q), California Code of Regulations, Title 5 (*5 CCR*), sections 850 through 868 were revised by the SBE to conform to the statutory changes made in AB 484. These amendments revised definitions, requirements, responsibilities, and guidelines for the administration, test security, reporting, and apportionment related to the CAASPP system. The amendments were approved initially as emergency regulations on February 3, 2014, and later approved by the OAL as permanent regulations on August 27, 2014.

Since 2014, the regulations surrounding the CAASPP system have been revised for the second, third, and fourth operational administrations. While some revisions were made to provide clarifications to language needed for the new online tests, many of the revisions made to the regulations during these administrations were made in order to include the addition of accessibility resources in alignment with Consortium policy.

In May 2016, the SBE approved the commencement of the rulemaking process for the ELPAC. Following some revisions, the ELPAC regulations were approved on June 5, 2017, and became operational on October 1, 2017.

The Summative ELPAC became operational on February 1, 2018, and the initial ELPAC became operational July 1, 2018. In July 2019, the SBE adopted further amendments to the ELPAC regulations based on feedback regarding the first operational Summative ELPAC, and in order to have accessibility resources available for students for the 2019–20 ELPAC administration. In July 2019, the SBE also approved the commencement of another rulemaking process for the ELPAC in order to expand accessibility resources as a result of the transition to an online administration of ELPAC, and to align ELPAC regulations with CAASPP regulations. The amended regulations were subject to a 45‑day public comment period and a public hearing, which was held on September 9, 2019. No written or oral comments were received during the 45-day public comment period or hearing.

### Rationale for Removing the Assessment Accessibility Resources from Regulations

Critical to the administration of the CAASPP and ELPAC is the ability to provide every student with a positive and productive assessment experience, generating results that are a fair and accurate estimate of each student’s achievement. Further, each of the state assessments is built on a framework of accessibility for all students, including but not limited to English learners (ELs), students with disabilities, and ELs with disabilities. It is recognized that the validity of assessment results depends on each and every student having appropriate universal tools, designated supports, and accommodations—when needed—based on the constructs being measured by the assessment.

Given the ongoing cycle in accessibility resource development, changes can happen on an annual basis. Whether and when to allow a particular accessibility resource for a given test is based upon research, including research based on a prior year’s assessment. Given the ongoing cycle in accessibility resource development, changes in resources are needed on an annual basis before the start of the new school year. Therefore, the need for the accessibility resources to be available typically is prior to the completion of the regulatory process, even with emergency regulatory authority. This means the availability of changes to accessibility resources may be delayed to LEAs. Moreover, the determination of what accessibility resources should be included in regulations does not lend itself to a regulatory decision-making process. The use of accessibility resources is developed in conjunction with test experts designing the test. For the ELA and mathematics assessments provided by the Consortium, the tests must be administered pursuant to the Consortium requirements, which include use of the Consortium’s Usability, Accessibility, and Accommodations Guidelines (UAAG). The UAAG is updated each year in the summer to remove, add or modify accessibility resources based on the design and technical capabilities of the test.

In 2021, AB 130 was approved by Governor Newsom. AB 130 makes clear that the state assessments “shall include the use of accessibility resources, as may be determined by the department, and those determinations shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 [commencing with Section 11340] of Part 1 of Division 3 of Title 2 of the *Government Code*).” This law allows the removal of the listing of accessibility resources from within the respective assessment regulations. The CDE will now be able to annually identify and make available, in a timely manner, accessibility resources to LEAs through respective assessment’s Test Administration Manual (TAM), which is released annually prior to the administration of each assessment. This change relieves the CDE from a lengthy and unnecessary annual regulatory process.

### Remote Administration of Assessment

In the fall of 2020, LEAs were able to test students through remote administration for the first time. This flexibility was extended in response to various local factors and circumstances surrounding the COVID-19 pandemic; however, remote administration had been a regular request of LEAs prior to the COVID-19 pandemic in order to more efficiently assess students who are unable to take the state assessments in person. Reasons that a school may require remote testing vary—from online schools without a physical site to schools whose site cannot support administration, possibly due to natural disasters or other unforeseen causes. For these reasons, the CDE recommends that remote administration remain an option—for both the CAASPP and ELPAC except for the alternate assessments —to be offered to LEAs who cannot assess students in person. The regulations are being amended to define “remote testing” and make other changes necessary in line with a remote administration.

### Additional Revisions to Support Administration and Clarity

Other revisions are also proposed in order to align the regulations with current practices and to provide further clarification in support of administration. The proposed changes are detailed below, and include the deletion of regulations surrounding the Standards-based Tests in Spanish (STS), which is no longer operational; additional clarifying language that a CAA test examiner may need to log on to a test if a student is unable to do so; additional language clarifying that a test administrator is expected to prevent students from accessing other electronic devices to the best of their ability; the addition of language to clarify that parents must be notified when CAASPP Student Score Reports are made available; as well as other minor edits and clarifications.

## Highlights of Proposed Changes

Specifically, the proposed amendments to the CAASPP and ELPAC regulations for the 15-day comment period include the following:

* Amending Section 857(a) to add “Either the designated LEA CAASPP coordinator or the superintendent may authorize one or more other employees of the LEA to perform the duties of the LEA CAASPP coordinator.” This is to make clear that the superintendent or a local educational agency (LEA) coordinator has the ability to authorize other LEA employees to perform additional duties, specifically those of an LEA CAASPP coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the coordinator.
* Amending Section 857(b) to read “The LEA CAASPP coordinator or the LEA superintendent shall be available August 1 through July 31 of the following school year to complete the LEA testing activities. The LEA shall notify the contractor(s) of the identity and contact information for the LEA CAASPP coordinator and the superintendent. The LEA CAASPP coordinator shall serve as the LEA representative and the liaison between the LEA and the contractor(s) and the LEA and the CDE for all matters related to the CAASPP assessment system.” In each use of the word, “coordinator,” was changed to be singular to make clear that there is only one LEA coordinator designated, although other employees may be tasked to perform the LEA coordinator’s duties on their behalf.
* Amending Section 859(b) to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the CAASPP Test Security Agreement may not be applicable to a remote testing environment.
* Adding Section 859(b)(7) to include “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the *TAM* when administering tests remotely.
* Amending Section 859(d) to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment.
* Adding Section 859(d)(15) to include “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment and that the test administrator should follow the guidelines set forth in the *TAM* when administering tests remotely.
* Amending Section 11518.40(a) to add “from among the employees of the LEA.” This change is necessary in order to make the language consistent with the language used in the CAASPP regulations regarding the superintendent’s designation of an LEA ELPAC coordinator.
* Amending Section 11518.40(a) to add “Either the superintendent or the designated LEA ELPAC coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA ELPAC coordinator.” This is to make clear that the superintendent or an LEA coordinator has the ability to authorize other LEA employees to carry out the duties of an LEA ELPAC coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the coordinator.
* Amending Section 11518.50(c) to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment.
* Adding Section 11518.50(c)(7) to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the ELPAC *TAM* when administering tests remotely.
* Amending Section 11518.50(e) to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment.
* Adding 11518.50(e)(13) to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment and that the test examiner should follow the guidelines set forth in the ELPAC *TAM* when administering tests remotely.

## Summary of Previous State Board of Education Discussion and Action

In January 2022, the SBE approved the commencement of the rulemaking process to amend the CAASPP and ELPAC regulations (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/jan22item06.docx>).

In March 2021, the CDE updated the SBE on LEAs challenges in administrating the summative assessments within the current testing windows for the CAASPP and the ELPAC outlined in 5 *CCR,* sections 855 and 11518, respectively due to issues related to the COVID-19 pandemic. The CDE sought approval from the SBE to allow the CDE to put into place emergency regulations that would extend these testing windows and bring some relief to LEAs (<https://www.cde.ca.gov/be/ag/ag/yr21/documents/mar21item05.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr21/mar21item05a4.asp>).

In November 2019, the SBE approved the commencement of a 15-day public comment period for proposed amendments of the ELPAC regulations and the readoption of the Finding of Emergency and proposed emergency regulations (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/nov19item11.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/nov19item12.docx>).

In July 2019, the SBE approved the emergency regulations while conducting the proposed rulemaking process and the commencement of the rulemaking process for the proposed amendments to the ELPAC regulations (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jul19item03.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jul19item07.docx>).

In May 2019, the SBE approved the commencement of a 15-day public comment period for proposed amendments and the readoption of the Finding of Emergency and proposed emergency regulations for the CAASPP (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/may19item05.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/may19item06.docx>).

In January 2019, the SBE approved the Finding of Emergency and proposed emergency regulations and the commencement of rulemaking for amendments to the CAASPP regulations (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jan19item15.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jan19item16.docx>).

In November 2018, the SBE approved the readoption of the emergency ELPAC regulations and the permanent rulemaking of ELPAC regulations to be sent to the OAL for approval (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/nov18item13.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/nov18item14.docx>).

In July 2018, the SBE approved the emergency regulations while conducting the proposed rulemaking process and the commencement of the rulemaking process for the proposed amendments for the ELPAC regulations (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jul18item04.docx>) (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jul18item05.docx>).

In November 2016, the SBE approved the commencement of a 15-day public comment period for the proposed ELPAC regulations (<https://www.cde.ca.gov/be/ag/ag/yr16/documents/nov16item07.doc>).

In May 2016, the SBE approved the commencement of the rulemaking process for the proposed ELPAC regulations (<https://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item01.doc>).

In March 2016, the SBE approved changes to the proposed permanent regulations and directed that the amended regulations be circulated for a 15-day public comment period, March 10–25, 2016, and assuming no relevant comments to the proposed changes were received, directed the CDE to deem the proposed permanent regulations adopted. (No relevant comments were received, and the revised permanent regulations were approved by the OAL on May 16, 2016.) (<http://www.cde.ca.gov/be/ag/ag/yr16/documents/mar16item04.doc>).

In November 2015, the SBE adopted the proposed amendments to the CAASPP regulations as emergency regulations. The emergency regulations were approved by the OAL and became effective on November 23, 2015. In addition, the SBE approved the commencement of the regular rulemaking process for permanent amendments to the CAASPP regulations (<http://www.cde.ca.gov/be/ag/ag/yr15/documents/nov15item05-revised.doc>) (<http://www.cde.ca.gov/be/ag/ag/yr15/documents/nov15item06-revised.doc>).

In July 2014, the SBE readopted the emergency regulations for CAASPP. The emergency readoption rulemaking file was submitted to the OAL on July 16, 2014. The readoption of the emergency regulations was approved by the OAL on July 23, 2014. In addition, the SBE adopted the permanent rulemaking file at its July 2014 meeting. The rulemaking file was submitted to the OAL on July 16, 2014, and permanent regulations for CAASPP were approved and became effective on August 27, 2014 (<http://www.cde.ca.gov/be/ag/ag/yr14/documents/jul14item08.doc>) (<http://www.cde.ca.gov/be/ag/ag/yr14/documents/jul14item09.doc>).

In January 2014, the SBE, for the first time, adopted proposed emergency regulations for CAASPP. The emergency regulations were approved by the OAL and became effective on February 3, 2014. In addition, the SBE approved the commencement of the regular rulemaking process for the permanent regulations (<http://www.cde.ca.gov/be/ag/ag/yr14/documents/jan14item06.doc>) (<http://www.cde.ca.gov/be/ag/ag/yr14/documents/jan14item05.doc>).

## Fiscal Analysis

An Economic and Fiscal Impact Statement is provided as Attachment 4.

## Attachment(s)

* Attachment 1: 15-Day Notice of Modifications (3 Pages)
* Attachment 2: Proposed Regulations (54 Pages)
* Attachment 3: Final Statement of Reasons (3 Pages)
* Attachment 4: Economic and Fiscal Impact Statement (STD 399) (5 Pages)

**CALIFORNIA DEPARTMENT OF EDUCATION**

TONY THURMOND

State Superintendent of Public Instruction

916-319-0800

 **CALIFORNIA STATE BOARD OF**

 **EDUCATION**

 LINDA DARLING-HAMMOND

 President

916-319-0827

AUGUST 4, 2022

**15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED**

**REGULATIONS REGARDING CALIFORNIA ASSESSMENT OF STUDENT PERFORMANCE AND PROGRESS (CAASPP) AND ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS FOR CALIFORNIA (ELPAC)**

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Board of Education (SBE) is providing notice of changes made to the above-referenced proposed regulation text, which was the subject of a regulatory hearing on March 29, 2022.

**Changes to the text:**

General changes were made to the regulations to include grammatical edits, and renumbering and/or re-lettering to reflect deletions or additions.

**After the 45-day comment period, the following changes were made to the proposed text of the regulations and sent out for a 15-day comment period:**

* **Section 857(a)** is amended to add “Either the superintendent or the designated LEA CAASPP coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA CAASPP coordinator.” This is to make clear that the superintendent or a local educational agency (LEA) coordinator has the ability to authorize other LEA employees to perform additional duties, specifically those of an LEA CAASPP coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the coordinator.
* **Section 857(b)** is amended to change “coordinator(s)” when used in this subsection to be singular to make clear that there is only one LEA coordinator designated, although other employees may be tasked to perform the LEA coordinator’s duties on their behalf.
* **Section 859(b)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the CAASPP Test Security Agreement may not be applicable to a remote testing environment.
* **Proposed Section 859(b)(7)** is added to include “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the Test Administration Manual (TAM) when administering tests remotely.
* **Section 859(d)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment.
* **Proposed Section 859(d)(15)** is added to include “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment and that the test administrator should follow the guidelines set forth in the TAM when administering tests remotely.
* **Section 11518.40(a)** is amended to add “from among the employees of the LEA.” This change is necessary in order to make the language consistent with the language used in the CAASPP regulations regarding the superintendent’s designation of an LEA ELPAC coordinator.
* **Section 11518.40(a)** is amended to add “Either the superintendent or the designated LEA ELPAC coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA ELPAC coordinator.” This is to make clear that the superintendent or an LEA coordinator has the ability to authorize other LEA employees to carry out the duties of an LEA ELPAC coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the coordinator.
* **Section 11518.50(c)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment.
* **Proposed Section 11518.50(c)(7)** is added to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the ELPAC TAM when administering tests remotely.
* **Section 11518.50(e)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment.
* **Proposed Section 11518.50(e)(13)** is added to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment and that the test examiner should follow the guidelines set forth in the ELPAC TAM when administering tests remotely.

If you have any comments regarding the proposed changes that are the topic of this

15-Day Notice, the SBE will accept written comments between August 4, 2022 and August 19, 2022, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155; email at regcomments@cde.ca.gov or mailed and received at the following address prior to or on August 19, 2022, and addressed to:

Lorie Adame, Regulations Coordinator

Legal and Audits Branch

Administrative Supports and Regulations Adoption Unit

California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

All written comments received prior to or on August 19, 2022, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

**Please note:** Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this notice on other aspects of the proposed regulation.

06-20-2022 [California Department of Education]

* The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.
* The 15-day comment period text proposed to be added is displayed in “**bold underline**”; text proposed to be deleted is displayed in “**~~bold strikeout~~**”.

**Title 5. EDUCATION
Division 1. California Department of Education**

**Chapter 2. Pupils
Subchapter 3.75. California Assessment of Student
Performance and Progress (CAASPP)**

**Article 1. General**

**§ 850. Definitions**

For the purposes of these regulations, the following terms shall have the following meanings:

 (a) “Accommodations” means resources documented in a pupil's individualized education program (IEP) or Section 504 Plan which the pupil regularly uses in the classroom for instruction and/or assessments(s) and that are either utilized in the assessment environment or consist of changes in procedures or materials that increase equitable access during the assessment. Accommodations cannot fundamentally alter the comparability of achievement test scores.

 (b) “Achievement tests” means any summative standardized test that measures the level of performance that a pupil has achieved on state-adopted content standards.

 (c) “Adaptive engine” refers to the mechanism utilized in a computer-adaptive assessment that selects the difficulty of grade-level test questions throughout an assessment based on pupil responses.

 (d) “Alternate assessments” are any CAASPP achievement tests as provided in Education Code section 60640(k) and the test materials developed to measure the level of performance for pupils with the most significant cognitive disabilities who are unable to take the consortium summative assessments in English language arts (ELA) and mathematics pursuant to Education Code section 60640(b)(1) or are unable to take an assessment of science pursuant to Education Code section 60640(b)(2), even with resources.

 (e) “Assessment management system” means the test operations management system which is a set of web applications that manage the registration of pupils for tests, machine or hand scoring of test items, integration of item scores into an overall test score, and delivery of scores to the data warehouse.

 (f) “Assessment technology platform” means the underlying computer systems on which CAASPP applications run. It is comprised of two components, the assessment management system and the test delivery system.

 (g) “California Alternate Assessments (CAAs)” are the alternate assessments and corresponding test materials in ELA, mathematics, and science as provided for in Education Code section 60640(k) for pupils with the most significant cognitive disabilities. The CAAs are the successor alternate assessments for ELA, mathematics, and science as identified in Education Code section 60640(b)(3).

 (h) “California Spanish Assessment (CSA)” is the primary language assessment and corresponding test materials in Spanish for Reading Language Arts/Literacy ~~that will replace the Standards-based Tests in Spanish (STS). When operational, the CSA will be the successor to the STS~~ pursuant to Education Code section 60640(b)(5)(~~A~~E) and (j).

 (i) “California Science Test (CAST)” is the assessment and corresponding test materials for science pursuant to Education Code section 60640(b)(2)(B) that measures the degree to which pupils are achieving the state-adopted standards in science pursuant to former Education Code section 60605.85.

 (j) “Change of construct” means a modification of the concept or skills being tested that fundamentally alters the meaning and comparability of achievement test scores.

 (k) “Data Warehouse” means a comprehensive storehouse of test registrations and results and a system to generate reports on, or extracts of, that data.

 (l)“Designated supports” are resources which the pupil regularly uses in the classroom for instruction and/or assessment(s) and that are available for use by any pupil for whom the need has been indicated, prior to the assessment administration, by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan.

 ~~(m) “Embedded” means a resource, whether a universal tool, designated support, or accommodation, that is part of the test delivery system for the computer-based CAASPP tests.~~

 ~~(n) “Expandable passages/items” are embedded accessibility resources that allow the passage or item to take up a larger portion of the computer screen.~~

 (~~o~~m) “Instructional supports” are all supports, including those supports documented in a pupil's IEP or Section 504 Plan, that may be used in daily instruction and for assessment(s), including language and physical supports.

 (~~p~~n) “Local educational agency (LEA)” means a county office of education, school district, state special school, or direct-funded charter school as described in Education Code section 47651. LEA superintendent, for purposes of these regulations, includes an administrator of a direct-funded charter school.

 ~~(q) “Non-embedded” means a resource, whether a universal tool, designated support, or accommodation, that may be provided by the LEA and is not part of the test delivery system for the computer-based CAASPP tests.~~

 (~~r~~o) “Nonpublic schools (NPS)” are nonpublic, nonsectarian schools as set forth in Education Code section 56034.

 (~~s~~p) “Operational” means a test administration that produces valid and reliable results which are used for public reporting purposes and for which pupil score reports are required to be issued, pursuant to Education Code sections 60640 and 60641. Operational tests do not include tests still under development, such as pilot or field tests.

 (~~t~~q) “Primary language assessment” means a test as provided in Education Code section 60640(b)(5)(E) and (j) and its corresponding test materials in each primary language for which a test is available. ~~The Standards-based Test(s) in Spanish (STS) is the primary language assessment, until the CSA becomes operational. The accessibility supports designated in section 854.4 do not apply to the STS.~~

 (~~u~~r) “Pupil” refers to a student enrolled in a California public school.

 (~~v~~s) “Pupils with the most significant cognitive disabilities” means pupils with a disability or disabilities as defined under title 20 United States Code section 1401(3) that significantly impact(s) cognitive functioning and adaptive behavior and who require extensive, direct individualized instruction and substantial supports to achieve measurement on academic standards, provided that:

 (1) The identification of a pupil as having a particular disability as defined in IDEA shall not determine whether or not a pupil is a pupil with the most significant cognitive disabilities; and

 (2) A pupil with the most significant cognitive disabilities must not be identified as such based solely on the pupil's previous low academic achievement or the pupil's previous need for accommodations to participate in general statewide or local assessments.

 (3) For purposes of this definition, “adaptive behavior” means behavior essential for someone to live independently and to function safely across three domains of daily life skills: conceptual (e.g., language, functional academics, self-direction, money management, and time concepts); social (e.g., interpersonal skills, responsibility, self-esteem, wariness/naivete, follow rules, etiquette, and social problem solving); and practical (e.g., activities of daily living, occupational skills, safety, healthcare, and travel).

 (~~w~~t) “Recently arrived English learner” means a pupil designated as an English Learner (EL) who is in ~~his or her~~ their first 12 months of attending a school in the United States as specified in Education Code section 60603(v), as determined after April 15th of the previous school year.

 (~~x~~u) “Registration system” means the mechanism that provides administrators with the tools to manage users and pupils participating in CAASPP computer-based assessments. The system uses a role-specific design to restrict access to certain tasks based on the user's designated role as well as manage pupils' default test settings, designated supports, and accommodations.

 (v) “Remote test session” means a test session administered through an online system where either the student(s) or the test administrator/test examiner is not on-site.

 (~~y~~w) “Resource(s)” refers to a universal tool, designated support, accommodation or an unlisted resource approved pursuant to section 854.9. Resources (including approved unlisted resources) do not change the construct of the assessment.

 (~~z~~x) “Scribe” is an employee of the LEA or a person assigned by an NPS to implement a pupil's IEP who has electronically agreed to a CAASPP Test Security Affidavit and has received training to transcribe a pupil's responses to the format required by the test. A pupil's parent, guardian, or sibling is not eligible to be the pupil's scribe.

 (~~aa~~y) “Significant medical emergency” is a significant injury, trauma, or illness (mental or physical) that precludes a pupil from taking the achievement tests. An injury, trauma, or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

 ~~(ab) “Standards-based Tests in Spanish (STS)” are the achievement tests and the corresponding test materials that are administered at the option of the LEA as the primary language assessment as provided in Education Code sections 60640(b) and (j).~~

 ~~(ac) “Streamlining” means a designated support on a computer-based assessment that provides an alternate display of an item, stacked into instructions, stimuli, and response choices.~~

 (~~ad~~z) “Test Administration Manual (TAM)” means the instructions provided by the CAASPP contractor or consortium for the purpose of training and administration of the respective CAASPP tests and which must be adhered to in order to ensure the security of valid and reliable tests and the reporting of accurate results.

 (~~ae~~aa) “Test administrator” is an employee or contractor of an LEA or an NPS who has electronically agreed to a CAASPP Test Security Affidavit and has received training to administer the CAASPP achievement tests.

 (~~af~~ab) “Test delivery system” consists of the electronic systems used to display test items through an adaptive engine; accept and store item responses; score items; and restrict access to outside sources. The test delivery system includes technology required to administer computer-based tests.

 (~~ag~~ac) “Test examiner” is an employee or contractor of an LEA or an NPS who has electronically agreed to a CAASPP Test Security Affidavit and has received training to administer the CAA tests. A test examiner must be a certificated or licensed LEA staff member.

 (~~ah~~ad) “Test materials” include, but are not limited to, administration manuals, administrative materials, assessment management system, practice tests, scratch paper, and test answer documents.

 (~~ai~~ae) “Test proctor” is an employee of an LEA, or a person assigned by an NPS, to implement a pupil's IEP or Section 504 Plan, who has electronically agreed to a CAASPP Test Security Affidavit and has received training designed to prepare him or her to assist the test examiner in the administration of tests.

 (~~aj~~af) “Track” is a type of attendance or instructional schedule for schools with year-round education programs pursuant to Education Code section 37670.

 (~~ak~~ag) “Translator” is a person who has been assigned to translate the test directions into the pupil's primary language pursuant to section 854.5, who has electronically agreed to a CAASPP Test Security Affidavit as identified in section 859(d), and who has received training specifically designed to prepare him or her to assist the test administrator or test examiner in the administration of the assessments pursuant to Education Code section 60640. A pupil's parent, guardian, or sibling is not eligible to be the pupil's translator. A translator must be:

 (1) an employee of an LEA;

 (2) an employee of the NPS; or

 (3) a person supervised by an employee of an LEA or an employee of the NPS.

 (~~al~~ah) “Universal tools” are resources of the CAASPP tests that are available to all pupils.

 (~~am~~ai) “Unlisted resource(s)” means an instructional support that a pupil regularly uses in daily instruction and/or assessment that has not been previously identified as a universal tool, designated support or accommodation. Because an unlisted resource has not been previously identified as a universal tool, designated support or accommodation, it may or may not change the construct of the assessment.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 306, 37670, 47605, 47605.8, 47651, 56034, 60603, 60604, 60605, 60615, 60640, 60641, 60642.5 and 60642.6, Education Code; 20 U.S.C. 1401(3) and 6311(b)(1)(E); and 34 C.F.R. Sections 200.1 and 300.160.

**§ 851.5. Eligible Pupil.**

For purposes of these regulations, an “eligible pupil” is as follows:

 (a) For CAASPP achievement tests in ELA, a pupil in grades 3 through 8 and grade 11 who is not taking the CAA or is not a recently arrived EL pursuant to section 850(~~v~~t). However, a recently arrived EL may be an eligible pupil upon request by the parent/guardian.

 (b) For CAASPP achievement tests in mathematics, a pupil in grades 3 through 8 and grade 11 who is not taking the CAA.

 (c) For the CAAs for ELA and mathematics, a pupil in grades 3 through 8 and grade 11 who has an IEP that designates the use of alternate assessments.

 (d) For the CAST, a pupil in grades 5, 8 and any one grade of 10, 11, or 12 in which a pupil is receiving science instruction, who:

 (1) has not previously completed a CAASPP high school achievement test for science; and

 (2) does not have an IEP that designates the use of an alternate assessment in science.

 (e) For the CAA for science, a pupil in grades, 5, 8 and any one grade of 10, 11, or 12 in which a pupil is receiving science instruction, who

 (1) has not previously completed a CAASPP high school achievement test for science; and

 (2) has an IEP that designates the use of alternate assessments.

 (f) For the Primary Language Assessment (PLA), a pupil in grades 3 through 8 and high school:

 (1) who is receiving instruction in the language of the assessment; and/or

 (2) who is seeking a measure of ~~his or her~~ their primary language achievement (reading, writing, and listening, and speaking, when available).

 ~~(g) For the STS, a pupil in grades 2 through 11:~~

 ~~(1) whose primary language is Spanish and who is receiving instruction in Spanish; or~~

 ~~(2) who is enrolled in a dual language immersion program that includes Spanish; or~~

 ~~(3) who is a recently arrived EL and whose primary language is Spanish.~~

 (~~h~~g) Pupil score reports will be provided for all eligible pupils who take operational assessments.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60640 and 60641, Education Code.

**§ 853. Administration.**

 (a) The CAASPP tests pursuant to Education Code section 60640 shall be administered, scored, transmitted, and/or returned by LEAs in accordance with the corresponding TAMs or other instructions provided by the contractor or the California Department of Education (CDE) for administering, scoring, transmitting, and/or returning the tests, unless specifically provided otherwise in this subchapter, including instructions for administering the test with universal tools, designated supports, accommodations, unlisted resources or instructional supports, where appropriate. The procedures shall include, but are not limited to, those designed to ensure the uniform and standardized administration, and scoring of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required pupil and school level information.

 (b) The primary mode of administration of a CAASPP achievement test shall be via a computing device, the use of an assessment technology platform, and the adaptive engine. Administration, with the exception of the California Alternate Assessments, may be conducted through in-person or remote test sessions.

 (c) If available, an LEA may utilize a paper-pencil version of any computer-based assessment (CBA) of the CAASPP System, excluding the alternate assessments, in accordance with Education Code section 60640(e), and if the LEA identifies the pupils that are unable to access the CBA version of the test.

 (d) Interim assessments and formative assessment tools shall be made available to LEA(s) for their use. Use of interim assessments and formative assessment tools shall not be considered advance preparation for a CAASPP achievement test as defined in Education Code section 60611. LEAs that use interim assessments and/or formative assessment tools shall abide by the consortium/contractor(s) administration and use requirements. Any scoring of any ~~ELA~~ performance tasks or constructed responses for an interim assessment is the responsibility of the LEA.

NOTE: Authority cited: Sections 33031 and 60640, Education Code. Reference: Sections 60602.5, 60603, 60605, 60611, 60640 and 60642.6, Education Code.

**§ 854.1. Use of Universal Tools, Designated Supports, and Accommodations for English Language Arts (ELA).**

 ~~(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) breaks for reading, writing, and listening;~~

 ~~(2) digital notepad for reading, writing, and listening;~~

 ~~(3) English dictionary for writing (ELA-performance task(s) - full write not short paragraph responses);~~

 ~~(4) English glossary for reading, writing, and listening;~~

 ~~(5) expandable items and passages for reading, writing, and listening;~~

 ~~(6) global notes for writing (ELA-performance task(s) - full write not short paragraph responses)~~

 ~~(7) highlighter for reading, writing, and listening;~~

 ~~(8) keyboard navigation for reading, writing, and listening;~~

 ~~(9) line reader for reading, writing, and listening;~~

 ~~(10) mark for review for reading, writing, and listening;~~

 ~~(11) spell check for specific writing items for ELA;~~

 ~~(12) strikethrough for reading, writing, and listening;~~

 ~~(13) writing tools for specific pupil generated responses for ELA; or~~

 ~~(14) zoom for reading, writing, and listening.~~

 ~~(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) breaks for reading, writing, and listening;~~

 ~~(2) English dictionary for ELA performance task(s) - full write not short paragraph responses;~~

 ~~(3) scratch paper for reading, writing, and listening; or~~

 ~~(4) thesaurus for ELA performance task(s) - full write not short paragraph responses.~~

 ~~(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) color contrast for reading, writing, and listening;~~

 ~~(2) masking for reading, writing, and listening;~~

 ~~(3) mouse pointer size and color for reading, writing, and listening;~~

 ~~(4) streamline for reading, writing, and listening;~~

 ~~(5) text-to-speech for writing, listening, and reading items but not reading passages; or~~

 ~~(6) turn off any universal tool for reading, writing, and listening.~~

 ~~(d) All pupils shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil's IEP or Section 504 Plan on the CAASPP achievement tests for ELA as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient pupils:~~

 ~~(1) amplification for reading, writing, and listening;~~

 ~~(2) bilingual dictionary for ELA performance task(s) - full write not short paragraph responses, and writing;~~

 ~~(3) color contrast for reading, writing, and listening;~~

 ~~(4) color overlay for reading, writing, and listening;~~

 ~~(5) magnification for reading, writing, and listening;~~

 ~~(6) medical device for reading, writing, and listening;~~

 ~~(7) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;~~

 ~~(8) read aloud for writing, listening, and reading items but not reading passages;~~

 ~~(9) scribe for reading and listening;~~

 ~~(10) separate setting for reading, writing, and listening, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;~~

 ~~(11) simplified test directions for reading, writing, and listening; or~~

 ~~(12) translated test directions for reading, writing, and listening.~~

 ~~(e) The following embedded accommodations, delivered through an online platform, shall be provided when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) American Sign Language for listening;~~

 ~~(2) audio transcript, including braille transcript for listening;~~

 ~~(3) Braille for reading, writing, and listening;~~

 ~~(4) closed captioning for listening; or~~

 ~~(5) text-to-speech for ELA reading passages.~~

 ~~(f) The following non-embedded accommodations shall be provided, when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for ELA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) alternate response options for reading, writing, and listening;~~

 ~~(2) Braille for paper-pencil tests;~~

 ~~(3) large-print version of a paper-pencil test, when developed and functional;~~

 ~~(4) print on demand for reading, writing, and listening;~~

 ~~(5) read aloud for ELA reading passages;~~

 ~~(6) scribe for writing;~~

 ~~(7) speech-to-text for reading, writing, and listening; or~~

 ~~(8) word prediction for reading, writing, and listening.~~

 ~~(g) If a consortium (in which California is a participant) amends or approves of a universal tool(s), designated support(s), and/or accommodation(s) not listed in subdivisions (a) through (f), the CDE shall approve its use.~~

~~NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160.~~

**~~§ 854.2. Use of Universal Tools, Designated Supports, and Accommodations for Mathematics~~.**

 ~~(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for all CAASPP achievement tests for mathematics as specified below:~~

 ~~(1) breaks;~~

 ~~(2) calculator for specific mathematics items only in grades 6 through 8 and grade 11;~~

 ~~(3) digital notepad;~~

 ~~(4) English glossary;~~

 ~~(5) expandable items and passages;~~

 ~~(6) highlighter;~~

 ~~(7) keyboard navigation;~~

 ~~(8) line reader;~~

 ~~(9) mark for review;~~

 ~~(10) mathematics tools (i.e., embedded ruler and embedded protractor) for specific mathematics items;~~

 ~~(11) strikethrough;~~

 ~~(12) writing tools for specific pupil generated responses; or~~

 ~~(13) zoom.~~

 ~~(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for mathematics as specified below:~~

 ~~(1) breaks; or~~

 ~~(2) scratch paper.~~

 ~~(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below. Included on the following list of embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient pupils:~~

 ~~(1) color contrast;~~

 ~~(2) masking;~~

 ~~(3) mouse pointer size and color;~~

 ~~(4) streamline;~~

 ~~(5) text-to-speech for stimuli and items;~~

 ~~(6) translations (glossary);~~

 ~~(7) Spanish translations (stacked) and translated test directions; or~~

 ~~(8) turn off any universal tool.~~

 ~~(d) All pupils shall be permitted the following non-embedded designated supports, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil's IEP or Section 504 Plan on the CAASPP achievement tests for mathematics as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient students:~~

 ~~(1) amplification;~~

 ~~(2) color contrast;~~

 ~~(3) color overlay;~~

 ~~(4) magnification;~~

 ~~(5) medical device;~~

 ~~(6) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);~~

 ~~(7) read aloud for stimuli and items;~~

 ~~(8) read aloud for Spanish stacked translation;~~

 ~~(9) scribe;~~

 ~~(10) separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;~~

 ~~(11) simplified test directions;~~

 ~~(12) translated test directions; or~~

 ~~(13) translations (glossary) for mathematics (only consortium-provided glossaries for paper-pencil tests).~~

 ~~(e) The following embedded accommodations, delivered through an online platform, shall be provided, when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below:~~

 ~~(1) American Sign Language; or~~

 ~~(2) Braille.~~

 ~~(f) The following non-embedded accommodations shall be provided when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for mathematics as specified below:~~

 ~~(1) 100s number table for mathematics beginning in grade 4;~~

 ~~(2) abacus;~~

 ~~(3) alternate response options;~~

 ~~(4) Braille for paper-pencil tests;~~

 ~~(5) calculator for calculator-allowed mathematics items only in grades 6 through 8, and grade 11;~~

 ~~(6) large-print version of a paper-pencil test, when developed and functional;~~

 ~~(7) multiplication table for mathematics beginning in grade 4;~~

 ~~(8) print on demand;~~

 ~~(9) speech-to-text; or~~

 ~~(10) word prediction.~~

 ~~(g) If a consortium (in which California is a participant) amends or approves of a universal tool(s), designated support(s), and/or accommodation(s) not listed in subdivisions (a) through (f), the CDE shall approve its use.~~

~~NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160.~~

**~~§ 854.3. Use of Universal Tools, Designated Supports, and Accommodations for Science.~~**

 ~~(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for the CASTs as specified below:~~

 ~~(1) breaks;~~

 ~~(2) calculator (four function for grade 5 and scientific for grade 8 and high school);~~

 ~~(3) digital notepad;~~

 ~~(4) English glossary;~~

 ~~(5) expandable items;~~

 ~~(6) expandable passages;~~

 ~~(7) highlighter;~~

 ~~(8) keyboard navigation;~~

 ~~(9) line reader;~~

 ~~(10) mark for review;~~

 ~~(11) mathematics tools (e.g., ruler, protractor);~~

 ~~(12) science charts (e.g., calendar, Periodic Table of the Elements, and conversion charts);~~

 ~~(13) science tools (e.g., interactive laboratory equipment, stop watch, static hardness key or tool, etc.);~~

 ~~(14) strikethrough;~~

 ~~(15) writing tools for specific pupil generated responses; or~~

 ~~(16) zoom.~~

 ~~(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for science as specified below:~~

 ~~(1) breaks; or~~

 ~~(2) scratch paper.~~

 ~~(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below. Included on the following list of embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient pupils:~~

 ~~(1) color contrast;~~

 ~~(2) masking;~~

 ~~(3) mouse pointer size and color;~~

 ~~(4) Spanish translations (stacked);~~

 ~~(5) streamline;~~

 ~~(6) text-to-speech for stimuli and items;~~

 ~~(7) translations (glossary) for the following languages, when developed and functional: Arabic, Cantonese, Hmong, Korean, Mandarin, Punjabi, Russian, Spanish, Tagalog, and Vietnamese; or~~

 ~~(8) turn off any universal tool(s).~~

 ~~(d) All pupils shall be permitted the following non-embedded designated supports, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for science. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for English learners or reclassified fluent English proficient students:~~

 ~~(1) 100s number table;~~

 ~~(2) amplification;~~

 ~~(3) calculator (four-function for grade 5 and scientific for grade 8 and high school);~~

 ~~(4) color contrast;~~

 ~~(5) color overlay;~~

 ~~(6) magnification;~~

 ~~(7) medical device;~~

 ~~(8) multiplication table;~~

 ~~(9) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);~~

 ~~(10) read aloud for stimuli and items;~~

 ~~(11) science charts (state approved only, i.e., calendar, Periodic Table of the Elements, and conversion charts);~~

 ~~(12) scribe;~~

 ~~(13) separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;~~

 ~~(14) simplified test directions; or~~

 ~~(15) translated test directions for the following languages, when developed and functional: Arabic, Armenian, Cambodian, Cantonese, Farsi, Hindi, Hmong, Japanese, Korean, Mandarin, Mixteco, Portuguese, Punjabi, Russian, Spanish, Tagalog, Urdu, and Vietnamese.~~

 ~~(e) The following embedded accommodations, delivered through an online platform, shall be provided, when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below:~~

 ~~(1) American Sign Language;~~

 ~~(2) audio transcript, including braille transcript;~~

 ~~(3) Braille; or~~

 ~~(4) closed captioning.~~

 ~~(f) The following non-embedded accommodations shall be provided when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for science as specified below:~~

 ~~(1) abacus for specific science items;~~

 ~~(2) alternate response options;~~

 ~~(3) print on demand;~~

 ~~(4) speech-to-text; or~~

 ~~(5) word prediction.~~

~~NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160.~~

**~~§ 854.4. Use of Universal Tools, Designated Supports, and Accommodations for Primary Language Assessment (PLA).~~**

 ~~(a) All pupils shall be permitted the following embedded universal tools, delivered through an online platform, for all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) breaks for reading, writing, and listening;~~

 ~~(2) digital notepad for reading, writing, and listening;~~

 ~~(3) dictionary in the language of the assessment for writing (PLA-performance task - full write not short paragraph responses) - when developed and functional;~~

 ~~(4) expandable items for reading, writing, and listening;~~

 ~~(5) expandable passages for reading, writing, and listening;~~

 ~~(6) global notes for writing (PLA-performance task(s) - full write not short paragraph responses) - when developed and functional;~~

 ~~(7) highlighter for reading, writing, and listening;~~

 ~~(8) keyboard navigation for reading, writing, and listening;~~

 ~~(9) line reader;~~

 ~~(10) mark for review for reading, writing, and listening;~~

 ~~(11) Spanish glossary for specific items;~~

 ~~(12) spell check for specific writing items for PLA - when developed and functional;~~

 ~~(13) strikethrough for reading, writing, and listening;~~

 ~~(14) writing tools for specific pupil generated responses for PLA; or~~

 ~~(15) zoom for reading, writing, and listening.~~

 ~~(b) All pupils shall be permitted the following non-embedded universal tools on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) breaks for reading, writing, and listening;~~

 ~~(2) dictionary in the language of the assessment for PLA performance task(s) - full write not short paragraph responses - when developed and functional;~~

 ~~(3) scratch paper for reading, writing, and listening; or~~

 ~~(4) thesaurus in the language of the assessment for PLA performance task(s) - full write not short paragraph responses - when developed and functional.~~

 ~~(c) All pupils shall be permitted the following embedded designated supports, delivered through an online platform, when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) color contrast for reading, writing, and listening;~~

 ~~(2) masking for reading, writing, and listening;~~

 ~~(3) mouse pointer size and color;~~

 ~~(4) streamline for reading, writing, and listening;~~

 ~~(5) text-to-speech for writing, listening, and reading items but not reading passages; or~~

 ~~(6) turn off any universal tool for reading, writing, and listening.~~

 ~~(d) All pupils shall be permitted the following non-embedded designated supports when determined for use by an educator or a team of educators (with parent/guardian and pupil input as appropriate) or as specified in the pupil's IEP or Section 504 Plan on the CAASPP achievement tests for PLA as specified below. Included on the following list of non-embedded designated supports are language support(s) that may be appropriate for any pupil who can benefit from their use:~~

 ~~(1) amplification;~~

 ~~(2) bilingual dictionary for PLA performance task(s) - full write not short paragraph responses, and writing - when developed and functional;~~

 ~~(3) color contrast for reading, writing, and listening;~~

 ~~(4) color overlay for reading, writing, and listening;~~

 ~~(5) magnification for reading, writing, and listening;~~

 ~~(6) medical device;~~

 ~~(7) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;~~

 ~~(8) read aloud for writing, listening, and reading items but not reading passages;~~

 ~~(9) scribe for reading and listening;~~

 ~~(10) separate setting for reading, writing, and listening, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture; or~~

 ~~(11) simplified test directions for reading, writing, and listening.~~

 ~~(e) The following embedded accommodations, delivered through an online platform, shall be provided when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) Braille for reading, writing, and listening;~~

 ~~(2) closed-captioning;~~

 ~~(3) Spanish audio transcript, including braille transcript (for listening passages); or~~

 ~~(4) text-to-speech for PLA reading passages.~~

 ~~(f) The following non-embedded accommodations shall be provided, when specified in the pupil's IEP or Section 504 Plan on all CAASPP achievement tests for PLA (including the components of reading, writing, and listening) as specified below:~~

 ~~(1) alternate response options for reading, writing, and listening;~~

 ~~(2) print on demand for reading, writing, and listening;~~

 ~~(3) read aloud for PLA reading passages; or~~

 ~~(4) scribe for writing.~~

~~NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160.~~

**§ 854.5. Administration, Resources, and Instructional Supports for the California Alternate Assessments (CAAs) for English Language Arts, Mathematics, and Science.**

 (a) Administration of the CAAs to eligible pupils shall be one-on-one (test examiner to pupil).

 (b) Depending upon the pupil's disability or needs, the CAAs may or may not include the pupil's independent use of the testing interface~~, or, for science, student's independent response(s) to the embedded performance task(s)~~.

 (c) With the exception of inappropriate test practices listed in the TAM, eligible pupils may have instructional supports, including the language of instruction by a translator and physical supports, in addition to resources documented in the pupil's IEP or Section 504 Plan.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605 and 60640, Education Code; and 34 C.F.R. Sections 200.1 and 300.160.

**§ 854.9. Unlisted Resources.**

 (a) An LEA may submit, on behalf of a pupil who has an IEP or Section 504 Plan, a request through the assessment management system to the CDE, prior to the administration of a CAASPP achievement test, to allow the use and approval of an unlisted resource. The LEA CAASPP coordinator or the CAASPP test site coordinator shall make the request on behalf of the LEA ten business days prior to the pupil's first day of CAASPP testing. The CDE shall respond to the request within four business days from the date of the electronic transmission. Requests~~Transmissions~~ must include:

 (1) LEA name and county/district/school (CDS) code;

 (2) school/test site and school code;

 (3) LEA CAASPP coordinator name, phone number, and email address;

 (4) CAASPP test site coordinator name, phone number, and email address;

 (5) school/test site selected testing period;

 (6) Statewide Student Identifier(s) (SSID(s)) for the pupil(s) for which the unlisted resource(s) is/are being requested;

 (7) CAASPP test and grade;

 (8) if the pupil has an IEP, include the primary disability code and/or designated Section 504 Plan; and

 (9) description of the unlisted resource being requested.

 (b) The use and approval of an unlisted resource must be requested annually by an LEA.

 (c) The use of an unlisted resource by a pupil will not be allowed if the CDE determines its use threatens the security of the test.

 (d) In addition to determining whether the unlisted resource may be used, the CDE will determine whether the unlisted resource changes the construct being measured by the CAASPP achievement test.

 (1) If the CDE determines the unlisted resource changes the construct being measured, the unlisted resource will not be approved but may still be used by the pupil and the pupil will receive an individual score report. The pupil will not be counted as participating in statewide testing, which will impact the accountability participation rate indicator for the LEA.

 (2) If CDE determines the unlisted resource does not change the construct being measured, the unlisted resource will be approved. The pupil will receive an individual score report and the pupil will be counted as participating in statewide testing.

 (e) Unlisted resources which CDE has determined change the construct being measured for each CAASPP achievement test will be annually set forth in the corresponding TAM. ~~The following non-embedded unlisted resources have already been determined to change the construct being measured on the CAASPP achievement tests for ELA (including the components for reading, writing, and listening), mathematics, science, and primary language and will not be approved:~~

 ~~(1) 100s number table for mathematics in grade 3;~~

 ~~(2) American sign language or signed exact English for reading, writing, listening, mathematics, science, and primary language:~~

 ~~(3) bilingual dictionary for reading, mathematics, science and primary language;~~

 ~~(4) calculator for non-specified mathematics items;~~

 ~~(5) calculator on mathematics items in grades 3 through 5;~~

 ~~(6) English dictionary for reading, mathematics, science, and primary language;~~

 ~~(7) math tools (i.e., ruler, protractor) for mathematics items; and~~

 ~~(8) multiplication table for mathematics in grade 3.~~

 ~~(9) thesaurus for reading, listening, mathematics, science and primary language~~

 ~~(10) translations (glossary) for reading, writing, listening, and mathematics when not provided by the consortium; and~~

 ~~(11) translated word list for reading, writing, listening, mathematics, science, and primary language assessments.~~

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Section 60640, Education Code; 20 U.S.C. Section 1412(a)(16); and 34 C.F.R. Sections 200.1 and 300.160.

**§ 855. Available Testing Window and Selected Testing Period(s).**

 (a) Beginning in the 2015-16 school year, the CAASPP operational achievement tests pursuant to Education Code section 60640(b) shall be administered to each pupil at some time during the following available testing windows:

 (1) Unless otherwise stated in these regulations, the available testing window shall begin on the day in which 66 percent of the school's or track's annual instructional days have been completed, but no earlier than the second Tuesday in January of each year, and testing may continue up to and including the last day of instruction for the regular school's or track's annual calendar, but in no case later than July 15 or the next weekday following the 15th if the 15th is not a weekday.

 (2) The CAA for science shall be administered annually beginning on a date in September as determined by the CDE through the last day of instruction for the regular school's or track's annual calendar, but in no case later than July 15 or the next weekday following the 15th if the 15th is not a weekday.

 (b) An LEA may designate one selected testing period for each school or track within the available testing window set forth in subdivision (a) above, subject to the following conditions:

 (1) If a school has multiple tracks, a selected testing period may be designated for each track. (i.e., a year-round school with three tracks may select three different selected testing periods);

 (2) An LEA shall not exceed 6 selected testing periods within the available testing window;

 (3) A selected testing period shall be no fewer than 25 consecutive instructional days; and

 (4) An LEA may extend a selected testing period up to an additional 10 consecutive instructional days if still within the available testing window set forth in subdivision (a) above.

 (c) If an LEA does not designate a selected testing period for a school or track, then the available testing window, pursuant to subdivisions (a)(1) and (2) above, shall be the selected testing period for that school or track.

 ~~(d) The CDE, with the approval of the SBE President or designee, may require LEAs to more fully utilize the testing window and may also limit the usage of the interim assessments in instances where the CDE determines that it is necessary to do so to ensure that the capacity of the California K-12 High Speed Network (K12HSN) is not exceeded.~~

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60605, 60640, 60641 and 60642.5, Education Code.

**§ 857. LEA CAASPP Coordinator.**

 (a) On or before July 1 of each school year, the superintendent of each LEA shall~~:~~

 ~~(1)~~ designate from among the employees of the LEA an LEA CAASPP coordinator**~~(s)~~**.~~;~~ **Either the superintendent or the designated LEA CAASPP coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA CAASPP coordinator.**

 ~~(2) identify school(s) with pupils unable to access the CBA version of a CAASPP test(s) in accordance with Education Code section 60640(e); and~~

 ~~(3) report to the CAASPP contractor(s) the number of pupils enrolled in the school identified in subdivision (2) that are unable to access the CBA version of a CAASPP test.~~

 (b) The LEA CAASPP coordinator**~~(s),~~** or the LEA superintendent**~~,~~** shall be available August 1 through July 31 of the following school year to complete the LEA testing activities. The LEA shall notify the contractor(s) of the identity and contact information for the LEA CAASPP coordinator**~~(s)~~** and the superintendent. The LEA CAASPP coordinator**~~(s)~~** shall serve as the LEA representative and the liaison between the LEA and the contractor(s) and the LEA and the CDE for all matters related to the CAASPP assessment system.

 (c) The LEA CAASPP coordinator shall be responsible for following the duties set forth in section 859.

 (d) The LEA CAASPP coordinator's responsibilities shall also be those defined in the contractor's(s') or consortium's administrative manuals and documentation, and shall include, but are not limited to, overseeing the LEA's preparation, registration, coordination, training, assessment technology, administration, security, and reporting of the CAASPP achievement tests.

 (e) The LEA CAASPP coordinator shall ensure current and ongoing compliance with the minimum technology specifications as identified by the CAASPP contractor(s) or consortium.

 (f) The LEA CAASPP coordinator shall ensure the training of all CAASPP test site coordinators who will oversee the test administration at each school or test site.

Note: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 47079.5, 52052, 60604, 60605, 60610, 60630, 60640 and 60643, Education Code.

**§ 859. CAASPP Test Security Agreement and Test Security Affidavit.**

 (a) All LEA CAASPP coordinators and CAASPP test site coordinators shall electronically agree to the CAASPP Test Security Agreement, set forth in subdivision (b), before receiving any CAASPP achievement tests administered pursuant to Education Code section 60640 and corresponding test materials.

 (b) The CAASPP Test Security Agreement shall be as follows:

CAASPP TEST SECURITY AGREEMENT

I acknowledge by my electronic agreement on this form that the California Assessment of Student Performance and Progress (CAASPP) achievement tests pursuant to Education Code section 60640 are secure tests and agree to each of the following conditions**, as applicable to the testing environment,** to ensure test security:

 (1) I will take all necessary precautions to safeguard all achievement tests and corresponding test materials, whether paper-based or computer-based assessments, by limiting access to only persons within the LEA who are responsible for, and have professional interest in, the tests' security.

 (2) I will keep a record of the names of all persons who have been trained in the administration of CAASPP achievement tests and all persons with access to achievement tests and corresponding test materials, whether paper-based or computer-based assessments. I have and shall have all other persons having access to the achievement tests and corresponding test materials read and electronically agree to the CAASPP Test Security Affidavit.

 (3) Except during the administration of the tests, I will keep the paper-pencil tests, and corresponding test materials in a securely locked room that can be entered only with a key or keycard and, when possible, in a locked storage cabinet within that room.

 (4) I will securely destroy all print-on-demand papers, scratch paper, and other documents as prescribed within the contractor's(s') or consortium's administrative manuals and documentation.

 (5) With the exception of subdivision (6) below, I will deliver achievement tests and corresponding test materials or allow electronic access thereto, only on actual testing dates and only to those persons who have executed CAASPP Test Security Affidavits.

 (6) For an alternate assessment (CAA), I will keep all tests and testing materials in the manner set forth above in subdivisions (b)(3) and (5) except during actual testing administration or when being used by test examiners to prepare for and to administer the assessment. I will adhere to the contractor's directions for the distribution of the corresponding test materials to test examiners.

 **(7) I will follow all instructions contained in the TAM when administering a CAASPP test remotely.**

By electronically agreeing to this document, I am assuring that I have completely read and will abide by the above conditions.

 (c) All test administrators, test examiners, proctors, translators, scribes, LEA CAASPP coordinators, CAASPP test site coordinators, and any other persons having access to any of the CAASPP achievement tests and corresponding test materials, assessment technology platform, or tests administered pursuant to Education Code section 60640, shall acknowledge the limited purpose of their access to the achievement tests by electronically agreeing to the CAASPP Test Security Affidavit set forth in subdivision (d).

 (d) The CAASPP Test Security Affidavit shall be as follows:

CAASPP TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to one or more of the California Assessment of Student Performance and Progress (CAASPP) achievement tests pursuant to Education Code section 60640, for the purpose of administering the test(s). I understand that these materials are highly secure and may be under copyright restrictions and it is my professional responsibility to protect their security as follows**, as applicable to the testing environment**:

 (1) I will not divulge the contents of the CAASPP achievement tests and corresponding test materials to any other person through verbal, written, or any other means of communication. This includes, but is not limited to, sharing or posting test content via the Internet or by email without the prior express written permission of the CDE.

 (2) I will not copy or take a photo of any part of the achievement test(s) or corresponding test materials. This includes, but is not limited to, photocopying (including enlarging) and recording without the prior expressed written permission of the CDE.

 (3) Except during the actual testing administrations or as otherwise provided for by law, I will keep the achievement test(s) and corresponding test materials secure until the test(s) are actually distributed to pupils when tests and testing materials are checked in and out by the CAASPP test site coordinator. Keeping materials secure means that test materials are required to be kept in a securely locked room that can be entered only with a key or keycard and, when possible, in a locked storage cabinet within that room.

 (4) I will limit access to the achievement test(s) and corresponding test materials by test examinees to the actual testing periods when they are taking the test(s). I understand that only pupils who are testing and LEA staff participating in the test administration who have electronically agreed to a CAASPP Test Security Affidavit may be in the room when and where an achievement test is being administered.

 (A) I will keep all assigned, generated, or created usernames, passwords, and logins secure and not divulge pupil personal information to anyone other than the pupil to whom the information pertains for the purpose of logging on to the test delivery system.

 (B) I will not allow anyone other than the assigned pupils to log into their assigned test. I may assist pupils with using their information to log into their assigned test.

 (C) I will not use a pupil's information to log in as a pupil, with the exception of the California Alternate Assessments, or allow a pupil to log in using another pupil's information.

 (5) To the best of my ability, I will not allow pupils to access electronic devices that allow them to access outside information, communicate with other pupils, or photograph or copy test content. This includes, but is not limited to, cell phones, personal digital assistants (PDAs), tablets, laptops, cameras, and electronic translation devices.

 (6) I will collect and account for all achievement test materials following each testing session and will not permit pupils to remove any test materials by any means from the room(s) where testing takes place. After each testing session, I will count all test booklets and answer documents before allowing any pupil to leave the testing room and/or ensure that all pupils have properly logged off the test delivery system.

 (7) I will not review any achievement test questions, passages, performance tasks, or other test items independently or with pupils or any other person at any time, including before, during, or following testing. I understand that this includes any discussion between LEA staff for training or professional development whether one-on-one or in a staff meeting.

 (8) I will not, for any achievement test, develop scoring keys, review any pupil responses, or prepare answer documents. I understand that this includes coaching pupils or providing any other type of assistance to pupils that may affect their responses. This includes, but is not limited to, both verbal cues (e.g., interpreting, explaining, or paraphrasing the test items or prompts) and nonverbal cues (e.g., voice inflection, pointing, or nodding head) to the correct answer (anything that may indicate correct or incorrect answers), or completing or changing pupils' answers.

 (9) I will return all achievement tests and correspondent test materials to the designated CAASPP test site coordinator each day upon completion of testing. I understand that all test booklets, answer documents, and scratch paper shall be returned to the CAASPP test site coordinator each day immediately after testing has been completed for storage or confidential destruction.

 (10) If I administer and/or observe the administration of an alternate assessment, (CAA) which means that I am a certificated or a licensed LEA employee and a trained examiner, I will keep all the alternate assessment materials in a securely locked room, and, when possible, in a locked storage cabinet within that room except when I am preparing for the administration, administering, or observing the administration of the assessment to pupils.

 (11) I will actively supervise pupils throughout the paper-pencil testing session to ensure that they are working on the correct test section or part, marking their answers in the correct section of their answer documents, following instructions, and are accessing only authorized materials (non-embedded universal tools, designated supports, accommodations, instructional supports for alternate assessments or unlisted resources) needed for the test being administered.

 (12) I will actively supervise pupils throughout the testing session and verify that pupils have selected the appropriate assessment for the testing session and have completed any necessary preceding test sections and/or classroom activities.

 (13) I will administer the achievement test(s) in accordance with the directions for test administration and test administration manuals prepared by the CAASPP testing contractor(s), or any additional guidance provided by the CAASPP test contractor(s). I understand that the unauthorized copying, sharing, or reusing of any test booklet, test question, performance task, or answer document by any means is prohibited. This includes, but is not limited to, photocopying, recording, emailing, messaging (instant, text, or multimedia messaging service, or digital application), using a camera/camera phone, and sharing or posting test content via the Internet without the express prior written permission of the CDE.

 (14) I have been trained to administer the achievement tests. By electronically agreeing to this document, I am assuring that I have completely read this affidavit and will abide by the above conditions.

 **(15) I will follow all instructions contained in the TAM when administering a CAASPP test remotely.**

 (e) To maintain the security of the CAASPP assessment system, all LEA CAASPP coordinators and CAASPP test site coordinators shall immediately, within 24 hours, notify the CDE of any security breaches or testing irregularities occurring either before, during, or after the test administration(s).

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60602.5, 60605 and 60640, Education Code.

**§ 863. CAASPP Pupil Reports and Cumulative Record Labels.**

 (a) The last LEA where the student was enrolled when the selected testing period ended shall notify and make the results for the achievement tests conducted pursuant to Education Code section 60640 available to each pupil's parent or guardian within 20 working days from receipt of the results from the contractor.

 (b) If the last LEA where the student was enrolled when the selected testing period ended receives the reports for the achievement tests conducted pursuant to Education Code section 60640 from the contractor after the last day of instruction for the school year, the LEA shall notify and make the report available to the parent or guardian no later than the first 20 working days of the next school year.

 (c) Schools are responsible for maintaining pupil's scores with the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding or transmitting the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 49062, 49068, 60607, 60640 and 60641, Education Code.

**Chapter 11. Special Programs**

**Subchapter 7.6. English Language Proficiency**

**Assessments for California (ELPAC)**

**Article 1. General**

**§ 11518. Definitions.**

The following definitions apply to the ELPAC:

 (a) “Accommodations” means resources documented in a pupil's individualized education program (IEP) or Section 504 Plan that an eligible pupil regularly uses in the classroom for instruction and/or assessment(s) and that are 1) either utilized in the assessment environment or 2) consist of changes in procedures or materials that increase equitable access to the assessment. Accommodations may not fundamentally alter the comparability of test scores.

 (b) “Administration” means an eligible pupil's attempt to take any part of the ELPAC initial or summative assessment. Administration, with the exception of the Alternate ELPAC, may be conducted through in-person or remote test sessions.

 (c) “Alternate assessment” or “Alternate ELPAC,” when operational, is an alternate means, identified in the IEPs for eligible pupils with the most significant cognitive disabilities, to measure English language proficiency.

 (d) “Annual summative assessment window” begins on February 1 and ends on May 31 of each school year.

 (e) “Assessment management system” means the test operations management system that is a set of web applications that manage the registration of pupils for tests, machine or hand scoring of test items, integration of item scores into an overall test score, and delivery of scores to the data warehouse.

 (f) “Assessment technology platform” means the underlying computer systems on which ELPAC applications run. It is comprised of two components, the assessment management system and the test delivery system.

 (g) “Data warehouse” means a comprehensive storehouse of test registrations and results and a system to generate reports on, or extracts of, that data.

 (h) “Designated interface assistant” is an employee of a local educational agency (LEA), trained as an ELPAC test examiner who is available to assist pupils who need assistance with response entry into the online test delivery system~~; this is a non-embedded designated support~~.

 (i) “Designated supports” are resources that an eligible pupil regularly uses in the classroom for instruction and/or assessment(s) and that are available for use by any pupil for whom a need has been indicated, prior to assessment administration, by an educator or a team of educators (with parent/guardian and pupil input, as appropriate) or specified in the pupil's IEP or Section 504 Plan.

 (j) “Domain” means listening, speaking, reading, or writing, as described in Education Code section 60810.

 (k) “ELPAC initial assessment criterion” means a performance-level cut score on the initial assessment that is at or above the State Board of Education (SBE)-approved definition of English language proficient.

 (l) “ELPAC test examiner” is an employee or contractor of an local educational agency (LEA) or nonpublic school (NPS) who has electronically agreed to an ELPAC Test Security Affidavit, who is proficient in English and has complete command of pronunciation, intonation, and fluency, and who certifies completion of training in the administration of the ELPAC.

 (m) “ELPAC trainer” is an employee or contractor of an LEA or NPS responsible for the annual training of ELPAC test examiners.

 ~~(n) “Embedded” means a resource, whether a universal tool, designated support, or accommodation, that is part of the test delivery system for the computer-based ELPAC.~~

 ~~(o) “Expandable passages” and “expandable items” are embedded accessibility resources that allow the passage or item to take up a larger portion of the computer screen.~~

 (~~p~~n) “Excessive materials” means the difference between the total number of paper tests scored and 90 percent of the paper tests ordered annually by the LEA.

 (~~q~~o) “Grade” means the grade in which a pupil is enrolled at the time of testing, or if enrolled in an ungraded program, the grade to which the LEA assigns the pupil for assessment purposes.

 (~~r~~p) “Initial assessment” means the ELPAC assessment that is locally scored and is used to determine the English language proficiency of eligible pupils, as specified in section 11518(ad~~g~~) or section 11518.20.

 (~~s~~q) “Initial assessment window” begins on July 1 and ends on June 30 of each school year.

 (~~t~~r) “Initial California enrollment” means the first day on which a pupil is in attendance in a California public school.

 (~~u~~s) “Instructional supports” are all supports, including those supports documented in a pupil's IEP or Section 504 Plan, that may be used in daily instruction and for assessment(s), including language and physical supports.

 (~~v~~t) “Local educational agency (LEA)” means an elementary, high school, and unified school district, county office of education, any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter, and any charter school chartered by the SBE.

 (~~w~~u) “LEA ELPAC coordinator” is an employee of an LEA who is designated by the LEA superintendent to oversee the administration of the ELPAC assessments.

 (~~x~~v) “LEA superintendent” for purposes of these regulations includes an administrator of a charter school that is an LEA as defined by subdivision (~~v~~t).

 (~~y~~w) “Local scoring ~~tool~~ ~~(LST)~~ (LS) correspondence administrator” is an employee of an LEA who enters pupils' initial assessment scores into the local scoring system ~~tool~~ ~~from the score sheet in the answer book~~ and has the authority to generate reports of pupils' aggregate and individual scores at the LEA level.

 (~~z~~x) “~~LST~~ LS data entry staff” is an employee of an LEA who enters pupils' initial or summative assessment scores into the local scoring system ~~tool~~ ~~from the score sheet in the answer book~~ and has the authority to print individual pupil score reports at the site level.

 ~~(aa) “Non-embedded” means a resource, whether a universal tool, designated support, or accommodation, that may be provided by the LEA and is not part of the test delivery system for the computer-based ELPAC.~~

 (~~ab~~y) “Nonpublic schools (NPS)” means nonpublic, nonsectarian schools as described in Education Code section 56034.

 (~~ac~~z) “Personally identifiable information” includes a pupil's name and/or any other direct personal identifiers, and indirect identifiers, such as the pupil's address and personal characteristics, and other information that makes a pupil's identity traceable through the use of a single or multiple data source(s), including publicly available information.

 (~~ad~~aa) “Primary or native language” means the language used by a pupil, as identified in accordance with the survey conducted pursuant to section 11518.5(a).

 (~~ae~~ab) “Proctor” is an employee or contractor of an LEA or NPS who electronically agrees to an ELPAC Test Security Affidavit and completes training designed to prepare the employee to assist the test examiner in the administration of the ELPAC.

 (~~af~~ac) “Pupil” refers to a student enrolled in a California public school or NPS.

 (~~ag~~ad) “Pupil eligible for the initial assessment” is: (1) a pupil whose primary or native language is a language other than English as determined by the survey conducted pursuant to section 11518.5(a), or who is identified for administration of the initial ELPAC assessment pursuant to section 11518.20(a); (2) who has not previously been classified as an English learner (EL) by a California public school; and (3) who has no record of results from an administration of the California English Language Development Test, or the ELPAC initial or summative assessment.

 (~~ah~~ae) “Pupil eligible for the summative assessment” is a pupil who is classified as EL in accordance with these regulations.

 (~~ai~~af) “Pupil with a disability” is a pupil who has an IEP in accordance with Education Code section 56345 or a Section 504 Plan in accordance with the provisions of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. section 794).

 (~~aj~~ag) “Pupils with the most significant cognitive disabilities” are pupils with a disability or disabilities, as defined under title 20 United States Code section 1401(3), that significantly impact(s) cognitive functioning and adaptive behavior and who require extensive, direct individualized instruction and substantial supports to achieve measurement on academic standards, provided that:

 (1) The identification of a pupil as having a particular disability as defined in title 20 United States Code section 1401(3) shall not determine whether or not a pupil is a “pupil with the most significant cognitive disabilities;” and

 (2) A “pupil with the most significant cognitive disabilities” must not be identified as such based solely on the pupil's previous low academic achievement or the pupil's previous need for accommodations to participate in general statewide or local assessments.

 (3) For purposes of this definition, “adaptive behavior” means behavior essential for someone to live independently and to function safely across three domains of daily life skills: conceptual (e.g., language, functional academics, self-direction, money management, and time concepts); social (e.g., interpersonal skills, responsibility, self-esteem, wariness/naïveté, follow rules, etiquette, and social problem solving); and practical (e.g., activities of daily living, occupational skills, safety, healthcare, and travel).

 (~~ak~~ah) “Record of results” includes:

 (1) Pupil test results on the initial and/or summative assessment; and

 (2) Parent or guardian notification letter of pupil results.

 (~~al~~ai) “Registration system” means the mechanism that provides administrators with the tools to manage users and pupils participating in the computer-based ELPAC. The system uses a role-specific design to restrict access to certain tasks based on the user's designated role as well as to manage pupils' default test settings, designated supports, and accommodations.

 (aj) “Remote test session” means a test session administered through an online system where either the student(s) or the Test Examiner are not on-site.

 (~~am~~ak) “Resource” refers to a universal tool, designated support, accommodation, or an unlisted resource approved by the CDE ~~pursuant to section 11518.35~~. Resources (including approved unlisted resources) do not change the construct of the assessment.

 (~~an~~al) “Scribe” is an employee or contractor of an LEA or NPS which is responsible to implement a pupil's IEP, who electronically agrees to an ELPAC Test Security Affidavit, and completes training to transcribe a pupil's responses to the format required by the ELPAC assessment(s). A parent, guardian, or sibling of a pupil is not eligible to be that pupil's scribe.

 (~~ao~~am) “Site ELPAC coordinator” is an employee of an LEA designated by the LEA, or a person designated by an NPS, to oversee the administration of ELPAC assessments for each test site.

 ~~(ap) “Streamlining” means a designated support on a computer-based assessment that provides an alternate display of an item, stacked into instructions, stimuli, and response choices.~~

 (~~aq~~an) “Summative assessment” means the annual administration of the ELPAC assessment to identify a pupil's level of English language proficiency and assess a pupil's progression in acquiring skills of listening, speaking, reading, and writing.

 (~~ar~~ao) “Test contractor” is the contractor responsible for the development and administration of the ELPAC pursuant to Education Code section 60810.

 (~~as~~ap) “Test delivery system” consists of the electronic systems used to display test items, accept and store item responses, score items, and restrict access to outside sources. The test delivery system includes technology required to administer computer-based tests.

 (~~at~~aq) “Test administration manual (TAM)” means the instructions provided by the ELPAC contractor for the purpose of training and administering the respective ELPAC tests that must be adhered to in order to ensure the security of valid and reliable tests and the reporting of accurate results.

 (~~au~~ar) “Test materials” include, but are not limited to, administration manuals, administrative materials, test books, practice tests, scratch paper, answer books, answer keys, scoring rubrics, and any of the materials developed and provided by the test contractor.

 (~~av~~as) “Test navigation assistant” is an ELPAC test examiner who is trained to assist pupil(s) with test navigation; this is a non-embedded universal tool.

 (~~aw~~at) “Translator” is a person who has been assigned to translate the test directions into the pupil's primary language defined in section 11518(aa~~d~~), who electronically agrees to an ELPAC Test Security Affidavit, as identified in section 11518.50, and who has received training specifically designed for preparation to assist the test examiner in the administration of the assessments pursuant to Education Code section 60810. A pupil's parent, guardian, or sibling is not eligible to be the pupil's translator. A translator must be:

 (1) an employee of an LEA; or

 (2) an employee of the NPS; or

 (3) a person supervised by an employee of an LEA or an employee of the NPS.

 (~~ax~~au) “Universal tools” means resources available to all pupils who are administered the ELPAC assessments.

 (~~ay~~av) “Unlisted resource” means an instructional support that a pupil regularly uses in daily instruction and/or assessment that has not been previously identified as a universal tool, designated support, or accommodation.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 56034, 56345 and 60810, Education Code; 20 U.S.C. Section 1401; 29 U.S.C. Section 794; and 34 ~~Code of Federal Regulations~~C.F.R. Section 200.6.

**Article 2. Administration for Pupils Other than Pupils with a Disability**

**§ 11518.5. Initial Assessment.**

 (a) At or before the time of a pupil's initial California enrollment, an LEA shall conduct, in writing, a parent or guardian survey to identify whether the primary or native language of their pupil is a language other than English.

 (b) If a parent or guardian survey response indicates English as the pupil's primary or native language, the pupil shall be classified English Only (EO).

 (c) If a parent or guardian survey response indicates a primary or native language other than English, and the LEA determines the pupil is eligible for the initial assessment, the LEA shall promptly notify the parent or guardian in writing, prior to the administration of the assessment that the LEA will administer the ELPAC initial assessment to the pupil in accordance with subdivision (e).

 (d) The initial assessment, pursuant to Education Code section 60810, shall be administered, scored, transmitted, and/or returned by LEAs in accordance with the corresponding TAMs or other instructions provided by the contractor or the California Department of Education (CDE) for administering, scoring, transmitting, and/or returning the tests, unless specifically provided otherwise in this subchapter, including instructions for administering the test with universal tools, designated supports, accommodations, unlisted resources or instructional supports, where appropriate~~,~~ ~~as specified in section 11518.35~~. The procedures shall include, but are not limited to, those designed to ensure the uniform and standardized administration, the scoring of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required pupil and school level information.

 (e) The LEA shall administer the initial assessment, locally produce the official score for the initial assessment in accordance with the directions of the test contractor, and notify the parent or guardian, in writing, of the results of the ELPAC initial assessment within 30 calendar days after the pupil's date of initial California enrollment, or, if administered prior to the pupil's initial date of California enrollment, up to 60 calendar days prior to such enrollment, but not before July 1 of the school year of the pupil's initial enrollment. The notice shall include whether or not the pupil met the ELPAC initial assessment criterion for proficiency and the LEA's contact information for use if the pupil's parent or guardian has questions or concerns regarding the pupil's classification.

 (f) If the pupil does not meet the ELPAC initial assessment criterion for proficiency, the LEA shall classify the pupil as EL.

 (g) If the pupil meets the ELPAC initial assessment criterion for proficiency, the LEA shall classify the pupil as Initial Fluent English Proficient (IFEP).

 (h) A pupil shall be administered the initial assessment only once over the course of the pupil's enrollment in the California public school system, as verified by the LEA through a review of the California Longitudinal Pupil Achievement Data System (CALPADS) data prior to administering the initial assessment to a pupil.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 60810 and 60900, Education Code; and 20 U.S.C. Sections 6311, 6312, 6821, 6823, 6825, 6826 and 7801.

**§ 11518.15. Summative Assessment.**

 (a) An LEA shall administer the ELPAC summative assessment to all eligible pupils during the annual summative assessment window.

 (b) The summative assessment, pursuant to Education Code section 60810, shall be administered, scored, transmitted, and returned by LEAs in accordance with the corresponding TAMs or other instructions provided by the contractor or the CDE for administering, scoring, transmitting, and returning the tests, unless specifically provided otherwise in this subchapter, including instructions for administering the test with universal tools, designated supports, accommodations, unlisted resources or instructional supports, where appropriate~~, as specified in section 11518.35~~. The procedures shall include, but are not limited to, those designed to ensure the uniform and standardized administration, the scoring of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required pupil and school level information.

 (c) The LEA shall notify each pupil's parent or guardian of the pupil's test contractor-scored summative assessment results within 30 calendar days following receipt of the test results from the test contractor. If the test results are received from the test contractor after the last day of instruction for the school year, the LEA shall notify each pupil's parent or guardian of the pupil's results within 15 working days of the start of the next school year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 60810 and 60900, Education Code; and 20 U.S.C. Sections 6311, 6312, 6823, 6825 and 6826.

**§ 11518.16. Interim and Formative Assessment Tools**

(~~d~~a) When available, interim assessments and formative assessment tools shall be made available to LEA(s) for their use. Use of interim assessments and formative assessment tools shall not be considered advance preparation for the summative ELPAC. LEAs that use interim assessments and/or formative assessment tools shall abide by the contractor(s) administration and use requirements. Any scoring of any performance tasks or constructed responses for an interim assessment is the responsibility of the LEA.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and 60810.

**§ 11518.20. Correction of Classification Errors.**

 (a) If a pupil is classified as EO pursuant to section 11518.5(b), but the LEA has an indication that the pupil's primary or native language is not English and the pupil is unable to perform ordinary classroom work in English, the LEA may collect and review evidence as described in subdivisions (d)(3) and (d)(4). Based upon this review, the LEA shall determine whether the pupil shall be administered the initial assessment in order to determine the pupil's classification. At least 10 calendar days prior to administration of the initial assessment, the LEA shall notify the pupil's parent or guardian in writing that the pupil will be assessed. If the LEA administers the initial assessment and if the pupil does not meet the ELPAC initial assessment criterion for proficiency, the LEA shall classify the pupil as EL. The LEA shall notify the pupil's parent or guardian in writing of the results of its review, including the evidence that led to the determination and the results of the initial assessment, as applicable, within 14 calendar days of its determination. The pupil's parent or guardian shall be entitled to request that the LEA review its determination following the procedure described in subdivision (c).

 (b) If an LEA administers an initial or summative assessment to a pupil who is not eligible for the assessment as set forth in section 11518(ad~~g~~) or (ae~~h~~), the pupil's classification shall remain unchanged regardless of the assessment results, and the LEA shall not maintain any such results as a pupil record, including in CALPADS.

 (c) Following the administration of the initial assessment to a pupil, but before the administration of the summative assessment to that pupil, upon request from the pupil's parent or guardian or a certificated employee of the LEA, an LEA shall collect and review evidence, as described in subdivision (d), about the pupil's English language proficiency. Based upon its review of the evidence, the LEA shall determine whether the pupil's classification should remain unchanged or be changed. The LEA shall notify the pupil's parent or guardian in writing of the results of the review within 14 calendar days of its determination. This review shall occur only once over the course of the pupil's enrollment in the California public school system.

 (d) Evidence about the English language proficiency of a pupil for purposes of subdivision (c) shall include:

 (1) The results of the survey administered pursuant to section 11518.5(a);

 (2) The results of the assessment of the pupil's proficiency in English, using an objective assessment instrument, including, but not limited to, the initial assessment;

 (3) Parent or guardian opinion and consultation results; and

 (4) Evidence of the pupil's performance in the LEA's adopted course of study, including courses as described in Education Code sections 51210 (for pupils in grades 1 to 6) and 51220 (for pupils in grades 7 to 12) and English language development, as applicable, obtained from the pupil's classroom teacher and other certificated staff with direct responsibility for teacher or placement decisions.

 (e) During the time evidence is being collected and reviewed, the pupil shall retain his or her original classification.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 51210, 51220, 60810 and 60900, Education Code; and 20 U.S.C. Sections 6311, 6312, 6821, 6823, 6825, 6826 and 7801.

**Article 3. Administration, Pupils with Disabilities**

**§ 11518.25. Pupils with Disabilities.**

 (a) Except as otherwise provided in this Article, all provisions of Article 2 shall apply to pupils with disabilities.

 (b) When administering an initial or summative assessment to a pupil with a disability, the LEA shall provide the designated supports and the accommodations ~~specified in section 11518.35~~ in accordance with the pupil's IEP or Section 504 Plan.

 (c) When a pupil's IEP or Section 504 Plan specifies that the pupil has a disability that precludes assessment such that there are no appropriate accommodations for assessment in one or more of the listening, speaking, reading, and writing domains, the pupil shall be assessed in the remaining domains in which it is possible to assess the pupil.

 (1) A pupil may be assigned an overall score only if assessed in both oral and written language. To be considered assessed in oral language, the student must have been assessed in either listening or speaking. To be considered assessed in written language, the student must have been assessed in either reading or writing.

 (d) Once the Alternate ELPAC referenced in section 11518.30(b), (c), and (d) is operative, if the pupil's IEP team determines that the pupil has a significant cognitive disability and is eligible for the Alternate ELPAC, section 11518.25(c) will not apply.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 37200, 60810 and 60900, Education Code; 20 U.S.C. Sections 1412, 6311, 6312, 6821, 6823, 6825 and 6826; and 34 ~~Code of Federal Regulations~~C.F.R. Section 200.6.

**Article 4. ~~ELPAC~~Unlisted Resources**

**~~§ 11518.35. Use of Universal Tools, Designated Supports, and Accommodations~~.**

 ~~(a) An LEA may provide all pupils with one or more of the following embedded universal tools, delivered through the online ELPAC test delivery system, for any of the domains of listening, speaking, reading, and writing:~~

 ~~(1) Breaks between the contractor-identified test sections, including administering separate test sections on separate days;~~

 ~~(2) Digital notepad;~~

 ~~(3) Expandable items;~~

 ~~(4) Expandable passages;~~

 ~~(5) Highlighter;~~

 ~~(6) Keyboard navigation;~~

 ~~(7) Liner reader;~~

 ~~(8) Mark for review;~~

 ~~(9) Strikethrough;~~

 ~~(10) Writing tools; and~~

 ~~(11) Zoom.~~

 ~~(b) An LEA may provide all pupils with one or more of the following non-embedded universal tools on the ELPAC for any of the domains of listening, speaking, reading, and writing:~~

 ~~(1) Breaks, including testing over more than one day, between the test contractor-identified test sections;~~

 ~~(2) Scratch paper;~~

 ~~(3) Oral clarification of test directions by the test examiner in English;~~

 ~~(4) Pupil use of highlighter(s) in the test book for grades two through twelve;~~

 ~~(5) Pupil use of marking in the test book for grades three through twelve (non-highlighter).~~

 ~~(6) Line reader;~~

 ~~(7) Mark for review;~~

 ~~(8) Strikethrough; and~~

 ~~(9) Test navigation assistant.~~

 ~~(c) An LEA shall provide eligible pupils one or more of the following embedded designated supports, delivered through the online ELPAC test delivery system, for the domains of listening, speaking, reading, and writing, only as described below, if specified in the pupil's IEP or Section 504 Plan, or for which need is indicated as described in section 11518(i):~~

 ~~(1) Color contrast;~~

 ~~(2) Masking;~~

 ~~(3) Mouse pointer;~~

 ~~(4) Noise buffers;~~

 ~~(5) Pause or replay the audio during the administration of test stimuli and questions for the listening domain;~~

 ~~(6) Pause or replay the audio during the administration of test stimuli and questions for the speaking domain;~~

 ~~(7) Print on demand;~~

 ~~(8) Streamline; and~~

 ~~(9) Turn off any universal tool(s).~~

 ~~(d) An LEA shall provide eligible pupils one or more of the following non-embedded designated supports on the ELPAC for the domains of listening, speaking, reading, and writing, only as described below, if specified in the pupil's IEP or Section 504 Plan, or for which need is indicated as described in section 11518(i):~~

 ~~(1) Amplification;~~

 ~~(2) Color contrast;~~

 ~~(3) Color overlay;~~

 ~~(4) Designated interface assistant;~~

 ~~(5) Magnification;~~

 ~~(6) Masking;~~

 ~~(7) Medical supports;~~

 ~~(8) Noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);~~

 ~~(9) Pause or replay the audio during the administration of test stimuli and questions for the listening domain;~~

 ~~(10) Pause or replay the audio during the administration of test stimuli and questions for the speaking domain;~~

 ~~(11) Read aloud items for writing domain;~~

 ~~(12) Separate setting (e.g., most beneficial time, special lighting or acoustics, adaptive furniture);~~

 ~~(13) Simplified test directions;~~

 ~~(14) Translated test directions; and~~

 ~~(15) Manually Coded English or American Sign Language (ASL) to present test directions for administration (does not apply to test questions).~~

 ~~(e) An LEA shall provide eligible pupils one or more of the following embedded accommodations, delivered through the online ELPAC test delivery system, for the domains of listening, speaking, reading, and writing, only as described below, if specified in the pupil's IEP or Section 504 Plan:~~

 ~~(1) American Sign Language (ASL) or Manually Coded English for test questions that assess the domains of listening, speaking, and writing, presentation of, and responses to, test questions. Pupil responses must be transcribed into the test delivery system by the ELPAC test examiner or scribe;~~

 ~~(2) Audio transcript (includes braille transcript);~~

 ~~(3) Braille (embossed and refreshable);~~

 ~~(4) Closed captioning; and~~

 ~~(5) Text to speech for test directions (in English) in all domains as well as for the listening, speaking, and writing stimuli and test items.~~

 ~~(f) An LEA shall provide eligible pupils with a disability with the following non-embedded accommodations on the ELPAC for the domains of listening, speaking, reading, and writing, only as described below, if specified in the pupil's IEP or Section 504 Plan:~~

 ~~(1) Alternate response options (paper-based and computer-based administration);~~

 ~~(2) American Sign Language (ASL) or Manually Coded English for test questions that assess the domains of listening, speaking, and writing, as well as for presentation of and responses to, test questions via contractor provided videos. Pupil responses must be transcribed into the answer book by the ELPAC test examiner or scribe;~~

 ~~(3) Use of audio transcript(s)/written script(s) by the test examiner, for the listening domain using streamed audio, for pupils for whom streamed audio is not accessible;~~

 ~~(4) Braille (embossed for paper-pencil test);~~

 ~~(5) Braille test materials provided by the test contractor;~~

 ~~(6) Large print versions reformatted from regular print version;~~

 ~~(7) For test questions that assess the domains of listening, reading, or writing, transfer of pupil responses marked in the test book to the answer book by a scribe who has electronically agreed to an ELPAC Test Security Affidavit;~~

 ~~(8) Responses dictated to a scribe for selected response items, including multiple-choice items;~~

 ~~(9) Speech-to-text for test questions that assess the domain of writing;~~

 ~~(10) For test questions that assess the domain of writing, use of word processing software with the spell and grammar check tools turned off;~~

 ~~(11) Supervised breaks within a section of the test;~~

 ~~(12) For test questions that assess the domains of listening, speaking, and writing, use of an assistive device that does not interfere with the independent work of the pupil. Pupil responses must be transcribed into the answer book by the ELPAC test examiner or scribe; and~~

 ~~(13) Testing at home or in the hospital by a test examiner.~~

~~NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 60810, Education Code; and 20 U.S.C. Sections 1412, 6311, 6312, 6821, 6823, 6825 and 6826.~~

**§ 11518.37. Unlisted Resources.**

 (a) An LEA may submit, on behalf of a pupil who has an IEP or Section 504 Plan, a request through the assessment management system to the CDE, prior to the administration of the ELPAC or the Alternate ELPAC, to allow the use and approval of an unlisted resource. The LEA ELPAC coordinator or the site ELPAC coordinator shall make the request on behalf of the LEA ten business days prior to the pupil's first day of ELPAC testing. The CDE shall respond to the request within four business days from the date of the electronic transmission. Requests ~~Transmissions~~ must include:

 (1) LEA name and county/district/school code;

 (2) School/test site and school code;

 (3) LEA ELPAC coordinator name, phone number, and email address;

 (4) Site ELPAC coordinator name, phone number, and email address;

 (5) Statewide Student Identifier(s) for the pupil(s) for which the unlisted resource(s) is/are being requested;

 (6) ELPAC test and grade;

 (7) If the pupil has an IEP, include the primary disability code and/or designated Section 504 Plan; and

 (8) Description of the unlisted resource being requested.

 (b) The LEA must annually request approval by the CDE for the use of an unlisted resource by a pupil.

 (c) The use of an unlisted resource by a pupil will not be allowed if the CDE determines its use threatens the security of the test.

 (d) In addition to determining whether the unlisted resource may be used, the CDE will determine whether the unlisted resource changes the construct being measured by the ELPAC.

 (1) If the CDE determines the unlisted resource changes the construct being measured, the unlisted resource will not be approved by the CDE but may still be used by the pupil; although, it will affect the pupil's overall score and that pupil will receive an individual score report.

 (2) If CDE determines the unlisted resource does not change the construct being measured, the unlisted resource will be approved. A pupil using an approved unlisted resource will receive an individual score report.

 (e) Unlisted resources which CDE has determined change the construct being measured for each ELPAC test will be annually set forth in the corresponding TAM. ~~The following non-embedded unlisted resources have already been determined to change the construct being measured on the ELPAC and therefore are not approved for use during ELPAC testing:~~

 ~~(1) bilingual dictionary;~~

 ~~(2) English dictionary;~~

 ~~(3) signed exact English;~~

 ~~(4) thesaurus;~~

 ~~(5) translations of test items and questions; and~~

 ~~(6) translated word lists.~~

NOTE: Authority cited: Sections 313, 33031 and 60810, Education Code. Reference: Section 60640, Education Code; 20 U.S.C. Section 1412; and 34 ~~Code of Federal~~ ~~Regulations~~C.F.R. Sections 200.1, 200.6 and 300.160.

**Article 5. LEA Responsibilities**

**§ 11518.40. LEA ELPAC Coordinator.**

 (a) No later than April 1 of each year, each LEA superintendent shall designate **from among the employees of the LEA** an LEA ELPAC coordinator for the following school year. An LEA superintendent shall notify the test contractor of the identity and contact information for the LEA ELPAC coordinator. **Either the superintendent or the designated** **LEA ELPAC coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA ELPAC coordinator.** The LEA ELPAC coordinator shall be available throughout the school year and shall serve as the LEA representative and the liaison between the LEA and the CDE and the LEA and test contractor for all matters related to the ELPAC and the Alternate ELPAC. Should the LEA ELPAC coordinator be unavailable for any matter related to the ELPAC, the LEA superintendent or his or her designee shall serve in the place of the LEA ELPAC coordinator.

 (b) The LEA ELPAC coordinator shall annually complete all duties in accordance with instructions from the test contractor. The LEA ELPAC coordinator's responsibilities include, but are not limited to:

 (1) Determining LEA and individual school test material needs in conjunction with the test contractor.

 (2) Ordering materials only for those test examiners who certify they are trained to administer the ELPAC.

 (3) Ensuring delivery, acquisition, and distribution of test materials to individual schools and sites.

 (4) Maintaining security over the test materials and personally identifiable information using the procedure set forth in section 11518.50. The LEA ELPAC coordinator shall electronically agree to the ELPAC Test Security Agreement and the ELPAC Test Security Affidavit, as set forth in section 11518.50, and submit a copy of both to the test contractor prior to receipt of test materials.

 (5) Conducting an inventory of test materials immediately upon receipt from the test contractor.

 (6) Following completion of the inventory, ensuring that the test materials are retained in a secure, locked location, in the secure boxes in which they were received from the test contractor, until the time they are delivered to the test sites.

 (7) Training site ELPAC coordinators to oversee test administration and security at each test site.

 (8) Ensuring that all ELPAC test examiners and all other personnel involved in the direct administration and scoring of the initial and summative assessments are trained, in accordance with instructions from the test contractor.

 (9) Assisting the test contractor with the resolution of any discrepancies in pupil test information and/or test materials including, but not limited to, pre-identification files and all errors or discrepancies in pupil-level data files, required to comply with section 11518.45.

 (10) Overseeing the collection of all pupil demographic data in accordance with section 11518.75.

 (11) Responding to correspondence and inquiries from the test contractor and the CDE in a timely manner.

 (12) Overseeing the administration of the ELPAC and Alternate ELPAC to eligible pupils.

 (13) Immediately notifying the test contractor of any security breaches or testing irregularities that occur in the LEA before, during, or after the administration of the ELPAC in accordance with instructions from the test contractor.

 (14) Ensuring all test materials are received from school test sites in sufficient time to satisfy the requirements of subdivision (b)(16).

 (15) Ensuring all test materials received from school test sites have been placed in a secure location upon receipt of those test materials.

 (16) Ensuring all test materials to be scored by the test contractor are inventoried, packaged, and labeled in accordance with instructions from the test contractor. Test materials shall be returned to the test contractor at the time and in the manner specified by the test contractor.

 (17) Overseeing the collection and return, or collection and secure destruction, of all test materials that do not require scoring by the test contractor, in accordance with the directions of and time periods specified by the test contractor. Test materials that were administered to pupils who are not eligible for the assessment as set forth in section 11518(ad~~g~~) or (ae~~h~~) shall also be securely destroyed or returned, in accordance with the directions specified by the test contractor.

 (18) Upon receiving summary reports and files from the test contractor, reviewing the files and reports for completeness and accuracy and notifying the test contractor and the CDE of any errors, discrepancies, or incomplete information as directed by the test contractor. The LEA coordinator shall certify the accuracy of the apportionment information report of the initial and summative assessments administered during the prior fiscal year if designated to do so by the LEA superintendent.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 60810, Education Code; 20 U.S.C. Sections 1412, 6311, 6312, 6821, 6823, 6825 and 6826; and 34 ~~Code of Federal Regulations~~C.F.R. Section 200.6.

**~~Article 5. LEA Responsibilities~~**

**§ 11518.50. ELPAC Test Security Agreement and ELPAC Test Security Affidavit.**

 (a) Access to the test materials is limited to eligible pupils being administered the ELPAC and individuals directly responsible for administration of an ELPAC test who have electronically agreed to the ELPAC Test Security Agreement and ELPAC Test Security Affidavit, as applicable.

 (b) Annually, and before receiving any ELPAC test materials, all LEA ELPAC coordinators and site ELPAC coordinators shall electronically agree to the ELPAC Test Security Agreement set forth in subdivision (c).

 (c) The ELPAC Test Security Agreement shall be as follows:

ELPAC TEST SECURITY AGREEMENT

I acknowledge through my electronic agreement on this form, that the English Language Proficiency Assessments for California (ELPAC) and Alternate ELPAC, initial and summative assessments pursuant to Education Code section 60810 are secure tests and agree to each of the following conditions**, as applicable to the testing environment,** to ensure test security:

 (1) I will take all necessary precautions to safeguard the security of the test and test materials, including limiting access to only those individuals in the local educational agency (LEA) who have responsibilities for the administration of the ELPAC.

 (2) I shall have all persons who have access to the test(s) and test materials for the purpose of administration read and electronically agree to the ELPAC Test Security Affidavit.

 (3) Except during the administration of the tests, I will keep the test materials in a securely locked room which can be accessed only with a key or key card and, when possible, in a locked storage cabinet within that room.

 (4) As a site ELPAC coordinator, I will collect and return all test materials to the LEA ELPAC coordinator.

 (5) As an LEA ELPAC coordinator, I will securely destroy or return all test materials, in accordance with the directions of and time periods specified by the test contractor.

 (6) I will deliver test materials only to those persons who have executed ELPAC Test Security Affidavits.

 **(7) I will follow all instructions contained in the TAM when administering the ELPAC test remotely.**

Through my electronic agreement on this document, I am assuring that I have completely read and will abide by the above conditions.

 (d) Test examiners, proctors, scribes, LEA ELPAC coordinators, site ELPAC coordinators, ELPAC trainers, ~~LST~~LS correspondence administrators, ~~LST~~LS data entry staff, test navigation assistants, designated interface assistants, and any person having access to the assessment technology platform for the purpose of administering the test(s) shall electronically agree to the ELPAC Test Security Affidavit set forth in subdivision (e) before receiving any test materials.

 (e) The ELPAC Test Security Affidavit shall be as follows:

ELPAC TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to one or more of the English Language Proficiency Assessments for California (ELPAC) and Alternate ELPAC, initial and summative assessments, pursuant to Education Code section 60810, for the purpose of administering the test(s) to eligible pupils. I understand that these materials are highly secure and may be under copyright restrictions, and it is my responsibility to protect their security as follows**, as applicable to the testing environment**:

 (1) I will not divulge the contents of the test materials to any other person through verbal, written, or any other means of communication. This includes, but is not limited to, sharing or posting test content via the Internet or by email without the express prior written permission of the California Department of Education (CDE) and test contractor.

 (2) I will not copy or take a photo of any part of the test materials. This includes, but is not limited to, photocopying (including enlarging) and recording without the express prior written permission from the CDE and test contractor.

 (3) I will keep all test materials secure prior to and following the distribution of the test(s).

 (4) I will permit eligible pupils access to test materials only during testing periods. I will permit only eligible pupils who are testing, and individuals participating in the test administration who have electronically agreed to an ELPAC Test Security Affidavit, to be in the room when and where the ELPAC assessments are being administered.

 (5) To the best of my ability, I will not allow any pupils to use any electronic devices that allow them to access outside information, communicate with any other pupils, or photograph or copy test content. This includes, but is not limited to, cell phones, personal digital assistants, tablets, laptops, cameras, and electronic translation devices.

 (6) When acting as a test examiner, I will: (a) collect and account for all test materials following each testing session; (b) not permit any pupils to remove any test materials by any means from the room(s) where testing takes place; and (c) count all test books and answer books before allowing any pupil to leave the testing room.

 (7) I will not review any test questions, passages, or other test items with any pupils or any other person at any time, including before, during, or following testing. I understand that this includes any discussion between local educational agency (LEA) staff for training or professional development, whether it be in a one-on-one or in a staff meeting setting.

 (8) I will not, for any test, develop scoring keys, review any pupil responses, or prepare answer books. I understand that this includes coaching pupils or providing any other type of assistance to any pupils that may affect their responses. This includes, but is not limited to, both verbal cues and nonverbal cues that may indicate correct or incorrect answers, or completing or changing any pupils' answers.

 (9) I will return all test materials to the designated site ELPAC coordinator in accordance with his or her instructions.

 (10) When acting as a test examiner or proctor, I will actively supervise all pupils throughout the testing session to ensure that they are working on the correct test section or part, marking their answers in the correct section of their answer books, following instructions, and are accessing only authorized materials (embedded and non-embedded universal tools, designated supports, or accommodations) for the test being administered.

 (11) I will administer the ELPAC in accordance with the directions for test administration and test administration manuals prepared by the test contractor, or any additional guidance provided by the test contractor. I understand that the unauthorized copying, sharing, or reusing of any test book (test books may be appropriately reused in accordance with the test contractor's terms and conditions), test question, or answer book by any means is prohibited. This includes, but is not limited to, photocopying, recording, emailing, messaging (instant, text, or multimedia messaging service, or digital application), using a camera/camera phone, and/or sharing or posting test content via the Internet without the express prior written permission from the CDE and test contractor.

 (12) I have been trained to carry out my responsibilities in the administration of the ELPAC.

 **(13) I will follow all instructions contained in the TAM when administering the ELPAC test remotely.**

Through my electronic agreement on this document, I assure that I have completely read this affidavit and will abide by the above requirements and have received all training necessary for the administration of the ELPAC and the Alternate ELPAC.

 (f) To maintain the security of the ELPAC, all LEA ELPAC coordinators and site ELPAC coordinators shall immediately, within 24 hours, notify the test contractor of any security breaches or testing irregularities occurring before, during, and/or after any ELPAC test administration(s).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 60810, Education Code; 20 U.S.C. Sections 1412, 6311, 6312, 6821 and 6823; and 34 ~~Code of Federal Regulations~~C.F.R. Section 200.6.

**§ 11518.65. Test Examiner Training.**

Each LEA shall ensure all its test examiners, ELPAC trainers, and all other personnel involved in the direct administration and scoring of the initial and summative assessments participate in annual training, including training on ELPAC resources as described in the TAM ~~section 11518.35~~, provided by the test contractor for the administration of the ELPAC.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 60810, Education Code; and 20 U.S.C. Sections 1412, 6311, 6312, 6821 and 6823.

06-20-2022 [California Department of Education]

**FINAL STATEMENT OF REASONS**

California Assessment of Student Performance and Progress (CAASPP) and

English Language Proficiency Assessments for California (ELPAC)

**UPDATE OF INITIAL STATEMENT OF REASONS**

The original proposed text was made available for public comment for at least 45 days from February 11, 2022 through March 29, 2022, inclusive. No comments were received during the 45-day comment period.

A public hearing was held at 9:00 a.m. on March 29, 2022, via videoconferencing*.* Fourteen individuals attended the virtual public hearing and no oral comments were presented.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF FEBRUARY 11, 2022 THROUGH MARCH 29, 2022, INCLUSIVE**

No written comments were received during the initial notice period of February 11, 2022 through March 29, 2022, inclusive.

**AFTER THE 45-DAY COMMENT PERIOD, THE FOLLOWING CHANGES WERE MADE TO THE PROPOSED TEXT OF THE REGULATIONS AND SENT OUT FOR A 15-DAY COMMENT PERIOD:**

* **Section 857(a)** is amended to add “Either the superintendent or the designated LEA CAASPP coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA CAASPP coordinator.” This is to make clear that the superintendent may designate a local educational agency (LEA) coordinator has the ability to authorize other LEA employees to perform additional duties, specifically those of an LEA CAASPP coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the coordinator.
* **Section 857(b)** is amended to change “coordinator(s)” when used in this subsection to be singular to make clear that there is only one LEA coordinator designated, although other employees may be tasked to perform the LEA coordinator’s duties on their behalf.
* **Section 859(b)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the CAASPP Test Security Agreement may not be applicable to a remote testing environment.
* **Proposed Section 859(b)(7)** is added to included “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the Test Administration Manual (TAM) when administering tests remotely.
* **Section 859(d)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment.
* **Proposed Section 859(d)(15)** is added to include “I will follow the instructions contained in the TAM when administering a CAASPP test remotely.” This addition is to acknowledge that some guidelines within the Test Security Affidavit may not be applicable to a remote testing environment and that the test administrator should follow the guidelines set forth in the TAM when administering tests remotely.
* **Section 11518.40(a)** is amended to add “from among the employees of the LEA.” This change is necessary in order to make the language consistent with the language used in the CAASPP regulations regarding the superintendent’s designation of an LEA ELPAC coordinator.
* **Section 11518.40(a)** is amended to add “Either the superintendent or the designated LEA ELPAC coordinator may authorize one or more other employees of the LEA to perform the duties of the LEA ELPAC coordinator.” This is to make clear that the superintendent may designate an LEA coordinator who has the ability to authorize other LEA employees to carry out the duties of an LEA ELPAC coordinator. This change is necessary to provide flexibility in support of an efficient and timely performance of the duties of the of coordinator.
* **Section 11518.50(c)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment.
* **Proposed Section 11518.50(c)(7)** is added to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Agreement may not be applicable to a remote testing environment and that the test coordinator should follow the guidelines set forth in the ELPAC TAM when administering tests remotely.
* **Section 11518.50(e)** is amended to add “as applicable to the testing environment.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment.
* **Proposed Section 11518.50(e)(13)** is added to include “I will follow the instructions contained in the TAM when administering the ELPAC test remotely.” This addition is to acknowledge that some guidelines within the ELPAC Test Security Affidavit may not be applicable to a remote testing environment and that the test examiner should follow the guidelines set forth in the ELPAC TAM when administering tests remotely.

**ALTERNATIVES DETERMINATION**

The State Board of Education has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

No other alternatives were presented to the State Board of Education.

The nonadoption of these changes is not a suitable alternative because nonadoption would undermine the clarity and scope of the regulations which would impact the administration of assessments, including in remote testing environments, in the coming administrations.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

06-20-2022 [California Department of Education]