

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jul22item02

# California State Board of Education July 2022 Agenda Item #06

## Subject

The Federal Every Student Succeeds Act: Authorization to Pursue a Waiver for the 2022–23 School Year of the 1.0 Percent Cap on the Percentage of Eligible Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards for English Language Arts/Literacy, Mathematics, and Science.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

Pursuant to the *Code of Federal Regulations*, Title 34 (34 *CFR*), Section 200.6(c)(4), a state may request a waiver of the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an alternate assessment that is aligned with alternate academic achievement standards for English language arts/literacy (ELA), mathematics, and science, hereafter referred to as alternate assessments. For California, the alternate assessments are the California Alternate Assessments (CAAs) for ELA, mathematics, and science.

Based on the California Department of Education’s (CDE’s) preliminary data analysis using 2021–22 test participation data, the CDE anticipates that California will exceed the 1.0 percent cap for the 2022–23 school year. The 2021–22 test participation data in Attachment 1 reflects participation rates as of June 27, 2022. When available, the CDE will provide the U.S. Department of Education (ED) with final 2021–22 test participation data and test registration data for the 2022–23 administration.

The CDE is submitting this request now to ensure that it is submitted in accordance with the timeline required by 34 *CFR* Section 200.6(c)(4)(i), which states that the waiver request must be submitted at least 90 days before the testing window for the relevant subject opens.

The state testing window for reading/language arts and mathematics alternate assessments opens on January 10, 2023. Ninety days prior to January 10, 2023, will be October 12, 2022; therefore, this waiver request will meet the 90-day requirement.

The CAA for Science testing window opens on September 6, 2022, per California *Education Code* (*EC*) Section 855(a)(2). Ninety days prior to September 6, 2022, would be June 8, 2022; therefore, this waiver request does not meet the 90-day requirement.

## Recommendation

The CDE recommends that the California State Board of Education (SBE) authorize the CDE to submit to the ED a request for the waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2022–23 administration as found in Attachment 1.

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

## Brief History of Key Issues

Per 34 *CFR* Section 200.6(c)(2), the total number of students assessed using an alternate assessment aligned with alternate academic achievement standards may not exceed 1.0 percent of the total number of students assessed in the state. The CDE has reviewed alternate assessment participation data from the 2021–22 school year. After reviewing this data, the CDE expects that the state will exceed the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an alternate assessment. For this reason, the CDE recommends the SBE authorize the CDE to submit a waiver request for exceeding the 1.0 percent cap in the 2022–23 school year.

Attachment 1 contains estimated numbers—and TBD for numbers yet to be determined—that will be updated after the CDE has confirmed the final number of students participating in the 2021–22 administration as well as test registration for 2022–23 administration. The waiver request with final participation and registration numbers will be submitted to the ED in fall 2022 once it is signed by the State Board President and the State Superintendent of Public Instruction.

Per 34 *CFR* Section 200.6(c)(3), a state must require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its eligible students with an alternate assessment. The state must also make the information submitted by an LEA publicly available, provided that such information does not reveal personally identifiable information about an individual student. In an annual survey sent to all LEAs in the fall of each school year, the CDE collects responses from all LEAs in the state regarding their expected alternate assessment participation as well as, when applicable, information justifying an LEA’s need to assess more than 1.0 percent of its eligible students with an alternate assessment. The CDE will administer the 2022–23 survey and the information from this survey will be made available in fall 2022 on the CDE’s One Percent Threshold for Alternate Assessment Web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp>.

In September 2020, the SBE authorized CDE to submit to the ED a waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2020–21 administration. The waiver was submitted in November 2020. In January 2021, the ED denied this waiver request due to California’s not having demonstrated that it had assessed 95 percent of all students in science and 95 percent of students with disabilities in ELA, mathematics, and science in 2018–19. In March 2022, the SBE authorized the CDE to submit to the ED a waiver of the 1.0 percent cap of eligible students being assessed with an alternate assessment for ELA, mathematics, and science for the 2021–22 administration. The waiver request was submitted to the ED on May 3, 2022. On June 22, 2022, the ED responded with a denial of California’s request because California has not met the requirement in 34 CFR § 200.6(c)(4), demonstrating that it has assessed 95 percent of all students and 95 percent of students with disabilities in reading/language arts, mathematics, and science in 2020–21. The State’s plan and high-level timeline that shows the progress in reducing the percentage of students taking an alternate assessment is included in the section on California’s Waiver Plan for 2022–23 in Attachment 1.

## Ninety-Day Timeline for Request of the 1.0 Percent Waiver for the CAA for Science

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

The annual testing window for the CAAs for ELA and mathematics begins on January 10, 2023 for the 2022–23 school year, and 90 days prior to the opening of this testing window is October 12, 2022. The CDE expects to meet the 90-day timeline in applying for a waiver of the 1.0 percent cap for the CAAs for ELA and mathematics; therefore, no waiver of the 90-day timeline is needed for ELA and mathematics.

The annual testing window for the CAA for Science, however, begins on September 6, 2022 for the 2022–23 school year, and 90 days prior to September 6, 2022, would have been June 8, 2022. The CDE, therefore, cannot meet the notification timeline for a waiver of the 1.0 percent cap for the CAA for Science. For this reason, the CDE recommends that the SBE authorize the submission of a waiver request of the 90-day timeline for science.

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

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

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 (<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 California Assessment of Student Performance and Progress (CAASPP); the SBE engaged in preliminary discussions about testing flexibilities (<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, including the approval of the proposed Smarter Balanced summative assessments for ELA and mathematics blueprints (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/nov20item04.docx>).

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

In August 2020, the CDE provided the SBE with information and updates regarding the first operational administration of the CAA for Science and the release of the 2019–20 science assessment results (<https://www.cde.ca.gov/be/pn/im/documents/aug20adad01.docx>).

In July 2020, the CDE provided the SBE with a summary of developments and updates related to the CAASPP, including summary data for the 2019–20 test administration year (<https://www.cde.ca.gov/be/ag/ag/yr20/documents/jul20item05.docx>).

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

In January 2018, the SBE approved the CAA for Science test blueprint, general achievement level descriptors, and score reporting structure (<https://www.cde.ca.gov/be/ag/ag/yr18/documents/jan18item06.docx>).

In December 2017, the CDE updated the SBE with a summary of recent developments related to the science waiver for the field test of the California Science Test, the second-year pilot test of the CAA for Science (<https://www.cde.ca.gov/be/pn/im/documents/memo-pptb-adad-dec17item01.doc>), and a letter to the ED outlining the plan to provide preliminary indicators for students taking the science assessments (<https://www.cde.ca.gov/be/pn/im/memo-pptb-adad-dec17item01a01.asp>).

In May 2016, the SBE approved the CDE recommendation to eliminate the California Standards Tests, California Modified Assessment, and California Alternate Performance Assessment and to submit a letter to the ED requesting a waiver of double testing while conducting pilot and field testing (<https://www.cde.ca.gov/be/ag/ag/yr16/documents/may16item08.doc>).

## Fiscal Analysis (as appropriate)

Not applicable.

## Attachment(s)

* Attachment 1: DRAFT Letter from State Superintendent of Public Instruction Thurmond and State Board President Darling-Hammond to ED Regarding Waiver Requests (13 Pages)



**California Department of Education**

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

1430 N Street, Sacramento, CA 95814-5901

916-319-0800



**California State Board of Education**

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

1430 N Street, Room 5111, Sacramento, CA 95814

916-319-0827

# DRAFT September XX, 2022

Patrick Rooney, Director

School Support and Accountability

Office of Elementary and Secondary Education

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

David Cantrell, Ph.D., Acting Director

Office of Special Education Programs

Office of Special Education and Rehabilitative Services

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

Dear Director Rooney and Dr. Cantrell:

Please find attached California’s waiver request pursuant to *Code of Federal Regulations*, Title 34 (34 *CFR*), Section 200.6(c)(4), which requires that, for each subject for which assessments are administered, the total number of eligible students assessed in that subject using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) may not exceed 1.0 percent of the total number of students in California who are assessed in that subject. Data analysis indicates that the submission of a waiver is warranted for English language arts (ELA), mathematics, and science for the 2022–23 school year (page 3).

For more information or questions about the attached waiver requests for the 2022–23 school year, please contact Cheryl Cotton, Deputy Superintendent, by email at [CCotton@cde.ca.gov](mailto:CCotton@cde.ca.gov) or by phone at 916-323-6398.

Sincerely,

|  |  |
| --- | --- |
| [**Signature**]  Tony Thurmond  State Superintendent of Public Instruction  California Department of Education | [**Signature**]  Linda Darling-Hammond  President  California State Board of Education |

TT/LDH:tdb

Attachment

**Waiver Requests**

California Department of Education

Alternate Assessment Aligned with Alternate Academic Achievement Standards

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

DRAFT September XX, 2022

Title 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA) (ESEA Section111[b][2][D] and *Code of Federal Regulations*, Title 34 [34 *CFR*] Section 200.6[c] and [d]), modifies the provision that eligible students with the most significant cognitive disabilities may participate in alternate assessments based on alternate academic achievement standards (AA-AAAS). ESSA places a 1.0 percent cap on the number of eligible students who may participate in alternate assessments. States that anticipate exceeding the 1.0 percent cap must submit a waiver request to the U.S. Department of Education (ED).

The California Alternate Assessments (CAAs) are California’s AA-AAAS. On behalf of the California State Board of Education (SBE), the California Department of Education (CDE) is submitting the required waiver request for the anticipated greater than 1.0 percent participation rate in the CAAs for English language arts/literacy (ELA), mathematics, and science for the 2022–23 school year. The CDE anticipates that participation rates for the CAAs for the 2022–23 school year will exceed 1.0 percent for ELA, mathematics, and science.

The CDE and SBE are requesting a waiver of the requirement in 34 *CFR* Section 200.6(c)(2) to assess less than 1.0 percent of eligible students with an AA-AAAS for the 2022–23 test administration.

**Overview**

The 2021–22 test participation data in the tables 1 through 7 reflect 2021–22 overall participation rates.

Table 1 and table 2 display the 2021–22 overall participation rates for all students and overall participation rates for students with disabilities by content area.

Table 1. Overall Participation Rates for All Students by Content Area, 2021–22

| **Content Area** | **Number of Eligible Students, 2022** | **Number of Students Assessed, 2022** | **Participation Rate, 2022** |
| --- | --- | --- | --- |
| ELA | 3,133,037 | 3,001,582 | 95.80% |
| Math | 3,133,037 | 3,004,608 | 95.90% |
| Science | 1,661,113 | 1,515,503 | 91.23% |

Table 2. Overall Participation Rates of Students with Disabilities by Content Area, 2021–22

| **Content Area** | **Number of Students with Disabilities, 2022\*** | **Number of Students with Disabilities Assessed, 2022†** | **Participation Rate, 2022** |
| --- | --- | --- | --- |
| ELA | 417,199 | 383,038 | 91.81% |
| Math | 417,199 | 381,234 | 91.38% |
| Science | 214,016 | 182,374 | 85.22% |

\* Includes students with an Individuals with Disabilities Education Act (IDEA) indicator who are eligible for general and alternate assessments.

† Includes both general and alternate assessments.

**Estimated Participation Rates for 2022–23**

The CDE has reviewed alternate assessment registration and participation data from 2021–22. After reviewing that and other relevant data, the CDE estimates that the state will exceed the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with an AA-AAAS.

Table 3 shows the CAA participation rate estimates for all eligible students in 2022–23.

Table 3. Estimated CAA Participation Rates of Eligible Students by Content Area, 2023

| **Content Area** | **Estimated Number of Students Eligible for CAA, 2023 (based on enrollment/registration)** | **Estimated Number of Students Assessed with CAA, 2023 (estimate based on 95% participation)** | **Participation Rate, 2023 (estimate)** |
| --- | --- | --- | --- |
| ELA | TBD | TBD | 95.00% |
| Math | TBD | TBD | 95.00% |
| Science | TBD | TBD | 95.00% |

Table 4 shows the overall participation rate estimates for all students in 2022–23.

Table 4. Estimated Overall Participation Rates for All Students, 2023

| **Content Area** | **Estimated Number of Eligible Students, 2023 (based on enrollment/ registration)** | **Number of Students Assessed, 2023 (estimate based on 95% participation)** | **Participation Rate, 2023 (estimate)** |
| --- | --- | --- | --- |
| ELA | TBD | TBD | 95.00% |
| Math | TBD | TBD | 95.00% |
| Science | TBD | TBD | 95.00% |

**The 1.0 Percent Waiver Request Requirements**

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

The state testing window for reading/language arts and mathematics alternate assessments opens on January 10, 2023. Ninety days prior to January 10, 2023, will be October 12, 2022; therefore, the 1.0 percent waiver request meets the 90-day requirement for reading/language arts and mathematics.

The CAA for Science testing window opens on September 6, 2022, per *Education Code* (*EC*) Section 855(a)(2). Ninety days prior to September 6, 2022, would have been June 8, 2022; therefore, California requests a waiver of 34 *CFR* Section 200.6(c)(4)(i) for the CAA for Science.

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

Where applicable, the state will also provide a credible estimate of the number and percentage of students (including by student group, if possible) it expects to take the alternate assessment in 2022–23.

Tables 5 through 7 show detailed student group CAA participation rates for eligible students by content area for 2021–22 as well as estimated test registration numbers for the 2022–23 school year.

Table 5. CAA for ELA Participation Rates by Student Group

| **Student Group** | **Number of Students Assessed, 2022** | **Number of Eligible Students Assessed with CAA, 2022** | **Percentage of Eligible Students Assessed with CAA, 2022** | **Number of Students Assessed, 2023 (estimate based on enrollment in grades 3–8 and grade 11)** | **Number of Eligible Students Assessed with CAA, 2023 (estimate based on 2022 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2023 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 3,001,582 | 33,038 | 1.1% | TBD | 39,303 | TBD |
| Females | 1,459,332 | 10,333 | 0.7% | TBD | 12,418 | TBD |
| Males | 1,540,719 | 22,702 | 1.5% | TBD | 26,880 | TBD |
| Black | 151,659 | 2,490 | 1.6% | TBD | 3,088 | TBD |
| Hispanic | 1,686,526 | 19,256 | 1.1% | TBD | 22,341 | TBD |
| Asian | 292,580 | 2,853 | 1.0% | TBD | 3,409 | TBD |
| White | 618,384 | 5,701 | 0.9% | TBD | 7,080 | TBD |
| American Indian or Alaska Native | 13,022 | 179 | 1.4% | TBD | 221 | TBD |
| Filipino | 71,102 | 959 | 1.3% | TBD | 1,160 | TBD |
| Native Hawaiian or Pacific Islander | 12,765 | 147 | 1.2% | TBD | 178 | TBD |
| Two or more races | 126,270 | 1,153 | 0.9% | TBD | 1,449 | TBD |
| English learners | 547,618 | 8,831 | 1.6% | TBD | 10,071 | TBD |
| Economically disadvantaged | 1,798,726 | 21,304 | 1.2% | TBD | 22,977 | TBD |

Table 6.CAA for Mathematics Participation Rates by StudentGroup

| **Student Group** | **Number of Students Assessed, 2022** | **Number of Eligible Students Assessed with CAA, 2022** | **Percentage of Eligible Students Assessed with CAA, 2022** | **Number of Students Assessed, 2023 (estimate based on enrollment in grades 3–8 and grade 11)** | **Number of Eligible Students Assessed with CAA, 2023 (estimate based on 2022 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2023 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 3,004,608 | 32,837 | 1.1% | TBD | 39,303 | TBD |
| Females | 1,460,307 | 10,265 | 0.7% | TBD | 12,418 | TBD |
| Males | 1,542,771 | 22,569 | 1.5% | TBD | 26,880 | TBD |
| Black | 150,902 | 2,456 | 1.6% | TBD | 3,088 | TBD |
| Hispanic | 1,688,748 | 19,172 | 1.1% | TBD | 22,341 | TBD |
| Asian | 294,195 | 2,832 | 1.0% | TBD | 3,409 | TBD |
| White | 617,413 | 5,659 | 0.9% | TBD | 7,080 | TBD |
| American Indian or Alaska Native | 12,985 | 176 | 1.4% | TBD | 221 | TBD |
| Filipino | 70,965 | 949 | 1.3% | TBD | 1,160 | TBD |
| Native Hawaiian or Pacific Islander | 12,737 | 148 | 1.2% | TBD | 178 | TBD |
| Two or more races | 125,820 | 1,151 | 0.9% | TBD | 1,449 | TBD |
| English learners | 557,330 | 8,767 | 1.6% | TBD | 10,071 | TBD |
| Economically disadvantaged | 1,800,748 | 21,180 | 1.2% | TBD | 22,977 | TBD |

Table 7. CAA for Science Participation Rates by Student Group

| **Student Group** | **Number of Students Assessed, 2022** | **Number of Eligible Students Assessed with CAA, 2022** | **Percentage of Eligible Students Assessed with CAA, 2022** | **Number of Students Assessed, 2023 (estimate based on enrollment in grades 5, 8, and high school)** | **Number of Eligible Students Assessed with CAA, 2023 (estimate based on 2022 test registration)** | **Percentage of Eligible Students Assessed with CAA, 2023 (estimate)** |
| --- | --- | --- | --- | --- | --- | --- |
| All Students | 1,515,503 | 14,572 | 1.0% | TBD | 20,142 | TBD |
| Females | 736,857 | 4,783 | 0.6% | TBD | 6,616 | TBD |
| Males | 777,569 | 9,788 | 1.3% | TBD | 13,524 | TBD |
| Black | 75,282 | 1,057 | 1.4% | TBD | 1,607 | TBD |
| Hispanic | 851,858 | 8,722 | 1.0% | TBD | 11,532 | TBD |
| Asian | 149,697 | 1,123 | 0.8% | TBD | 1,644 | TBD |
| White | 316,253 | 2,581 | 0.8% | TBD | 3,778 | TBD |
| American Indian or Alaska Native | 6,442 | 71 | 1.1% | TBD | 100 | TBD |
| Filipino | 39,035 | 415 | 1.1% | TBD | 592 | TBD |
| Native Hawaiian or Pacific Islander | 6,525 | 69 | 1.1% | TBD | 84 | TBD |
| Two or more races | 57,851 | 424 | 0.7% | TBD | 638 | TBD |
| English learners | 216,456 | 3,541 | 1.6% | TBD | 4,692 | TBD |
| Economically disadvantaged | 893,602 | 9,477 | 1.1% | TBD | 11,750 | TBD |

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

California has all local educational agencies (LEAs) in the state submit a two-page One Percent Justification Survey. Part A of the form is completed by all the LEAs and provides participation projections for the spring assessment administration. If the LEA is anticipating to exceed the 1.0 percent threshold of students who would be assessed using the AA-AAAS, the LEA is required to complete Part B and provide a written justification. The CDE’s One Percent Threshold on Alternate Assessments web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> provides information on this requirement.

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

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

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

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

**California’s Waiver Plan for 2022–23**

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

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

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

The CDE revised its guidelines to clarify that students identified with a specific learning disability do not meet the criteria for identification as significantly cognitively impaired. The guidelines also clarify that a student who is registered for the alternate assessment in one subject must take the alternate assessment for all eligible subjects. This revised guidance has been added to the state decision-making tool.

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

* “IEP Teams Resources” flyer, which provides information on identifying the correct assessment for students and identifying appropriate accessibility resources for students (<https://www.cde.ca.gov/ta/tg/sa/documents/iepedresource.pdf>)
* “Alternate Assessment IEP Team Guidance,” which provides basic information on alternate assessments in California and specific participation criteria (<https://www.cde.ca.gov/ta/tg/ca/caaiepteamrev.asp>)

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

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

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

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

**California’s Timeline**

| **Description of Activity** | **2022 Completion Date** | **2023 Completion Date** |
| --- | --- | --- |
| 1. Presentation to the Advisory Commission for Special Education for awareness and input | February 2022 | February 2023 |
| 1. Presentation of 1.0 percent threshold requirements to LEA coordinators at the annual statewide Assessment Information Meeting | August 2022 | August 2023 |
| 1. Notification to LEA superintendents about the requirement to test all students and the importance of reporting and providing justification for potentially exceeding the 1.0 percent threshold; Administration of the 1.0 Percent Threshold Survey to LEAs <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> | August–September 2022 | August–September 2023 |
| 1. Analysis of assessment data to identify LEAs that exceeded the 1.0 percent cap and did not complete the 1.0 Percent Threshold Survey | Fall 2022 | Fall 2023 |
| 1. Submission of the request for a waiver of the 1.0 percent cap if a review of the spring 2022 administration data indicates a need for such a request | Fall 2022 | Fall 2023 |
| 1. Review of guidelines and provision of guidance on eligibility for participation in the AA-AAAS included as part of pretest workshops throughout the state to ensure the appropriate identification of students for alternate assessments | September 2021–February 2022 | September 2022–February 2023 |
| 1. Review of data to determine LEAs exceeding the 1.0 percent cap and potential disproportionality; engage with LEAs that exceed the 1.0 percent cap and/or indicate potential disproportionality | January 2022– July 2022 | January 2023– July 2023 |

1. Fulfillment of requirements in Section 8401 of the ESEA related to public comment.

California provided to the public and to LEAs notice and reasonable time for comment in the manner in which California customarily provides similar notice and opportunity for comment. The agenda for the July 2022 SBE meeting was uploaded 10 days prior to the SBE's monthly meeting along with any supporting materials that were electronically available. All supporting materials for the agenda items were available for public inspection at the SBE, 1430 N Street, Suite 5111, Sacramento, California, 95814. Public comments that impact this waiver will be included before submission to the ED.