

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imb-adad-mar21item02

# California State Board of Education March 2021 Agenda Item #05

## Subject

California Assessment of Student Performance and Progress—Approve the Finding of Emergency and Proposed Emergency Regulations for addition to the *California Code of Regulations*, Title 5, Section 855.1 and English Language Proficiency Assessments for California—Approve the Finding of Emergency and Proposed Emergency Regulations for addition to the *California Code of Regulations*, Title 5, Section 11518.1.

## Type of Action

Action, Information

## Summary of the Issue(s)

California local educational agencies (LEAs) have been addressing the learning needs of students amid the challenge of planning for public safety while considering their local circumstances. The current novel coronavirus disease 2019 (COVID-19) pandemic is a public safety issue that is creating the challenge of administrating the summative assessments within the current testing windows for the California Assessment of Student Performance and Progress (CAASPP) and the English Language Proficiency Assessments for California (ELPAC) outlined in title 5 of the *California Code of Regulations,* sections 855 and 11518, respectively. To address this challenge that LEAs face, these regulations are being proposed for the 2020-21 school year only, per the action taken by the State Board of Education (SBE) at its February 24, 2021 meeting. These regulations are proposed for the sole purpose to resolve a crisis created by the COVID-19 pandemic and as such, permanent regulations are not necessary.

## Recommendations

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

* Approve the Finding of Emergency as found in Attachment 1
* Adopt the proposed CAASPP emergency regulation and proposed ELPAC emergency regulation as found in Attachment 2
* Direct the CDE to circulate the required Notice of Proposed Emergency Action, as found in Attachment 3, 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

As was presented in the November 2020 SBE Assessment Item, it is important to situate summative assessments in the larger picture of a comprehensive assessment system. A comprehensive assessment system consists not only at the end of year summative assessments, but also interim assessments, which can be used to gauge student learning at strategic points throughout the school year, and formative assessment tools and strategies to guide daily instruction. Summative assessments are a necessary component of a comprehensive assessment system. Summative assessment results provide important academic data at the state level for reporting and policy and program decision making, as well as professional development needs. The primary purpose for statewide summative testing is to provide data on student learning in schools and districts to inform continuous improvement and create actionable change. These statewide standardized assessments also are useful for identifying differences in performance by various student groups and monitoring equity, access, and other educational trends, which is more important now than ever before.

The CDE received guidance from the US Department of Education (ED) on February 22, 2021, outlining flexibilities that are available to states in order to satisfy the federal assessment, and the availability of waivers from certain accountability and reporting requirements for the 2020–21 academic year as a result of the COVID-19 pandemic. The ED has expressly stated that it is not inviting states to apply for blanket waivers that would allow states to opt out of annual testing altogether. The press release announcing the guidance and the letter sent to states are available on the ED website at <https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-states-assessing-student-learning-during-pandemic>. Following the release of its guidance, the ED denied New York’s request for a blanket waiver to opt out of all assessments required under the Every Student Succeeds Act.

At its meeting on February 24, 2021, the SBE voted to pursue extending the testing window for LEAs to provide flexibilities for test administration through July 30, 2021.

### Assessments and the COVID-19 Pandemic

Due to the circumstances surrounding the COVID-19 pandemic, all CAASPP and ELPAC 2019–2020 summative testing was suspended as described in the May 2020 SBE Agenda Item. This archived agenda item can be found at <https://www.cde.ca.gov/be/ag/ag/yr20/documents/may20item01.docx>.

In June 2020, the CDE issued *Stronger Together: A Guidebook for the Safe Reopening of California's Public Schools*, found at <https://www.cde.ca.gov/ls/he/hn/documents/strongertogether.pdf>. In July, August, and September 2020, Governor Newsom and the California Department of Public Health issued guidance on the reopening of schools and working with small groups/cohorts of children and youths. These guidance documents are located at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx>. Concurrently, on September 3, 2020, the US Department of Education (ED) issued a letter notifying Chief State School Officers that states should not anticipate the approval of statewide assessment waivers, as was provided in March 2020. This letter is located at <https://www2.ed.gov/policy/elsec/guid/secletter/200903.html>.

Given this guidance from the United States Department of Education and considering the burden on LEA resources to complete testing within the current statewide summative testing windows, the CDE is taking this opportunity to consider how California's Assessment System testing windows may be modified for a shifting educational landscape to grow with the changing system. The CDE is presenting this item to help the state and LEAs prepare for the unknown and are proposing to adapt the testing windows for both CAASPP and ELPAC to meet California’s diverse needs.

To provide LEAs with the ability to safely test as many students as possible, the CDE and testing contractor Educational Testing Service have developed protocols for in-person and remote testing for all assessments except the alternate assessments. The one-on-one alternate assessments are supportive in nature and can be administered only in person, with safety protocols in place.

Although the SBE approved an adjusted assessment blueprint for the summative English language arts/literacy (ELA) and mathematics assessments in November 2020, the logistics of testing all eligible students with the CAASPP and ELPAC assessments may still be challenging in a remote testing environment in terms of time and technology. This archived agenda item can be found at <https://www.cde.ca.gov/be/ag/ag/yr20/documents/nov20item04.docx>. In addition, California LEAs may soon begin the reopening of schools for some form of in-person learning as they follow guidance from state and county health officials, leaving some uncertainty regarding LEAs’ ability to determine when to schedule their test administrations. Such uncertainty may not give LEAs enough time to finish testing during their existing instructional calendars.

### Extension of the Testing Window

### Currently, CAASPP and ELPAC regulations specify start and end dates for the statewide testing windows. In addition, current CAASPP regulations indicate that an LEA may administer the assessments only up to the last day of the LEA’s regular school or track’s annual instructional calendar. The proposed regulations would extend the 2020–21 test administration window through July 30, 2021. This would provide LEAs with flexibility for testing outside of their current instructional year, resulting in LEAs having more time for testing, either in person or remotely, during the COVID-19 pandemic.

### Highlights of Proposed Changes

Specifically, the proposed amendments to the CAASPP regulations, found in Attachment 2, include, but are not limited to, the following:

* Adding Section 855.1 to: (1) include detail about an extension of the CAASPP testing window for the 2020–21 school year; and (2) indicate that this section shall not be deemed a waiver of the requirements in Education Code Section 60641.

Specifically, the proposed amendments to the ELPAC regulations, found in Attachment 2, include, but are not limited to, the following:

* Adding Section 11518.1 to include detail about an extension of the ELPAC testing window for the 2020–21 school year.

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

In February 2021, the CDE provided the SBE with updates on the guidance released by the ED on assessing student learning during the pandemic. The SBE directed the CDE to provide next steps on applying for additional flexibility from the ED, as well as including extending the testing window through July 30, 2021 (<https://www.cde.ca.gov/be/ag/ag/yr21/documents/feb2124item02.docx>).

In January 2021, the CDE provided the SBE with a summary of updates related to the CAASPP and the ELPAC (<https://www.cde.ca.gov/be/ag/ag/yr21/documents/jan21item03.docx>).

In November 2020, the CDE provided the SBE with updates related to the CAASPP, the ELPAC, and the California High School Proficiency Examination, including the approval of the proposed Smarter Balanced Summative Assessments for ELA and Mathematics blueprints, and approval of the proposed alternate ELPAC SSRs (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/nov20item04.docx>).

In September 2020, the CDE provided the SBE with a summary of developments and updates related to the CAASPP and the ELPAC (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/sep20item04.docx>).

In July 2020, the CDE provided the SBE with updates related to the CAASPP and the ELPAC, including summary data for the 2019–2020 test administration year, an update of CERS, the launch of Tools for Teachers, and the development of formative assessments for science (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/jul20item05.docx>).

In May 2020, the SBE approved the proposed Alternate ELPAC test blueprint, and authorized CDE staff to make technical edits, as necessary, to the proposed Alternate ELPAC test blueprint and program updates (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/may20item01.docx>).

In March 2020, the SBE approved the CAASPP and ELPAC 2019–2020 apportionment rates, and the CDE provided the SBE with CAASPP and ELPAC program updates (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/mar20item07.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr19/documents/nov19item12.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jul19item07.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr19/documents/may19item06.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr19/documents/jan19item16.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr18/documents/nov18item14.docx>).

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

(<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jul18item05.docx>).

## Fiscal Analysis

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

If these proposed emergency regulations were adopted to extend the testing window to July 30, 2021 for CAASPP and ELPAC, there would be no impact to the State’s current budget.

## Attachment(s)

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

# FINDING OF EMERGENCY

**California Assessment of Student Performance and Progress and   
English Language Proficiency Assessments for California**

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 regulations, California Code of Regulations, title 5 (5 CCR), sections 855.1 and 11518.1, must be adopted, on an emergency basis, in order for California to proceed in continuing to fairly and properly administer the 2020–2021 California Assessment of Student Performance and Progress (CAASPP) summative assessments and the summative English Language Proficiency Assessments for California (ELPAC) in the wake of the novel coronavirus 2019 (COVID-19) pandemic. These summative assessments are administered pursuant to the requirements of Education Code (EC)sections 60640 and 60810. The purposes of the proposed regulations are to ensure the continued correct, efficient, and standardized administration of the CAASPP and ELPAC summative assessments in accordance with required Smarter Balanced Assessment Consortium (Consortium), state, and federal guidelines. In addition, these regulations are proposed to maintain accuracy, reliability, and validity of measures and the timely reporting of the test results and, in so doing, prevent harm to the public peace, health, safety, and general welfare of pupils during the COVID-19 pandemic.

**Background**

The first operational administration of the online CAASPP assessments for English language arts/literacy (ELA) and mathematics took place from 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. Since then, the California Assessment System, of which CAASPP is a part, includes science assessments; Spanish language assessments; the ELPAC; and alternate assessments for ELA, mathematics, and science for students with the most significant cognitive disabilities.

The first operational administration of the Summative ELPAC took place February 1 through May 31, 2018, and the Initial ELPAC became operational July 1, 2018. Regulations were developed by the California Department of Education (CDE) pursuant to EC section 60810 and 5 CCR sections 11517.6 to 11519.5 to conform the regulations to the EC section relevant to the ELPAC. These regulations, initially approved by the SBE on June 5, 2017, were approved by the Office of Administrative Law (OAL) on October 1, 2017.

Due to the circumstances surrounding the COVID-19 pandemic, all CAASPP and ELPAC 2019–2020 summative testing was suspended. Throughout the COVID-19 pandemic, California local educational agencies (LEAs) have been addressing the learning needs of students amid the challenge of planning for public safety while considering their local circumstances. Following guidance from their county health officials, LEAs have shifted learning from traditional models of teaching to distance learning and hybrid options to meet the individual needs of their students.

To provide LEAs with the ability to safely test as many students as possible, the CDE and testing contractor Educational Testing Service (ETS) have developed protocols for in-person and remote testing for all assessments except the alternate assessments. The one-on-one alternate assessments are supportive in nature and can be administered only in person, with safety protocols in place.

Although the SBE approved an adjusted assessment blueprint for the summative ELA and mathematics assessments in November 2020, the logistics of testing all eligible students with the CAASPP and ELPAC assessments may still be challenging in a remote testing environment in terms of time and technology. In addition, California LEAs may soon begin the reopening of schools for some form of in-person learning as they follow guidance from state and county health officials, leaving some uncertainty regarding LEAs’ ability to determine when to schedule their test administrations. Such uncertainty may not give LEAs enough time to finish testing during their instructional calendars for the 2020–2021 school year.

**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 test results and the timely reporting of those results. Although the 2020–2021 CAASPP and ELPAC administrations have commenced amid the COVID-19 pandemic, these proposed regulatory amendments are necessary to adopt on an emergency basis to ensure that California continues to produce valid and reliable statewide test results during the COVID-19 pandemic.

Currently, both CAASPP and ELPAC regulations specify start and end dates for the statewide testing windows. In addition, current CAASPP regulations indicate that an LEA may administer the assessments only up to the last day of the LEA’s regular school or track’s annual instructional calendar. The proposed regulations would extend the 2020–2021 statewide testing window for the CAASPP and ELPAC assessments through July 30, 2021. This would provide LEAs with flexibility for testing outside of the current instructional year, resulting in LEAs having more time for testing, either in person or remotely, during the COVID-19 pandemic. It is critical that the proposed regulations be approved on an emergency basis for the 2020–2021 administration already underway and as LEAs develop and implement plans for testing eligible students as safely as possible.

The CDE received guidance from the US Department of Education (ED) on February 22, 2021, outlining flexibilities that are available to states in order to satisfy the federal assessment, and the availability of waivers from certain accountability and reporting requirements for the 2020–2021 academic year as a result of COVID-19 pandemic. The ED has expressly stated that it is not inviting states to apply for blanket waivers that would allow states to opt out of annual testing altogether. The press release announcing the guidance and the letter sent to states are available on the ED website at https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-states-assessing-student-learning-during-pandemic. Following the release of its guidance, the ED denied New York’s request for a blanket waiver to opt out of all assessments required under the Every Student Succeeds Act.

At its meeting on February 24, 2021, the SBE voted to pursue extending the testing window for LEAS for flexibilities for test administration through July 30, 2021.

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

| **Action\*** | **Estimated  Completion Date(s)** |
| --- | --- |
| SBE approves agenda item for the adoption of the emergency regulations | March 16–18, 2021 |
| Pre-notification of proposed emergency rulemaking is made public and interested persons and is posted on via webpage | March 19, 2021 |
| 5-business day pre-notice period of the proposed emergency regulations | March 19–26, 2021 |
| OAL conducts 10-calendar-day review | March 29–April 8, 2021 |
| Emergency regulations become effective | April 8, 2021 |

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

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

The current window for testing would expire before formal rulemaking could be undertaken, and therefore LEAs would not have any flexibility to address the health and safety concerns created by the pandemic and could result in LEAs being either unable to conduct the assessments for the 2020–2021 school year or unable to get sufficient participation from pupils to make the assessment results worthwhile. Consequently, the CAASPP and ELPAC assessments would be potentially inefficiently, ineffectively, and unsafely administered in the 2020–2021 school year. If the CAASPP and ELPAC assessments were to be administered under the current regulations, LEAs, students, and parents/guardians would not benefit from flexibility in timing amid the COVID-19 pandemic. In addition, LEAs would face the risk of not receiving apportionment dollars available for the fiscal year in which the testing window began should they be unable to test all of their students in the current school year.

**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.

Reference: Sections 313, 60640, 60641, and 60810, Education Code; and 20 U.S.C. Section 6311.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Assembly Bill No. 484 (chapter 489, Stats. 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 to the State’s testing regulations for the CAASPP System for the first operational administration of the CAASPP, which occurred in the 2014–2015 school year. Subsequent amendments were adopted on an emergency basis and through the regular rulemaking process for the second operational year of the CAASPP in 2015–2016, the third operational year of the CAASPP in 2016–2017, and the fifth operational year of the CAASPP in 2018–2019.

EC section 313 requires school districts, county offices of education, and charter schools, collectively referred to as LEAs, to assess the English language proficiency (ELP) of their pupils to the extent required by federal and state law. Assessment of a pupil’s ELP is required upon initial enrollment after a survey of a pupil’s language indicates a primary or native language other than English, and annually thereafter until a pupil is redesignated as fluent English proficient. The CDE is responsible for the oversight of the ELPAC, the state test of ELP, as set forth in EC sections 313 and 60810.

EC section 60810, subdivisions (d) and (f), requires two separate state tests of ELP: (1) an initial assessment to determine whether a pupil is an English learner (EL), as defined by EC section 306; and (2) an annual summative assessment to identify an EL’s level of ELP and to measure an EL’s progress in developing English proficiency. Combined, these assessments are described as the ELPAC. The Initial and Summative ELPAC are aligned with the 2012 ELD Standards, as required by EC section 60810, subdivisions (c)(5) and (e)(7) (Sen. Bill No. [SB] 201, section 6). The ELPAC assessments replaced the California English Language Development Test, as specified in EC sections 60810(f) (SB 201, section 5) and 60810(h) (SB 201, section 6).

The ELPAC regulations were approved by the OAL on June 5, 2017, and became effective on October 1, 2017. Subsequent amendments were adopted on an emergency basis and through the regular rulemaking process for the second operational year of the ELPAC in 2018–2019, based on educator and test examiner feedback from the field test and the first operational administrations, information from cognitive labs, and changes deemed necessary by ETS and the CDE.

The proposed amendments for CAASPP and ELPAC regulations for 2020–2021 are needed on an emergency basis to ensure that CAASPP and ELPAC produce valid and reliable results in a safe manner and that the test results can be produced and reported in such a manner that ensures that they can be used in a way that is timely and is appropriate for state and federal reporting. For these reasons, proposed changes to the language include changes for the definitions applying to the CAASPP and ELPAC testing administration windows in order to ensure that tests are administered in a safe manner and that test results are valid and reliable. The proposed amendments are designed to ensure that the CAASPP and ELPAC assessments 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 proposed regulations regarding student assessment.

**Policy Statement Overview**

The objective of the proposed regulation is to maintain LEAs’ flexibility in their planning of the administration of the CAASPP and ELPAC amid the COVID-19 pandemic. The proposed amendments would be temporary—for the 2020–2021 test administration year only. The proposed amendments would eliminate the end of the LEA’s instructional year in the definition of the available testing window. In addition, the proposed amendments would extend the testing to a definitive date statewide.

**Determination of Inconsistency/Incompatibility With Existing State Regulations**

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

**specific benefits anticipated by the proposed regulations**

The benefits of enacting the proposed amendments are their promotion of an optimal and fair test administration for eligible students through a provision of flexibility in planning for and carrying out testing amid the COVID-19 pandemic; the timely delivery of test results to LEAs and parents; and maintaining the CDE’s compliance with federal reporting requirements. Because they provide flexibility to LEAs in planning for testing, these proposed amendments 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 RELIED UPON**

The SBE did not rely upon any technical, theoretical, empirical studies, reports, or other documents in drafting these regulations.

**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.The proposed emergency regulations do not impose additional obligations on LEAs, but rather provide additional flexibility to complete the annual assessments required by both state and federal law.

**FISCAL IMPACT ESTIMATION**

If these proposed emergency regulations were adopted to extend the testing window to July 30, 2021 for CAASPP and ELPAC, there would be no impact to the State’s current budget.

03-05-2021 [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 2. Achievement Tests and Any Primary Language Assessment

**§ 855.1. Extension of Testing Window for 2020–2021 School Year.**

(a) Notwithstanding the testing windows outlined in section 855, for the purposes of completing the administration of assessments pursuant to Education Code section 60640 for the 2020–2021 school year, an LEA may continue to assess the pupils enrolled during the 2020–2021 school year during an extended testing window through July 30, 2021.

(b) Nothing in this section shall be deemed a waiver of the requirements set forth in Education Code section 60641 and title 20 United States Code section 6311.

NOTE: Authority cited: Sections 33031, 60605 and 60640, Education Code. Reference: Sections 60640 and 60641, Education Code; and 20 U.S.C. Section 6311.

**Chapter 11. Special Programs  
 Subchapter 7.6. English Language Proficiency Assessments for California (ELPAC)**

## Article 1. General

**§ 11518.1.** **Extension of Annual Summative Assessment Window for 2020–2021 School Year.**

(a) Notwithstanding the annual summative assessment window defined in section 11518(d), for purposes of completing the administration of summative assessments pursuant to Education Code section 60810(e) for the 2020-2021 school year, an LEA may continue to assess the pupils enrolled during the 2020–2021 school year during an extended annual summative assessment window through July 30, 2021.

(b) Nothing in this section shall be deemed a waiver of the requirements set forth in Education Code sections 313 or 60810, or title 20 United States Code section 6311.

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

03-05-21 [California Department of Education]

**CA DEPARTMENT OF EDUCATION**

**TONY THURMOND**

State Superintendent of Public Instruction

**CA BOARD OF EDUCATION**

**LINDA DARLING-HAMMOND**

President

March 19, 2021

# NOTICE OF PROPOSED EMERGENCY ACTION

California Assessment of Student Performance and Progress

Adoption of Emergency Regulation, Title 5, Section 855.1

English Language Proficiency Assessments for California

Adoption of Emergency Regulation, Title 5, Section 11518.1

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 regulations.

**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 “CAASPP and ELPAC” addressed to:

Reference Attorney

Lorie Adame, Regulations Coordinator

Office of Administrative Law

300 Capitol Mall, Suite 1250

Sacramento, CA 95814

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

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California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

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

916-322-2549

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.”

02-19-2021 [California Department of Education]