

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

pptb-adad-jan19item02

# California State Board of Education January 2019 Agenda Item #15

## Subject

California Assessment of Student Performance and Progress: Approve the Finding of Emergency and Proposed Emergency Regulations for Amendments to the *California Code of Regulations*, Title 5, Sections 850, 854.1, 854.2, 854.3, 854.4, 859, 862, and 863 related to Student Accessibility, Electronic Student Score Reporting and Record Keeping, and Apportionments.

## Type of Action

Action, Information

## Summary of the Issues

Approval of the finding of emergency for amendments to Title 5 of the California Code of Regulations (5 CCR) sections 850, 854.1, 854.2, 854.3, 854.4, 859, 862, and 863 is necessary to comply with California *Education Code* (*EC*) Section 33031. The proposed amendments to the regulations are necessary to add embedded and non-embedded universal tools, designated supports and accommodations for the California Assessment of Student Performance and Progress (CAASPP) System, remove the due date from Section 862 for the local educational agency (LEA) transmission of apportionment information reports, and add to Sections 850, 859, and 863 clarification on electronic record keeping and add new directions for defining LEA responsibility for making student score reports available to parents and guardians when the student has transferred from the testing LEA to another LEA.

## Recommendation

The California Department of Education (CDE) recommends that the California State Board of Education (SBE) take the following actions:

* Approve the Finding of Emergency.
* Adopt the proposed emergency regulation amendments.
* Direct the CDE to circulate the required Notice of Proposed Emergency Action, and then submit the emergency regulations to the Office of Administrative Law (OAL) for approval.
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the OAL during its review of the Finding of Emergency and proposed emergency regulations.

## Brief History of Key Issues

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 *EC* referencing the STAR Program and established the CAASPP System.

Pursuant to *EC* Section 60640(q), 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.

Under these newly-adopted regulations, the English language arts/literacy (ELA) and mathematics operational assessments took place beginning in March through July 31, 2015, and included the new computer-based assessments provided by the Smarter Balanced Assessment Consortium (Consortium), a consortium composed of member states. The CDE, at the direction of the SBE and in collaboration with CAASPP testing contractor, Educational Testing Service (ETS), conducted evaluations of the first operational CAASPP test administration and identified required amendments to be made to the regulations for the second operational administration, including the addition of accessibility resources in alignment with Consortium policy, the addition of a testing window for the new California Alternate Assessments for ELA and mathematics, clarifications to language needed for the new online tests (not necessary for the paper-pencil tests), and minor format and language clarifications. These amendments were approved by the OAL on an emergency basis to allow for the timely preparation and administration of the second operational administration of the 2016 CAASPP tests; they also were adopted through the regular rulemaking process and approved by the OAL on May 18, 2016. The CDE successfully carried out the 2015–16 administration of the online CAASPP tests on March 10 through July 31, 2016.

Emergency regulations were approved in time for the third operational online CAASPP assessments and adopted as permanent regulations during the fourth operational online CAASPP assessments, which were administered from January 8 through July 16, 2018. During the regular rulemaking process, the Consortium conducted an annual review of accessibility resources and voted on a revised set of accessibility resources published in the *Smarter Balanced Assessment Consortium: Usability, Accessibility, and Accommodations Guidelines* (*Consortium Guidelines*), June 30, 2017. The following year, the Consortium conducted another annual review of accessibility resources and published a revised *Consortium Guidelines* document on June 28, 2018, which incorporated the 2017 *Consortium Guidelines*.

### Student Accessibility

The Consortium maintains and updates the *Consortium Guidelines*. This document includes all universal tools, designated supports, and accommodations that are available for the ELA and mathematics tests and determined to have no threat to changing the measurement of the construct. Each Consortium member state has the option to temporarily approve an accessibility resource requested from the field if the resource is determined to cause no threat to changing the measurement of the construct.

The Consortium conducts an annual review of the *Consortium Guidelines*. The review process considers feedback from Consortium members for the temporary inclusion of accessibility resources. Temporary accessibility resources from the previous test administration that are approved by the governing Consortium members may be added to the *Consortium Guidelines*. Proposed updates to the *Consortium Guidelines* are brought to governing members annually for review, input, and vote. The review process at the end of the 2016–17 test administration resulted in several changes to the *Consortium Guidelines*, as published on June 30, 2017. Additional changes were made to the *Consortium Guidelines* after the annual review at the end of the 2017–18 test administration, as published on June 28, 2018, which included the changes made in 2017. Pursuant to *EC* Section 60640(q), the CDE recommends proposed changes to 5 *CCR* sections 850, 854.1, and 854.2 to conform the State’s ELA and mathematics testing regulations for the CAASPP System with the changes to the *Consortium Guidelines*.

The CAASPP contract also specifically indicates that for all CAASPP non-Consortium assessments, science and primary language, testing contractor ETS must identify the most appropriate accessibility resources for each assessment while maintaining consistency—when the construct necessitates—with the Consortium assessments. Subsequently, the California Science Test (CAST) and the California Spanish Assessment (CSA) are subject to include the same Consortium accessibility resources as their constructs necessitate. The CDE, in collaboration with ETS, has decided that many of these same accessibility resources and test settings presented in the revised *Consortium Guidelines* are necessary to provide for the CAST and the CSA in order to ensure that these assessments are valid and reliable and accessible to all students, including pupils with a disability, as required by *EC* sections 60604(a)(1) and 60640(k). To this end, ETS has produced the *CAST Guidelines* and the *CSA Guidelines*, which reflect a detailed review of the *Consortium Guidelines* and recommendations for changes in the use of accessibility resources. Pursuant to *EC* Section 60640(q), the CDE recommends proposed changes to 5 *CCR* sections 854.3 and 854.4 to conform the State’s CAST and CSA testing regulations to the CAASPP System.

### Apportionment

Assessment apportionment funding is provided to LEAs to reimburse them for the costs associated with administering the CAASPP System. The amount to be apportioned to each LEA is based on the number of pupils tested during each school year. The LEA apportionment rate, per pupil per test, is established by the SBE. Apportionments are not paid to LEAs until the following fiscal year, after all testing has been completed for the school year.

Each fall, the CDE develops Apportionment Information Reports for CASSPP, compiled from data produced by the testing contractor. The reports include the amount to be apportioned to the LEAs, based on the number of pupils tested during the previous school year. The CDE distributes these reports to the LEAs annually. Current regulations require each LEA to certify the accuracy of the report by returning a signed report to the CDE by the regulatory return deadline of March 1. If an LEA returns its report after the regulatory deadline, the LEA will be required to submit a waiver to the SBE.

The waiver process requires an LEA to hold a public hearing, have its request approved by its governing board, and then submit its request to the CDE Waiver Office and have it approved by the SBE. Once it has been heard and approved by the SBE, an LEA can then be paid its apportionment.

Due to the short regulatory deadline window, a large number of LEAs are unable to meet the deadline for returning their apportionment reports. This requires them to proceed through the waiver process in order to get paid for the work they have completed. The current waiver process can be cumbersome and prohibitive to many LEAs, sometimes to the point that LEAs go without receiving their apportionment funds rather than go through the waiver process. The CDE proposes to streamline the apportionment payment process and remove the barriers that LEAs face when applying for their funds by removing the March 1 deadline and thus the need to submit a waiver request as set forth in the proposed changes to Section 862.

### Electronic Student Score Reports and Record Keeping

With the migration away from administering paper-pencil tests to students, many of the CAASPP processes and procedures are transitioning to an electronic format. Student Score Reports are being designed for electronic delivery and procedures to electronically sign security agreements and affidavits are being proposed for implementation. The proposed amendments at sections 850 and 859 to the regulations include clarifying language about the electronic record keeping of the designation of LEA coordinators and the records of signed security agreements and affidavits. The goals of these changes are to introduce efficiencies for superintendents in the designation of LEA coordinators and to streamline the receipt of signed security agreements and security affidavits by the LEA coordinators and site-level users, including site coordinators. These solutions will introduce efficiencies to the designation process for superintendents and LEA coordinators by allowing them to roll over existing users, instead of using the current manual entry process, and will streamline the designation and storage of security agreements and security affidavits.

While the CDE is proposing an amendment to the CAASPP regulations for adoption through the regular rulemaking process at the January 2019 SBE meeting, it is imperative that these amendments proceed on an emergency basis in order to maintain compliance until permanent regulations become effective. The approval of the proposed changes to the CAASPP regulations solely through the regular rulemaking process would be problematic for the testing contractor to proceed with its work.

### Delivery of Score Reports

LEAs are responsible for ensuring that students receive a copy of their student score report within 20 days from receipt of the result from the testing contractor. Sometimes, students have transferred schools in the interim. Section 863 has been amended to clarify which LEA is responsible for providing the score report in cases where a student has transferred to a new LEA.

### Highlights of Proposed Changes

Specifically, the proposed amendments to the CAASPP regulations include, but are not limited to, the following:

* Amending Section 850 to: (1) include record keeping efficiencies caused by transition to electronic processes by replacing “signed” with “electronically agreed to”; and (2) update the definition of “streamlining” to be consistent with *Consortium Guidelines*.
* Amending Sections 854.1 and 854.2 to: (1) to add Consortium-approved embedded and non-embedded universal tools, designated supports and accommodations, by CAASPP test, for additional clarity; and (2) include any changes to existing accessibility resources consistent *Consortium Guidelines*.
* Amending sections 854.3 and 854.4 to change accessibility resources pertinent to the non-Consortium assessments to ensure reliability and validity of the testing process.
* Amending Section 859 to reflect transition to electronic processes.
* Removing the due date from Section 862 for the LEA transmission of apportionment information reports.
* Clarifying in Section 863 which LEAs have responsibility for making Student Score Reports available to parents and guardians when a student has transferred from one LEA to another LEA during the testing window.

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

At its November 2017 meeting, the SBE approved the changes to the CAASPP regulations and asked that the changes to regulations be circulated for a second 15-day comment period. <https://www.cde.ca.gov/be/mt/ms/documents/finalminutes0809nov2017.docx>

At its September 2017 meeting, the SBE approved the second readoption of the Finding of Emergency and proposed emergency regulations for amendments to the *California Code of Regulations*, Title 5, Sections 851 through 856. <http://www.cde.ca.gov/be/ag/ag/yr17/agenda201709.asp>

At its July 2017 meeting, the SBE approved the changes to the CAASPP regulations and asked that the changes to the regulations be circulated for a 15-day comment period. <http://www.cde.ca.gov/be/ag/ag/yr17/agenda201707.asp>

At its May 2017 meeting, the SBE approved readoption of the Finding of Emergency and proposed emergency regulations for amendments to the *California Code of Regulations*, Title 5, Sections 851 through 856.

<http://www.cde.ca.gov/be/ag/ag/yr17/documents/may17item05.doc>

At its March 2017 meeting, the SBE approved the commencement of permanent rulemaking for the proposed amendments to the CAASPP regulations.

<http://www.cde.ca.gov/be/ag/ag/yr17/documents/mar17item10.doc>

At its January 2017 meeting, the SBE approved the Finding of Emergency and emergency regulations to allow the timely preparations for the administration and reporting of the spring 2017 CAASPP administration.

<http://www.cde.ca.gov/be/ag/ag/yr17/documents/jan17item08a4.pdf>

At its May 2016 meeting, the SBE approved the revised Finding of Emergency and approved the readoption of the emergency CAASPP regulations so the CAASPP regulations would continue to be in place pending the OAL’s approval of the revised permanent regulations. <http://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item10.doc>

At its March 2016 meeting, 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>

At its November 2015 meeting, 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>

At its July 2014 meeting, 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>

At its January 2014 meeting, 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 (as appropriate)

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

## Attachment(s)

* Attachment 1: Notice of Proposed Emergency Action (1 pages)
* Attachment 2: Finding of Emergency (8 Pages)
* Attachment 3: Proposed Emergency Regulations (26 pages)
* Attachment 4: Economic and Fiscal Impact Statement (STD. 399) (6 pages)

**CA DEPARTMENT OF EDUCATION**

**TOM TORLAKSON**

State Superintendent of Public Instruction

**CA BOARD OF EDUCATION**

**MICHAEL W. KIRST**

President

JANUARY 11, 2019

# NOTICE OF PROPOSED EMERGENCY ACTION

CALIFORNIA ASSESSMENT OF STUDENT PERFORMANCE AND PROGRESS (CAASPP)

Amended Regulations, Title 5, *California Code of Regulations,* Sections 850, 854.1, 854.2, 854.3, 854.4, 859, 862, and 863

Pursuant to the requirements of Government Code section 11346.1(a)(1), the State Board of Education (SBE) is providing notice of proposed emergency action with regards to the above-entitled emergency regulation.

**SUBMISSION OF COMMENTS**

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed emergency regulatory action. Written comments must be received at the OAL and the California Department of Education within five days after the SBE submits the emergency regulations to the OAL for review.

Please reference submitted comments as regarding “California Assessment of Student Performance Progress (CAASPP)” addressed to:

Office of Administrative Law

Reference Attorney

300 Capitol Mall, Suite 1250

Sacramento, CA 95814

Email: [staff@oal.ca.gov](mailto:staff@oal.ca.gov)

Fax: 916-323-6826

California Department of Education

Patricia Alverson, Regulations Coordinator

1430 N Street, Suite 5319

Sacramento, CA 95814

[regcomments@cde.ca.gov](mailto:regcomments@cde.ca.gov)

916-319-0155

For the status of the action submitted by the SBE to the OAL for review, and the end of the five-day written comment period, please consult the web site of the OAL at [www.oal.ca.gov](http://www.oal.ca.gov/) under the heading “Emergency Regulations.”

# FINDING OF EMERGENCY

## California Assessment of Student Performance and Progress

The State Board of Education (SBE) finds that an emergency exists and that the emergency regulations adopted are necessary to avoid serious harm to the public peace, health, safety, or general welfare, especially the welfare of students attending California’s public schools.

### SPECIFIC FACTS DEMONSTRATING THE EXISTENCE OF AN EMERGENCY AND THE NEED FOR IMMEDIATE ACTION

#### Overview

The proposed amendments to *California Code of Regulations*, Title 5 (5 *CCR*), Sections 850, 854.1, 854.2, 854.3, 854.4, 859, 862, and 863 must be adopted on an emergency basis in order to proceed in a timely manner with the 2018–19 administration of the California Assessment of Student Performance and Progress (CAASPP) tests pursuant to the requirements of *Education Code* (*EC*)Section 60640. The purpose of the proposed amendments is to ensure the correct, efficient, and standardized administration of the CAASPP online assessments according to required Smarter Balanced Assessment Consortium (Consortium), state, and federal guidelines and to maintain accuracy, reliability, and validity of measures and the timely reporting of the test results, in so doing, prevent harm to the public peace, health, safety, and general welfare of pupils.

#### Background

For many years, the State of California implemented a statewide testing program as required by federal law through the Standardized Testing and Reporting program or STAR. Assembly Bill (AB) 484 (Chapter 489, Statutes of 2013) authorized a new statewide testing program, the CAASPP System.Pursuant to *EC* Section 60640(q*),*5 *CCR*, sections 850 to 868 were revised by the SBE to conform the regulations to the statutory changes made in the law. These amendments to the regulations, initially adopted as emergency regulations, were approved by the Office of Administrative Law (OAL) on August 27, 2014. The regulations revised definitions, requirements, responsibilities, and guidelines for the administration, test security, reporting, and apportionment related to the new CAASPP System. Under the newly-adopted regulations, the first operational administration of the new online CAASPP assessments in English language arts/literacy (ELA) and mathematics took place March 10 through July 31, 2015. These online assessments are provided by the Consortium, a national consortium made up of member states of which California is a governing member state.

In the ongoing effort to improve the administration procedures for the new CAASPP System assessments, additional changes necessary for supporting valid and reliable test results were identified and made by the SBE subsequent to the first successful operational administration. Those amendments were adopted by the SBE on an emergency basis at its meeting in November 2015 to allow for the timely preparation and administration of the second operational administration of the CAASPP assessments in spring 2016. They also were adopted through regular rulemaking and approved by the OAL on May 18, 2016.

The California Department of Education (CDE), with the help of its testing contractor, Educational Testing Service (ETS), successfully administered the second operational online CAASPP assessments January 19 through July 31, 2016. The changes made to the regulations for the second operational administration included the addition of accessibility resources to be in alignment with Consortium policy, the addition of a testing window for the new California Alternate Assessments (CAAs), and clarification of language needed for the new online tests (not necessary for the paper-pencil tests) as well as minor formatting and other clarification changes.

Similarly, the CDE, with the help of ETS, administered the third successful operational online CAASPP assessments January 9 through July 16, 2017. Changes to the regulations for the third operational assessment included a specification of the beginning and end of the available testing windows, consistency of pupil grade level, and updates to accessibility resources as identified by the Consortium and the *California Science Test Accessibility Supports for Operational Testing* (*CAST Guidelines*). These changes were enacted through the emergency rulemaking process and effective during the third operational year.

Final regulations were approved on January 25, 2018, during the fourth operational online CAASPP assessments, which were administered January 8 through July 16, 2018. In the interim, the Consortium conducted an annual review of accessibility resources and voted to approve a revised set of accessibility resources published in the *Consortium’s Usability, Accessibility and Accommodations Guidelines* (*Consortium* G*uidelines*), June 30, 2017. These approved accessibility resources were subsequently incorporated into the 2018 *Consortium Guidelines*, as set forth below.

As preparations for the fifth operational administration of the CAASPP assessments are under way, the CDE and ETS have determined a need for more changes to the assessment process, on an expedited basis, to improve efficiencies and maintain accuracy in the processing and reporting of the test results for the current school year. The changes include provisions related to electronic reporting, electronic record keeping, and streamlining of the apportionment process.

In addition, the Consortium conducted another annual review of accessibility resources and published a revised *Consortium Guidelines* document on June 28, 2018, which included any changes in the 2017 *Consortium Guidelines.* These thus proposed changes to the regulations address changes to student accessibility resources to conform to changes in Consortium policy on accessibility so the Consortium testing results are valid and reliable. Subsequently, it was decided that the non-Consortium CAASPP assessments (CAST and CSA) should include the same Consortium accessibility resources, as the construct necessitates. The accurate implementation of assessment accessibility resources is critical to maintaining the fairness and validity of the test results. Further, the CDE must ensure that the results of its non-Consortium assessments also are valid and reliable and. To this end, ETS has produced the *CAST Guidelines* and the *CSA Guidelines*, which reflect a detailed review of the most current *Consortium Guidelines* and recommendations for changes in the use of accessibility resources.

#### Specific Basis for the Finding of Emergency

The regulations that govern statewide testing must be as clear, efficient, and effective as possible to ensure the federally-required goal of producing valid and reliable statewide testing results and the timely reporting of those results. Specifically, the proposed changes must be enacted on an emergency basis because preparation for the 2018–19 CAASPP administration has already commenced, and these amendments are necessary to adopt on an emergency basis to ensure that California continues to produce valid and reliable statewide testing results and ensures the timely reporting of those results.

First, the CDE’s contract with testing contractor ETS now provides for electronic score reporting as well as electronic record keeping. Procedures and guidance related to test security and test reporting must be updated to address these transitions. One of the necessary changes is related to electronic score reporting, which includes a proposed amendment to clarify which LEA is responsible for providing the electronic score report to a student. Another change to this section is needed to update the wording regarding providing results of the tests to parents. Specifically, “forward or transmit” has been replaced with “make available” to account for other methods of distributing Student Score Reports. In addition, the proposed amendments to regulations include clarifying language related to electronic record keeping by changing how superintendents designate LEA coordinators and record the signing of security affidavits. The goal of these proposed changes is to introduce efficiencies; for example, by allowing superintendents to electronically designate the LEA coordinators as well as streamline the receipt of signed security agreements and security affidavits by the LEA coordinators and site level users, including site coordinators.

Second, proposed changes must be made as to when apportionment reports are due to the CDE. The apportionment process currently includes a March 1 deadline, which has been a burden for LEAs to meet and has forced LEAs to complete the waiver process in order to access apportionment dollars that are available for the fiscal year in which the testing window began. These changes must be enacted on an emergency basis, as they are necessary to ensure that LEAs will timely be relieved of this burden.

Finally, the proposed amendments are necessary to enact on an emergency basis to update the types of accessibility resources that can be used on the Consortium and non-Consortium assessments. The Consortium has added important accessibility resources, which the CDE and testing contractor ETS have reviewed, and suggested recommendations for incorporation into non-Consortium assessments, depending on testing construct. It is imperative that these amendments be enacted immediately, on an emergency basis, as individualized education program (IEP) teams are currently meeting and need to be aware of proposed additions (as allowed by state law) to ensure that appropriate accessibility resources are incorporated into their students’ IEPs. Clarity and consistency in this area would reduce the opportunity for error in the area of assigning appropriate accessibility resources to address students’ needs. Validity and reliability of test measures also are critical in meeting state and federal reporting requirements.

It is critical that the proposed amendments be approved on an emergency basis because preparations for the 2018–19 administration are already under way by ETS and its subcontractors and by the LEAs and their staff, and testing for some LEAs begins as early as January 2019. All training materials must be printed and made available to LEAs ahead of time in order for them to properly train their testing staff. Moreover, there is a great need for specialized training in the area of test accessibility and accommodations for special education staff, which takes time to implement. For these reasons, clear and consistent information is critical as early as possible to assist school staff with IEP meetings which began in September 2018. In addition, LEAs are establishing their academic calendars and need information as soon as possible.

These regulations could not be amended sooner because the Consortium only recently released its *Consortium Guidelines* containing accessibility resources updates and, because the SBE meets only every other month, so it was not possible for the proposed amendments to be prepared by the CDE and approved by the SBE earlier. Testing will begin as early as January 2019 for some LEAs on year-round calendars, and the timeline for regular rulemaking will not allow for adequate preparation under current regulations, which are not aligned with new additions and changes in Consortium policies and non-Consortium assessment recommendations. If the regulations are not adopted on an emergency basis, the LEAs will have no way to adequately start preparing for the 2018–19 CAASPP assessments, endangering the ability of the State of California to ensure effective, valid, and reliable academic testing as required by law.

The following timeline illustrates the necessity of emergency regulations in order for the CDE to meet the requirements of the *Education Code*.

| **Action\*** | **Estimated Completion Date** |
| --- | --- |
| SBE approves agenda items for the commencement of the emergency regulations | January 9–10, 2019 |
| 5-business day pre-notice of the proposed emergency regulations | January 14–18, 2019 |
| 10-calendar day review by OAL | January 22–  February 1, 2019 |
| Emergency regulations become effective | February 1, 2019 |
| SBE approves agenda items for the commencement of the permanent rulemaking process | January 9–10, 2019 |
| SBE public comment period for permanent regulations | January 26, 2019–March 11, 2019 |
| CAASPP regulations public hearing | March 11, 2019 |
| SBE adopts permanent regulations or approves a 15-day comment period. | May 8–9, 2019 |
| Submit rulemaking to OAL if SBE adopts regulations and no 15-day comment period is necessary. (OAL has 30 working days to review file.) | May 17, 2019 |
| OAL approval—Regulations effective | Approximately July 22, 2019 |

\*These actions represent a small, but relevant, fraction of the details of the adoption process.

### These Issues Could Not Be Addressed Through Nonemergency Regulations

Following the regular rulemaking schedule to make the proposed amendments to the regulations, rather than adopting the regulations on an emergency basis, will cause assessments to be out of alignment with the Consortium’s policies and procedures, in violation of *EC* Section 60604(a)(2), and cause the CAASPP assessments to be inefficiently and ineffectively administered in school year 2018–19. If the CAASPP online assessments are administered under the current regulations, LEAs, students and parents will not benefit from the efficiencies resulting from the change to electronic reporting of student scores and electronic record keeping. In addition, LEAs may not receive apportionment dollars available for the fiscal year in which the testing window began. Last, accessibility resource updates from the Consortium and recommendations for non-Consortium assessments will not be incorporated, and achievement measures may not be accurate, reliable, and valid. Consequently, calculations based on inaccurate measures will harm students and LEAs by not providing the information needed for appropriate instruction and accountability (for both federal and state accountability purposes).

#### NON-DUPLICATION

*Government Code* Section 11349 prohibits unnecessary duplication of state or federal statutes in regulation. In this case, duplication of certain state statute in the proposed emergency regulations is necessary in order to provide additional specific detail not included in state statute.

#### AUTHORITY AND REFERENCE

Authority: Sections 33031, 60605 and 60640, Education Code.

References: Sections 306, 37670, 47605, 47605.8, 47651, 49062, 49068, 56034, 60602.5, 60603, 60604, 60605, 60607, 60610, 60615, 60640, 60641, 60642.5 and 60642.6, Education Code; 20 U.S.C. Sections 1401(3), 1412(a)(16), and 6311(b)(1)(E); and 34 C.F.R. Sections 200.1 and 300.160.

#### INFORMATIVE DIGEST

Assembly Bill 484 (Chapter 489, Statutes of 2013, hereafter AB 484) authorized a new statewide testing program, the CAASPP System. Provisions of AB 484 took effect in January 2014. As required by *EC* Section 60640(q), 5 *CCR* sections 850 through 864 were amended to conform the State’s testing regulations to the CAASPP System for the first operational administration of the CAASPP in 2014–15. Subsequent amendments were adopted on an emergency basis and through the regular rulemaking process for the second operational year of the CAASPP in 2015–16, and the third operational year of the CAASPP in 2016–17. This year, a few additional amendments are needed on an emergency basis to ensure that the fifth operational year produces valid and reliable results, and that the test results can be produced and reported in a way to ensure that they can be used in a timely way and appropriately for state and federal reporting. For this reason, proposed changes to the language include changes for electronic reporting and record keeping efficiencies and apportionment of dollars, as well as proposed changes to accessibility resources, as prompted by the Consortium and non-Consortium recommendations—changes with which the CAASPP regulations must conform, by state law, in order to ensure that test results are valid and reliable.

CAASPP test results are used to improve teaching and learning by schools and districts. In addition, the CDE may use the test results to identify LEAs that may or may not be meeting required state and federal growth targets. The proposed amendments are designed to ensure that the tests within the CAASPP System are administered fairly and consistently throughout the state so that valid and reliable results are available for accountability determinations and, in so doing, prevent harm to the public peace, health, safety, and general welfare of students.

The CDE reviewed all state regulations relating to student assessment and found that none exist that are inconsistent or incompatible with these regulations regarding student assessment.

#### Specific benefits anticipated by the proposed regulations

The benefit of enacting the proposed amendments are their promotion of an optimal and fair test administration for eligible students through a provision of appropriate accessibility resources to students who can benefit from them, such as students with disabilities, and language resources for English learners; the timely delivery of test results to LEAs and parents; and maintaining the CDE’s compliance with federal reporting requirements. These proposed amendments, because they clarify requirements and procedures in alignment with Consortium policies, support increased validity, reliability and accuracy of statewide achievement scores for the purposes for guiding instruction, gauging pupils’ readiness for career and college, and calculating federal and state accountability.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The SBE relied on the following documents in the drafting of these regulations:

*Smarter Balanced Assessment Consortium: Usability, Accessibility, and Accommodations Guidelines*, June 28, 2018. A copy of this document can be obtained at <https://portal.smarterbalanced.org/library/en/usability-accessibility-and-accommodations-guidelines.pdf>.

*California Science Test Accessibility Supports for Operational Testing*. A copy of this document can be obtained at <https://www.cde.ca.gov/ta/tg/ca/documents/castaccesssupt.pdf>.

*California Spanish Assessment for Operational Testing*. A copy of this document can be obtained at <http://www.caaspp.org/rsc/pdfs/CSA.accessibility-considerations.2018.pdf>.

#### MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose a reimbursable mandate on local agencies and the LEAs, including school districts. Any mandate imposed on the LEAs is a result of the requirements under the federal Every Student Succeeds Act, 20 *U.S.C.* Section 6311 et seq., to annually test all students in specific grades in ELA, mathematics, and science. Moreover, there is no state or federal mandate that students receive a primary language assessment.

#### FISCAL IMPACT ESTIMATION

These emergency regulations will not result in any additional costs or savings to state agencies or federal funding to the State. These emergency regulations will not result in any additional cost to any local agency or school district that is required to be reimbursed under *Government Code* Section 17500 et seq.

#### NON-DISCRETIONARY COSTS OR SAVINGS IMPOSED UPON LOCAL AGENCIES

The emergency regulations will not result in any additional non-discretionary costs or savings upon local agencies.

#### EVALUATION OF CONSISTENCY AND COMPATIBILITY

An evaluation of the proposed regulations have determined that they are not inconsistent/incompatible with existing regulations, pursuant to *Government Code* Section 11346.5(a)(3)(D).

09-12-2018 [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~~.

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

(s) “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) “Primary language assessment” means a test as provided in Education Code section 60640(b) 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) “Pupil” refers to a student enrolled in a California public school.

(v) “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/naïveté, follow rules, etiquette, and social problem solving); and practical (e.g., activities of daily living, occupational skills, safety, healthcare, and travel).

(w) “Recently arrived English learner” means a pupil designated as an English Learner (EL) who is in his or her 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) “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.

(y) “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) “Scribe” is an employee of the LEA or a person assigned by an NPS to implement a pupil's IEP who has ~~signed~~ 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) “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~~n accommodation~~  a designated support on a computer-based assessment that provides an alternate display of an item, stacked into instructions, stimuli, and response choices.

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

(af) “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) “Test examiner” is an employee or contractor of an LEA or an NPS who has ~~signed~~ 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) “Test materials” include, but are not limited to, administration manuals, administrative materials, assessment management system, practice tests, scratch paper, and test answer documents.

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

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

(am) “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(d) 200.1(e), 200.1(f) and 300.160.

#### Article 2. Achievement Tests and Any Primary Language Assessment

##### **§ 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;

(~~9~~10) mark for review for reading, writing, and listening;

(~~10~~11) spell check for specific writing items for ELA;

(~~11~~12) strikethrough for reading, writing, and listening;

(~~12~~13) writing tools for specific pupil generated responses for ELA; or

(~~13~~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;

(~~3~~5) text-to-speech for writing, listening, and reading items but not reading passages; or

(~~4~~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;

(~~1~~2) bilingual dictionary for ELA performance task(s) – full write not short paragraph responses, and writing;

(~~2~~3) color contrast for reading, writing, and listening;

(~~34~~) color overlay for reading, writing, and listening;

(~~4~~5) magnification for reading, writing, and listening;

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

(~~5~~7) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;

(~~6~~8) read aloud for writing, listening, and reading items but not reading passages;

(~~7~~9) scribe for reading and listening;

(~~8~~10) separate setting for reading, writing, and listening, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(~~9~~11) simplified test directions for reading, writing, and listening; or

(~~10~~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;

(~~2~~3) Braille for reading, writing, and listening;

(~~3~~4) closed captioning for listening; or

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

(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

(~~8~~9) mark for review;

(~~9~~10) mathematics tools (i.e., embedded ruler and embedded protractor) for specific mathematics items;

(~~10~~11) strikethrough;

(~~11~~12) writing tools for specific pupil generated responses; or

(~~12~~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;

(~~3~~5) text-to-speech for stimuli and items;

(~~4~~6) translations (glossary);

(~~5~~7) Spanish translations (stacked) and translated test directions; or

(~~6~~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;

(~~1~~2) color contrast;

(~~2~~3) color overlay;

(~~3~~4) magnification;

(5) medical device;

(~~4~~6) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);

(~~5~~7) read aloud for stimuli and items;

(~~6~~8) read aloud for Spanish stacked translation;

(~~7~~9) scribe;

(~~8~~10) separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(~~9~~11) simplified test directions;

(~~10~~12) translated test directions; or

(~~11~~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~~; or~~.

~~(3) streamline.~~

(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; ~~or~~

(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) color contrast;

(~~3~~4) digital notepad;

(~~4~~5) English glossary;

(~~5~~6) expandable items;

(~~6~~7) expandable passages;

~~(7) global notes for writing;~~

(8) highlighter;

(9) keyboard navigation;

(10) line reader;

(~~10~~11) mark for review;

(~~11~~12) mathematics tools (e.g., ruler, protractor);

(~~12~~13) science charts (e.g., calendar, Periodic Table of the Elements, and conversion charts);

(~~13~~14) science tools (e.g., interactive laboratory equipment, stop watch, static hardness key or tool, etc.);

(~~14~~15) strikethrough;

(~~15~~16) writing tools for specific pupil generated responses; or

(~~16~~17) 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;

(~~3~~4) Spanish translations (stacked);

(5) streamline;

(~~4~~6) text-to-speech for stimuli and items;

(~~5~~7) translations (glossary) for the following languages, when developed and functional: Arabic, Cantonese, Hmong, Korean, Mandarin, Punjabi, Russian, Spanish, Tagalog, and Vietnamese; or

(~~6~~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;

(~~2~~3) calculator (four-function for grade 5 and scientific for grade 8 and high school);

(~~3~~4) color contrast;

(~~4~~5) color overlay;

(~~5~~6) magnification;

(7) medical device;

(~~6~~8) multiplication table;

(~~7~~9) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones);

(~~8~~10) read aloud for stimuli and items;

(~~9~~11) science charts (state approved only, i.e., calendar, Periodic Table of the Elements, and conversion charts);

(~~10~~12) scribe;

(~~11~~13) separate setting, including most beneficial time of day, special lighting or acoustics, and/or special or adaptive furniture;

(~~12~~14) simplified test directions; or

(~~13~~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, includes braille transcript;

(~~2~~3) Braille; or

(~~3~~4) closed captioning~~; or~~.

~~(4) streamline.~~

(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; ~~or~~

(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;

(~~9~~10) mark for review for reading, writing, and listening;

(11) Spanish glossary for specific items;

(~~10~~12) spell check for specific writing items for PLA – when developed and functional;

(~~11~~13) strikethrough for reading, writing, and listening;

(~~12~~14) writing tools for specific pupil generated responses for PLA; or

(~~13~~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;

(~~3~~5) text-to-speech for writing, listening, and reading items but not reading passages; or

(~~4~~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;

(~~1~~2) bilingual dictionary for PLA performance task(s) – full write not short paragraph responses, and writing – when developed and functional;

(~~2~~3) color contrast for reading, writing, and listening;

(~~34~~) color overlay for reading, writing, and listening;

(~~4~~5) magnification for reading, writing, and listening;

(6) medical device;

(~~5~~7) noise buffers (e.g., individual carrel or study enclosure, or noise-cancelling headphones) for reading, writing, and listening;

(~~6~~8) read aloud for writing, listening, and reading items but not reading passages;

(~~7~~9) scribe for reading and listening;

(~~8~~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

(~~9~~11) simplified test directions for reading, writing, and listening~~; or~~.

~~(10) 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 PLA (including the components of reading, writing, and listening) as specified below:

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

~~(2) streamline for reading, writing, and listening; or~~

(2) closed-captioning;

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

(~~3~~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.

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

(a) All LEA CAASPP coordinators and CAASPP test site coordinators shall sign 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 signature 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 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 ~~on file~~ 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 ~~sign~~ electronically agree to the CAASPP Test Security Affidavit ~~that will be kept on file in the LEA office~~.

(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.

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

~~Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~LEA: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

(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 ~~signing~~ 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:

(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 ~~signed~~ 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 or allow a pupil to log in using another pupil's information.

(5) 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 ~~signing my name~~ electronically agreeing to this document, I am assuring that I have completely read this affidavit and will abide by the above conditions.

~~Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~School: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~LEA: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

~~Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_~~

(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.

##### **§ 862. Apportionment Information Report**

(a) Annually, the CDE shall make available electronically to each LEA an apportionment information report with the following information provided to the contractor by the LEA pursuant to sections 853 and 861 by grade level:

(1) The number of pupils enrolled in each school and in the LEA;

(2) The number of pupils in each school and in the LEA tested with the alternate assessment;

(3) The number of pupils in each school and in the LEA exempted from testing at the request of their parent or guardian pursuant to Education Code section 60615;

(4) The number of pupils who were administered any portion of the CAASPP assessments pursuant to Education Code sections 60640(b)(1), 60640(b)(2), 60640(b)(4), or 60640(c)(3) through the use of computer-based testing;

(5) The number of pupils who were administered any portion of the CAASPP assessments pursuant to Education Code sections 60640(b)(1), 60640(b)(2), 60640(b)(4), or 60640(c)(3) through the use of paper-pencil assessments;

(6) The number of pupils with demographic information only who were not tested for any reason other than a parent or guardian exemption;

(7) The number of ELs who were administered a primary language test aligned to the ELA standards pursuant to Education Code section 60640(b)(5)(B); and

(8) Beginning in 2014-15, the number of pupils in grade 2 administered a diagnostic assessment pursuant to Education Code section 60644.

(b) To be eligible for apportionment payment for the CAASPP assessments pursuant to Education Code section 60640(l), LEAs must meet the following conditions:

(1) The LEA has returned all secure test materials, and

(2) The LEA CAASPP coordinator has certified the accuracy of the apportionment information report for assessments administered during the school year, which is ~~either~~;

~~(A)~~ transmitted electronically in a manner prescribed by the contractor(s) and/or the CDE ~~by March 1~~, ~~or~~.

~~(B) if transmitted after March 1, the~~ ~~apportionment information report must be accompanied by a waiver request as provided by Education Code section 33050. For those apportionment information reports transmitted after March 1,~~ (c) ~~a~~Apportionment payment is contingent upon the availability of an appropriation for this purpose for the fiscal year in which the testing window began.

Note: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60610, 60615, 60640 and 60641, 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 make the ~~forward or transmit pupi~~l 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 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.

10-24-18 [California Department of Education]