

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-nov23item03

# California State Board of Education November 2023 Agenda Item #11

## Subject

The Federal Every Student Succeeds Act: Authorization to Pursue a Waiver for the 2023–24 School Year of the 1.0 Percent Cap on the Percentage of Eligible Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards for English Language Arts/Literacy, Mathematics, and Science.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

Pursuant to the *Code of Federal Regulations*, Title 34 (34 *CFR*), Section 200.6(c)(4), a state may request a waiver of the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an alternate assessment that is aligned with alternate academic achievement standards for English language arts/literacy (ELA), mathematics, and science, hereafter referred to as alternate assessments. For California, the alternate assessments are the California Alternate Assessments (CAAs) for ELA, mathematics, and science. As part of the process for a state to receive a waiver of the 1.0 percent cap, 34 *CFR*, Section 200.6(c)(4) requires that, in the current or previous school year, a state has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup who are enrolled in grades for which the assessment is required. Based on data analysis using 2022–23 test participation data, the California Department of Education (CDE) anticipates that California will exceed the 1.0 percent cap for the 2023–24 school year. California has met the 95 percent participation rate for the all students group in ELA, mathematics, and science. However, California did not meet the 95 percent participation requirement for the students with disabilities subgroup in ELA, mathematics, and science.

Per 34 *CFR*, Section 200.6(c)(4)(i), the waiver request must be submitted at least 90 days before the testing window for the relevant subject opens. The state testing window for ELA and mathematics alternate assessments opens on January 9, 2024. Ninety days prior to January 9, 2024, is October 11, 2023. As a result, this waiver request will not meet the 90-day requirement for ELA and mathematics. The CAA for Science testing window opened on September 19, 2023, per California *Education Code* (*EC*) Section 855(a)(2). Ninety days prior to September 19, 2023, is June 21, 2023; therefore, this waiver request also does not meet the 90-day requirement.

## Recommendation

The CDE recommends that the California State Board of Education (SBE) authorize the CDE to submit to the U.S. Department of Education (ED) a request for the waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2023–24 administration found in Attachment 1.

The CDE also recommends that the SBE authorize the CDE to submit to the ED a request for a waiver of the requirement that a request for a waiver of the 1.0 percent cap be submitted at least 90 days before the beginning of the annual testing window for the CAA for ELA, mathematics, and science.

## Brief History of Key Issues

Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, 20 *United States Code* Section 6311(b)(2)(D)(i)(I) mandates that states are to maintain a statewide 1.0 percent participation threshold for the alternate assessments based on alternate academic achievement standards (AA-AAAS).

Per 34 *CFR*, Section 200.6(c)(3), a state must require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its eligible students with an alternate assessment. The state must also make the information submitted by an LEA publicly available, provided that such information does not reveal personally identifiable information about an individual student.

In an annual survey sent to all LEAs in the fall of each school year, the CDE collects responses from all LEAs in the state regarding their expected alternate assessment participation as well as, when applicable, information justifying an LEA’s need to assess more than 1.0 percent of its eligible students with an alternate assessment. The CDE will administer the 2023–24 survey and the information from this survey will be made available in fall 2023 on the CDE 1.0 Percent Threshold for Alternate Assessment web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp>.

### Waiver of the Requirement to Assess Less than 1.0 Percent of Eligible Students with an Alternate Assessment for English Language Arts/Literacy, Mathematics, and Science

Based on the CDE’s data analysis using 2022–23 test participation data, the CDE anticipates that California will exceed the 1.0 percent cap for the 2023–24 school year.

Attachment 1 contains the final number of students participating in the 2022–23 administration as well as test registrations for 2023–24 administration. Included in Attachment 1 is the State’s plan and high-level timeline that shows the progress in reducing the percentage of students taking an alternate assessment.

The waiver request will be submitted to the ED in fall 2023 once it is signed by the SBE President and the State Superintendent of Public Instruction.

Details surrounding California’s previous requests for a waiver of the 1.0 percent cap are provided below.

2022–23 School Year:

* In July 2022, the SBE authorized the CDE to submit to the ED a waiver of the 1.0 percent cap of eligible students being assessed with an alternate assessment for ELA, mathematics, and science for the 2022–23 administration. The SBE also authorized a waiver of the requirement that a request for a waiver of the 1.0 percent cap be submitted at least 90 days before the beginning of the annual testing window for the CAA for Science. The ED responded on December 15, 2022, with a denial of California’s request because California did not meet the requirement in 34 *CFR,* Section 200.6(c)(4), demonstrating that it had assessed 95 percent of all students and 95 percent of students with disabilities in reading/language arts, mathematics, and science in 2021–22.

2021–22 School Year:

* In March 2022, the SBE authorized the CDE to submit to the ED a waiver of the 1.0 percent cap of eligible students being assessed with an alternate assessment for ELA, mathematics, and science for the 2021–22 administration. The waiver request for 2021–22 was submitted to the ED on May 3, 2022. On June 22, 2022, the ED responded with a denial of California’s request because California did not meet the requirement in 34 *CFR,* Section 200.6(c)(4), demonstrating that it had assessed 95 percent of all students and 95 percent of students with disabilities in reading/language arts, mathematics, and science in 2020–21.

2020–21 School Year:

* In September 2020, the SBE authorized CDE to submit to the ED a waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2020–21 administration. The waiver request was submitted to the ED in November 2020. In January 2021, the ED denied this waiver request due to California’s not having demonstrated that it had assessed 95 percent of all eligible students in science and 95 percent of students with disabilities in ELA, mathematics, and science in 2018–19.

### Ninety-Day Timeline for Request of the 1.0 Percent Waiver for the California Alternate Assessment for English Language Arts/Literacy, Mathematics, and Science

Per 34 *CFR*, Section 200.6(c)(4)(I), the deadline from the ED for requesting a waiver of the requirement to assess less than 1.0 percent of students with an alternate assessment is 90 days prior to beginning the annual test administration for each assessment program. The testing window for the CAA for Science is different from the window for the CAAs for ELA and mathematics.

The annual testing window for the CAAs for ELA and mathematics begins on January 9, 2024, for the 2023–24 school year, and 90 days prior to the opening of this testing window is October 11, 2023. As a result, the CDE expects not to meet the 90-day timeline in applying for a waiver of the 1.0 percent cap for the CAAs for ELA and mathematics; therefore, a waiver of the 90-day timeline is needed for ELA and mathematics.

The annual testing window for the CAA for Science begins on September 19, 2023, for the 2023–24 school year, and 90 days prior to September 19, 2023, is June 21, 2023. The CDE, therefore, cannot meet the notification timeline for a waiver of the 1.0 percent cap for the CAA for Science. For this reason, the CDE recommends that the SBE authorize the submission of a waiver request of the 90-day timeline for science.

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

In July 2022, the SBE authorized the CDE to submit to the ED a request for the waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2022–23 administration. The SBE also authorized the CDE to submit to the ED a request for a waiver of the requirement that a request for a waiver of the 1.0 percent cap be submitted at least 90 days before the beginning of the annual testing window for the CAA for Science (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/jul22item06.docx>).

In March 2022, the SBE authorized the CDE to pursue a waiver of the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an alternate assessment aligned with alternate academic achievement standards for ELA, mathematics, and science and other related waivers for the 2021–22 administration (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/mar22item03rev.docx>).

In September 2020, the SBE provided approval for the CDE to request a waiver under the Every Student Succeeds Act, 34 *CFR*, Section 200.6(c)(4), to waive the 1.0 percent threshold for the 2020–21 CAAs for ELA, mathematics, and science (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/sep20item07.docx>).

In April 2020, the CDE provided the SBE with the notification from the ED’s Office of Elementary and Secondary Education, which indicated that the state had exceeded the 1.0 percent threshold of students taking alternate assessments. In addition, the CDE provided the SBE with the CDE’s response, which included an update to the plan to come into compliance (<https://www.cde.ca.gov/be/pn/im/documents/apr20memoadad02.docx>).

## Fiscal Analysis (as appropriate)

Not applicable.

## Attachment(s)

* Attachment 1: DRAFT Letter from State Superintendent of Public Instruction Tony Thurmond and State Board President Linda Darling-Hammond to U.S. Department of Education Regarding Waiver Requests (13 pages)



**California Department of Education**

**Tony Thurmond**, *State Superintendent of Public Instruction*

1430 N Street, Sacramento, CA 95814-5901

916-319-0800



**California State Board of Education**

**Linda Darling-Hammond**, *State Board President*

1430 N Street, Room 5111, Sacramento, CA 95814

916-319-0827

# DRAFT November XX, 2023

Patrick Rooney, Director

School Support and Accountability

Office of Elementary and Secondary Education

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

David Cantrell, Ph.D., Acting Director

Office of Special Education Programs

Office of Special Education and Rehabilitative Services

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

Dear Director Rooney and Acting Director Cantrell:

Please find attached California’s waiver request pursuant to *Code of Federal Regulations*, Title 34, Section 200.6(c)(4), which requires that, for each subject for which assessments are administered, the total number of eligible students assessed in that subject using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) may not exceed 1.0 percent of the total number of students in California who are assessed in that subject. Data analysis indicates that the submission of a waiver is warranted for English language arts, mathematics, and science for the 2023–24 school year.

For more information or questions about the attached waiver requests for the 2023–24 school year, please contact Cheryl Cotton, Deputy Superintendent, Instruction, Measurement, and Administration Branch, by phone at 916-323-6398 or by email at [CCotton@cde.ca.gov](mailto:CCotton@cde.ca.gov).

Sincerely,

Tony Thurmond

State Superintendent of Public Instruction

California Department of Education

Linda Darling-Hammond

President

California State Board of Education

TT/LDH:tdb

Attachment

## Waiver Requests

California Department of Education

Alternate Assessment Aligned with Alternate Academic Achievement Standards

Pursuant to *Code of Federal Regulations*, Title 34, Section 200.6 (c)(4)

DRAFT November XX, 2023

Title 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA) (ESEA Section 1111[b][2][D] and *Code of Federal Regulations*, Title 34 [34 *CFR*], sections 200.6[c] and [d]) modifies the provision that eligible students with the most significant cognitive disabilities may participate in alternate assessments aligned with alternate academic achievement standards (AA-AAAS). ESSA places a 1.0 percent cap on the number of eligible students who may participate in alternate assessments. States that anticipate exceeding the 1.0 percent cap must submit a waiver request to the U.S. Department of Education (ED).

The California Alternate Assessments (CAAs) are California’s AA-AAAS. On behalf of the California State Board of Education (SBE), the California Department of Education (CDE) is submitting the required waiver request for the anticipated greater than 1.0 percent participation cap in the CAAs for English language arts/literacy (ELA), mathematics, and science for the 2023–24 school year. The CDE anticipates that participation rates for the CAAs for the 2023–24 school year will exceed the 1.0 percent cap for ELA, mathematics, and science.

The CDE and SBE are requesting a waiver of the requirement in 34 *CFR*, Section 200.6(c)(2) to assess less than 1.0 percent of eligible students with an AA-AAAS for the 2023–24 test administration.

### Overview

The 2022–23 test participation data in tables 1 through 7 reflect 2022–23 overall participation rates.

Table 1 and table 2 display the 2022–23 overall participation rates for all students and overall participation rates for students with disabilities by content area.

#### Table 1. Overall Participation Rates for All Students by Content Area, 2022–23

| **Content Area** | **Number of Eligible Students, 2023** | **Number of Students Assessed, 2023** | **Participation Rate, 2023** |
| --- | --- | --- | --- |
| ELA | 3,095,581 | 2,996,485 | 96.80% |
| Math | 3,095,581 | 3,007,770 | 97.16% |
| Science | 1,389,291 | 1,341,082 | 96.53% |

#### Table 2. Overall Participation Rates of Students with Disabilities by Content Area, 2022–23

| **Content Area** | **Number of Students with Disabilities, 2023[[1]](#footnote-2)\*** | **Number of Students with Disabilities Assessed, 2023[[2]](#footnote-3)†** | **Participation Rate, 2023** |
| --- | --- | --- | --- |
| ELA | 425,930 | 399,090 | 93.70% |
| Math | 425,930 | 397,674 | 93.37% |
| Science | 184,013 | 170,294 | 92.54% |

### Estimated Participation Rates for 2023–24

After reviewing alternate assessment registration and participation data from 2022–23 and other relevant data, the CDE estimates that the state will exceed the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an AA-AAAS.

Table 3 shows the estimated CAA participation rates for all eligible students in 2023–24.

#### Table 3. Estimated CAA Participation Rates of Eligible Students by Content Area, 2024

| **Content Area** | **Estimated Number of Students Eligible for CAA, 2024**  **(based on 2023 enrollment/registration)** | **Estimated Number of Students Assessed with CAA, 2024 (estimate based on 95% participation)** | **Participation Rate, 2024 (estimate)** |
| --- | --- | --- | --- |
| ELA | 425,930 | 404,634 | 95.00% |
| Math | 425,930 | 404,634 | 95.00% |
| Science | 184,013 | 174,812 | 95.00% |

Table 4 shows the overall participation rate estimates for all students in 2023–24.

#### Table 4. Estimated Overall Participation Rates for All Students, 2024

| **Content Area** | **Estimated Number of Eligible Students, 2024 (based on 2023 enrollment/ registration)** | **Number of Students Assessed, 2024 (estimate based on 95% participation)** | **Participation Rate, 2024 (estimate)** |
| --- | --- | --- | --- |
| ELA | 3,095,581 | 2,940,802 | 95.00% |
| Math | 3,095,581 | 2,940,802 | 95.00% |
| Science | 1,389,291 | 1,319,826 | 95.00% |

### The 1.0 Percent Waiver Request Requirements

**Requirement 1—34 *CFR*, Section 200.6I(4)(i):** Submit the waiver request at least 90 days before the testing window starts for the relevant subject.

The state testing window for ELA and mathematics alternate assessments opens on January 9, 2024. Ninety days prior to January 9, 2024, will be October 11, 2023. The CAA for Science testing window opened on September 19, 2023, per California *Education Code* (*EC*) Section 855(a)(2). Ninety days prior to September 19, 2023, would have been June 21, 2023. As a result, California requests a waiver of 34 *CFR* Section 200.6(c)(4)(i) for the CAA for ELA, mathematics, and Science.

**Requirement 2—34 *CFR*, Section 200.6(c)(4)(ii):** Provide state-level data, from the current or previous year, to show: (A) the number and percent in each student group who took the AA-AAAS in the subject area; and (B) the state has measured the achievement of at least 95 percent of all students and students with disabilities in the previous year who were enrolled in the grades for which the AA-AAAS is required.

Where applicable, the state will also provide a credible estimate of the number and percentage of students (including by student group, if possible) it expects to take the alternate assessment in 2023–24.

Tables 5 through 7 show detailed student group CAA participation rates for eligible students by content area for 2022–23 as well as estimated test registration numbers for the 2023–24 school year.

#### Table 5. CAA for ELA Participation Rates by Student Group

| **Student Group** | **Number of Students Assessed, 2023** | **Number of Eligible Students Assessed with CAA, 2023** | **Percentage of Eligible Students Assessed with CAA, 2023** | **Number of Students Assessed, 2024 (estimate based on number of students assessed in 2023)** | **Number of Eligible Students Assessed with CAA, 2024 (estimate based on 2023 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2024 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 2,996,485 | 35,495 | 1.2% | 2,996,485 | 40,311 | 1.3% |
| Females | 1,456,955 | 11,028 | 0.8% | 1,456,955 | 12,613 | 0.9% |
| Males | 1,537,439 | 24,462 | 1.6% | 1,537,439 | 27,692 | 1.8% |
| Black | 150,576 | 2,671 | 1.8% | 150,576 | 3,084 | 2.0% |
| Hispanic | 1,686,884 | 20,752 | 1.2% | 1,686,884 | 23,059 | 1.4% |
| Asian | 296,201 | 3,109 | 1.0% | 296,201 | 3,598 | 1.2% |
| White | 608,107 | 5,914 | 1.0% | 608,107 | 7,011 | 1.2% |
| American Indian or Alaska Native | 12,916 | 204 | 1.6% | 12,916 | 234 | 1.8% |
| Filipino | 69,749 | 1,056 | 1.5% | 69,749 | 1,208 | 1.7% |
| Native Hawaiian or Pacific Islander | 12,531 | 150 | 1.2% | 12,531 | 176 | 1.4% |
| Two or more races | 159,521 | 1,639 | 1.0% | 159,521 | 1,941 | 1.2% |
| English learners | 509,269 | 8,460 | 1.7% | 509,269 | 9,538 | 1.9% |
| Economically disadvantaged | 1,880,724 | 23,945 | 1.3% | 1,880,724 | 26,507 | 1.4% |

#### Table 6. CAA for Mathematics Participation Rates by Student Group

| **Student Group** | **Number of Students Assessed, 2023** | **Number of Eligible Students Assessed with CAA, 2023** | **Percentage of Eligible Students Assessed with CAA, 2023** | **Number of Students Assessed, 2024 (estimate based on number of students assessed in 2023)** | **Number of Eligible Students Assessed with CAA, 2024 (estimate based on 2023 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2024 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 3,007,770 | 35,476 | 1.2% | 3,007,770 | 40,311 | 1.3% |
| Females | 1,461,997 | 11,015 | 0.8% | 1,461,997 | 12,613 | 0.9% |
| Males | 1,543,692 | 24,456 | 1.6% | 1,543,692 | 27,692 | 1.8% |
| Black | 149,969 | 2,667 | 1.8% | 149,969 | 3,084 | 2.1% |
| Hispanic | 1,693,586 | 20,738 | 1.2% | 1,693,586 | 23,059 | 1.4% |
| Asian | 299,409 | 3,119 | 1.0% | 299,409 | 3,598 | 1.2% |
| White | 609,942 | 5,905 | 1.0% | 609,942 | 7,011 | 1.1% |
| American Indian or Alaska Native | 12,853 | 199 | 1.5% | 12,853 | 234 | 1.8% |
| Filipino | 69,822 | 1,057 | 1.5% | 69,822 | 1,208 | 1.7% |
| Native Hawaiian or Pacific Islander | 12,558 | 150 | 1.2% | 12,558 | 176 | 1.4% |
| Two or more races | 159,631 | 1,641 | 1.0% | 159,631 | 1,941 | 1.2% |
| English learners | 526,578 | 8,494 | 1.6% | 526,578 | 9,538 | 1.8% |
| Economically disadvantaged | 1,886,290 | 23,930 | 1.3% | 1,886,290 | 26,507 | 1.4% |

#### Table 7. CAA for Science Participation Rates by Student Group

| **Student Group** | **Number of Students Assessed, 2023** | **Number of Eligible Students Assessed with CAA, 2023** | **Percentage of Eligible Students Assessed with CAA, 2023** | **Number of Students Assessed, 2024 (estimate based on number of students assessed in 2023)** | **Number of Eligible Students Assessed with CAA, 2024 (estimate based on 2023 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2024 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 1,341,082 | 14,573 | 1.1% | 1,341,082 | 17,073 | 1.3% |
| Females | 651,592 | 4,688 | 0.7% | 651,592 | 5,525 | 0.8% |
| Males | 688,110 | 9,884 | 1.4% | 688,110 | 11,546 | 1.7% |
| Black | 66,017 | 1,132 | 1.7% | 66,017 | 1,347 | 2.0% |
| Hispanic | 759,131 | 8,672 | 1.1% | 759,131 | 9,877 | 1.3% |
| Asian | 131,720 | 1,228 | 0.9% | 131,720 | 1,478 | 1.1% |
| White | 273,583 | 2,380 | 0.9% | 273,583 | 2,966 | 1.1% |
| American Indian or Alaska Native | 5,637 | 79 | 1.4% | 5,637 | 90 | 1.6% |
| Filipino | 33,272 | 422 | 1.3% | 33,272 | 502 | 1.5% |
| Native Hawaiian or Pacific Islander | 5,722 | 52 | 0.9% | 5,722 | 66 | 1.2% |
| Two or more races | 66,000 | 608 | 0.9% | 66,000 | 747 | 1.1% |
| English learners | 197,969 | 3,264 | 1.6% | 197,969 | 3,812 | 1.9% |
| Economically disadvantaged | 833,774 | 9,797 | 1.2% | 833,774 | 11,164 | 1.3% |

**Requirement 3—34 *CFR*, Section 200.6(c)(4)(iii):** Provide assurances that the state has verified that each local educational agency (LEA) that the state anticipates will assess more than 1.0 percent of its assessed students in a subject using the AA-AAAS followed the state's guidelines for students with the most significant cognitive disability.

California has all LEAs in the state complete the 1.0 Percent Justification Survey. If the LEA anticipates exceeding the 1.0 percent threshold of students who would be assessed using the AA-AAAS, the LEA is required to provide a justification. The CDE 1.0 Percent Threshold on Alternate Assessments web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> provides information on this requirement.

The justification survey includes assurances that the LEA has ensured that its educators have been trained on the state guidelines and that individualized education program (IEP) teams are adhering to the state’s identified criteria of eligibility in making participation decisions for students who participate in the AA-AAAS. Allowance is made for the LEA to provide the reason for exceeding the 1.0 percent cap.

By submitting the justification survey, the LEA certifies that eligible students identified to take the CAAs have met the criteria below (34 *CFR*, Section 200.6) for students with the most significant cognitive disabilities enrolled in the LEA.

* All students identified for alternate assessment have been determined to be the most significantly cognitively impaired, including factors related to cognitive functioning and adaptive behavior, within the LEA.
* All students identified for alternate assessment have been shown to require extensive, direct individualized instruction and substantial supports to achieve measurable gains on the challenging state alternate academic achievement content standards for the grade in which the student is enrolled.
* Students with the most significant cognitive disabilities are not identified solely on the basis of the student’s previous low academic achievement or the student’s previous need for accommodations to participate in general state or districtwide assessments.

**Requirement 4—(34 *CFR*, Section 200.6[c][4][iv]):** Submit a plan and timeline by which the following will be accomplished: (A) State will improve the implementation of its participation guidelines, including if necessary, revising its definition of “students with the most significant cognitive disabilities,” (B) State will take additional steps to support and provide appropriate oversight to each LEA that the state anticipates will assess more than 1.0 percent with the AA-AAAS to ensure that only students with the most significant cognitive disabilities take the AA-AAAS (this must include a description of how the state will monitor and regularly evaluate each of these LEAs to ensure that the LEA provides sufficient training for IEP team members); and (C) State will address any disproportionality in the percentage of students taking the AA-AAAS.

### California’s Waiver Plan for 2023–24

California will continue to meet all other requirements of Section 1111 of the ESEA as well as implement regulations with respect to all state-determined academic standards and assessments, including reporting student achievement and school performance disaggregated by student groups to parents and the public.

California’s plan and timeline in table 8 intended to address the reduction of percentages exceeding the 1.0 percent cap of alternate assessment participation will be included, pursuant to the additional federal requirements detailed in 34 *CFR*, Section 200.6(c)(4). This plan will also include clarification of state guidelines, professional development, oversight, and support for identified areas of need. Consistent with the plan submitted in this waiver request, the CDE will implement system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

1. A clear description of how the state will improve the implementation of its guidelines for participation in the AA-AAAS, including reviewing the definition of students with the most significant cognitive disabilities (see 34 *CFR*, Section 200.6[c][4][iv][A]), so that the state meets the 1.0 percent cap in each subject for which assessments are administered in future school years.

The CDE revised its guidelines to clarify that students identified with a specific learning disability (SLD) do not meet the criteria for identification as significantly cognitively impaired. The guidelines also clarify that a student who is registered for the alternate assessment in one subject must take the alternate assessment for all eligible subjects. This revised guidance has been added to the state decision-making tool. Data from the 2022–23 administration indicate that the numbers of SLD students inappropriately identified for alternate assessment have decreased from prior year’s numbers.

The Alternate Assessment Decision Confirmation Worksheet is posted on the CDE CAAs for ELA and Math web page at <https://www.cde.ca.gov/ta/tg/ca/altassessment.asp> and on the CDE CAA for Science web page at <https://www.cde.ca.gov/ta/tg/ca/caascience.asp>. The decision to participate in the CAAs is made by students’ IEP team and documented accordingly in each student's IEP.

1. A clear description of how it will monitor and regularly evaluate each LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and implement the guidelines established by the state for participation in an AA-AAAS so that all students are appropriately assessed (see 34 *CFR*, Section 200.6[c][4][iv][B]).

The CDE will annually monitor and address all LEAs that have exceeded the 1.0 percent threshold on participation in the AA-AAAS. Current CDE procedures require all LEAs to submit a response to the 1.0 Percent Justification Survey regardless of whether they have exceeded the threshold. The CDE will engage with LEAs that exceeded the 1.0 percent threshold. That engagement may include the dissemination of information on the appropriate identification of students, the dissemination of general IEP team guidance, the use of targeted strategies for confirming and reducing participation rates in the alternate assessment, and the use of potential findings of noncompliance.

1. A clear description of how the state will address any disproportionality in the percentage of students taking an AA-AAAS as identified through the data provided (see 34 *CFR*, Section 200.6[c][4][iv][C]).

To determine a risk for disproportionality, the CDE will examine the participation in the CAAs of each subgroup compared to the participation in the CAAs of students not in the subgroup. The analysis of this risk will identify whether any of the subgroups are more likely than others not in the subgroup to participate in the CAAs. Information from this analysis will provide the CDE with anticipated participation and potential risk of disproportionality of student subgroups taking the CAAs. In turn, the information will be used to provide the basis for engaging affected LEAs to provide oversight and monitoring through the implementation of the CDE’s monitoring requirements under 34 *CFR*, Section 300.600.

#### Table 8. California’s Plan and Timeline

| **Description of Activity** | **2023 Completion Date** | **2024 Completion Date** |
| --- | --- | --- |
| 1. Notification to LEA superintendents about the requirement to test all students and the importance of reporting and providing justification for potentially exceeding the 1.0 percent threshold; Administration of the 1.0 Percent Threshold Survey to LEAs <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> | October 2022–January 2023 | August 2023–October 2023 |
| 1. Analysis of assessment data to identify LEAs that exceeded the 1.0 percent cap and did not complete the 1.0 Percent Threshold Survey | Fall 2023 | Fall 2024 |
| 1. Presentation of the 1.0 percent threshold requirements and Alternative Assessment Decision-Making worksheet to the California Special Education Local Planning Area administrators. | July 2023 | July 2024 |
| 1. Presentation of 1.0 percent threshold requirements to LEA coordinators at the annual statewide Assessment Information Meeting | August 2023 | August 2024 |
| 1. Submission of the request for a waiver of the 1.0 percent cap if a review of the spring prior administration data indicates a need for such a request | Fall 2023 | Fall 2024 |
| 1. Presentation of the 1.0 percent threshold requirements and Alternative Assessment Decision-Making worksheet at CodeStack Conference | October 2023 | October 2024 |
| 1. Review of guidelines and provision of guidance on eligibility for participation in the AA-AAAS included as part of pretest workshops throughout the state to ensure the appropriate identification of students for alternate assessments | September 2022–February 2023 | September 2023–February 2024 |
| 1. Review of data to determine LEAs exceeding the 1.0 percent cap and potential disproportionality; engage with LEAs that exceed the 1.0 percent cap and/or indicate potential disproportionality | January 2023–July 2023 | January 2024–July 2024 |

1. Fulfillment of requirements in Section 8401 of the ESEA related to public comment California provided to the public and to LEAs notice and reasonable time for comment in the manner in which California customarily provides similar notice and opportunity for comment. The agenda for the November 2023 SBE meeting was uploaded 10 days prior to the SBE's monthly meeting along with any supporting materials that were electronically available. All supporting materials for the agenda items were available for public inspection at the SBE, 1430 N Street, Suite 5111, Sacramento, California, 95814. Public comments that impact this waiver will be included before submission to the ED.

1.  Includes students with an Individuals with Disabilities Education Act indicator who are eligible for general and alternate assessments. [↑](#footnote-ref-2)
2. † Includes both general and alternate assessments. [↑](#footnote-ref-3)