California Department of Education

Executive Office

SBE-002 (REV. 11/2017)

# **MEMORANDUM**

**DATE:** August 19, 2022

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

**FROM:** TONY THURMOND, State Superintendent of Public Instruction

**SUBJECT:** Update on the Dashboard Alternative School Status Request for Waiver Pursuant to Section 8401 of the Elementary and Secondary Education Act of 1965

## Summary of Key Issues

In May 2018, the State Board of Education (SBE) approved the methodology for calculating the Dashboard Alternative School Status (DASS) graduation rate. The SBE approved using a grade 12 graduation rate for all DASS schools instead of the four-year cohort rate. During the September 2019 meeting, the SBE approved modified Academic Indicator Status cut scores for two levels only: “Very Low” and “Low” for DASS schools.

In October 2020, the CDE received a letter from the ED that raised concerns about California’s use of DASS “modified measures” on the Academic Indicator and the Graduation Rate Indicator. In response to ED’s October 2020 letter, in January 2021, the SBE adopted amendments to the Every Student Succeeds Act (ESSA) State Plan, which included a description of the proposed modifications made to the Academic Indicator cut scores for DASS schools and the one-year graduation rate that was developed for DASS schools.

In January 2022, the ED denied the proposed amendments to the consolidated ESSA State Plan. As a result, in March 2022, the SBE approved the submission of a waiver to the ED to request the continued use of a alternative accountability system for DASS schools to allow California to maintain DASS modified methods for calculating the Academic and Graduation Rate Indicators. The waiver request was officially submitted to ED on April 15, 2022. On July 27, 2022, ED declined California’s waiver request.

## Next Steps

At the September 2022 State Board of Education Meeting, the CDE will bring the DASS issue before the SBE to begin discussions on how to meet the requirement to include all schools in its system of annual meaningful differentiation using the same Academic Achievement and Graduation Rate indicators for DASS and non-DASS schools based on data from school year 2021-2022 and for school identifications in fall 2022.

## Prior State Board of Education Action and Discussion

In July 2017, the SBE approved criteria for schools to apply for DASS (<https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item01.doc>).

In March 2018, the SBE reviewed proposed revisions for the 2018 Dashboard, including the incorporation of modified methods for DASS schools (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/mar18item01.docx>).

In May 2018, the SBE approved the methodology for calculating the one-year graduation rate and directed the CDE to conduct analyses of enrollment data when it became available (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/may18item02.docx>).

In February 2022, the SBE received an update to California’s Every Student Succeeds Act State Plan which included a January 12, 2022 letter from the ED denying the amendments approved by the SBE in January 2021 regarding the DASS modified methods. (<https://www.cde.ca.gov/be/pn/im/documents/feb22memogad01.docx>)

In March 2022, the SBE approved the submission of a waiver to the ED to allow the application of the DASS modified methods to continue for the Academic and Graduation Rate Indicators (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/mar22item04.docx>)

## Attachment(s)

* **Attachment 1:** ED Letter Declining California’s DASS Waiver Request (3 pages)



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

July 2*7*, 2022

The Honorable Tony Thurmond
Superintendent
California Department of Education 1430 N Street
Sacramento, CA 95814

Dr. Linda Darling-Hammond
President
California State Board of Education 1430 N Street, Room 5111
Sacramento, CA 95814

Dear Superintendent Thurmond and Dr. Darling-Hammond:

I am writing in response to California’s request to the U.S. Department of Education (Department) on April 15, 2022, for a waiver of three accountability requirements in Title I, Part A (Title I) of the Elementary and Secondary Education Act of 1965 (ESEA) in order to implement an alternative accountability system for the State’s Dashboard Alternative Status Schools (DASS). Specifically, California requested that the Department waive the requirements for the Academic Achievement indicator in ESEA section 1111(c)(4)(B)(i), the Graduation Rate indicator in ESEA section 1111(c)(4)(B)(iii), and annual meaningful differentiation in ESEA section 1111(c)(4)(C).

California noted that it has been developing its DASS program since 2017. There are 1,044 DASS schools in the State (about 10 percent of California’s total number of public schools), which are, primarily, schools that focus on credit recovery for high school students, special education schools, and other schools with a high percentage of “high-risk” students including foster youth, youth experiencing homelessness, students who are highly mobile or have a significant gap in enrollment, and expelled students.

California proposed to use an alternative system of annual meaningful differentiation for DASS schools that would deviate in two ways from its system of annual meaningful differentiation for all other schools. First, California has proposed that the Academic Achievement indicator would use different cut points (i.e., the school’s average scale score) on the reading/language arts and mathematics assessment for “Low” and “Very Low” levels for DASS schools compared to non-DASS schools. For example, a DASS elementary school with an average scale score on the reading/language arts assessment that is 125 points lower than the score needed to be proficient is categorized as “Low” whereas a non-DASS elementary school with the same average scale score would be categorized as “Very Low.” This results in lower expectations for student performance on statewide assessments for DASS schools than non- DASS schools. Second, rather than using its approved Graduation Rate indicator based on the four-year and five-year adjusted cohort graduation rates consistent with ESEA section 1111(c)(4)(B)(iii),

California proposes to use a one-year graduation rate for DASS schools based on the number of students in grade 12 and include students as graduates who do not receive a regular high school diploma (e.g.,

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Page 2 – The Honorable Tony Thurmond and Dr. Linda Darling-Hammond

special education certificate of completion, California high school equivalency certificate, adult education diploma).

After carefully considering California’s request, I am declining to approve the State’s request because it does not meet the statutory requirements for a waiver outlined in section 8401(b)(1) of the ESEA. Namely, California does not sufficiently demonstrate how the request will advance student academic achievement (section 8401(b)(1)(C)). The State has also not demonstrated how schools will continue to provide assistance to the same populations served by the Title I, Part A program, particularly in schools that would otherwise be identified for support and improvement and be eligible to receive school improvement funds under ESEA section 1003 (section 8401(b)(1)(F)).

California’s proposal would result in lower expectations on academic achievement for those schools serving greater proportions of high-risk students, as defined by California, than other schools. Setting different, lower expectations for some students and schools is against the purpose of Title I, as described in ESEA section 1001, to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps. Under California’s proposal, a DASS school with the same student outcomes around academic achievement and graduation rates as a non-DASS school would not be identified for support and improvement whereas the non-DASS school with those student outcomes would be identified. An identified school develops and implements a school support and improvement plan and is eligible for additional school improvement funding under ESEA section 1003. In California’s proposal, the DASS school would not be required to develop and implement such a plan, nor would it be eligible for school improvement funds.

While the Department is declining to grant this waiver, there are existing provisions within the ESEA that California may consider, which we provided in our letter to you in January 2022. In addition to the three provisions identified in the Department’s letter in January 2022, there are other flexibilities that may be useful for California’s consideration:

* *Definition for Graduation Rate indicator*. While California may not use a one-year graduation rate for its Graduation Rate indicator required under ESEA section 1111(c)(4)(B)(iii), the State may propose to incorporate multiple extended-year adjusted cohort graduation rates to give credit to schools in which students are receiving a regular high school diploma in six or more years.
* *Methodology for identifying schools for CSI based on low graduation rate*. Similar to the flexibility described above for the Graduation Rate indicator, a State may use an extended-year adjusted cohort graduation rate to identify any public high schools in the State that are failing to graduate one third or more of their students for comprehensive support and improvement.
* *Additional information on State and local report cards.* California’s letter requesting a waiver notes on page 8 that “when discussing options with parents, local educational agencies have often referred to the DASS graduation rates as a measure of what DASS schools can accomplish with their students beyond a four-year graduation timeframe.” As noted in question B-2 of the Department’s guidance on State and local report cards, an SEA may include on its State or local report cards any other information it believes will best inform parents, students, and other members of the public about the progress of each elementary and

1<https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf>

Page 3 – The Honorable Tony Thurmond and Dr. Linda Darling-Hammond

secondary school.1 Additionally, as noted in question C-2, in addition to the data elements required by the ESEA, an LEA may include any other information it determines to be appropriate, whether or not that information is included on the State report card. Thus, California may include the DASS graduation rate measure, as well as any other information, on State and/or local report cards to provide this information to parents.

California may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements of section 8401(b)(1) and resubmit the revised waiver request. If California decides to resubmit, it must do so no later than 60 days from the date of this letter.

Finally, because California’s request to waive these requirements is related to the existing conditions of high-risk status on California’s Title I grant awards, I am amending the conditions. In order to resolve the conditions and remove the high-risk status, CDE must:

* By September 1, 2022, provide a plan (including a State plan amendment if changes to its approved consolidated State plan are needed) to meet the requirement to include all schools in its system of annual meaningful differentiation using the same Academic Achievement and Graduation Rate indicators for DASS and non-DASS schools based on data from school year 2021-2022 and for school identifications in fall 2022.
* By January 15, 2023, provide evidence to the Department that CDE identified schools in fall 2022 consistent with all statutory requirements (i.e., based on a system of annual meaningful differentiation that (1) uses the same Academic Achievement and Graduation Rate indicators for DASS and non-DASS schools and (2) uses a calculation of the Academic Achievement indicator that takes into account participation rate in accordance with the requirements in section 1111(c)(4)(E) of the ESEA).

If California does not demonstrate compliance with these requirements, the Department may take additional enforcement action.

Please reach out to my staff at OESE.titlei-a@ed.gov if you have any questions.

Sincerely,



James F. Lane, Ed. D.

Senior Advisor, Office of the Secretary Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary Office of Elementary and Secondary Education

cc: Joseph Saenz, CDE Federal Policy Liaison