California Department of Education

Executive Office

SBE-002 (REV. 11/2017)

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# MEMORANDUM

**DATE:** April 15, 2020

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

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

**SUBJECT:** California Alternate Assessments: Exceeding the 1.0 Percent Threshold, and Less than 95 Percent Participation Rate for Students with Disabilities.

## Summary of Key Issues

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

In March 2019, the California Department of Education (CDE) submitted assessment data for the 2017–18 school year to the US Department of Education (ED) that indicated participation rates exceeding the 1.0 percent participation threshold. This was shared with the California State Board of Education in an August 2019 Information Memorandum, which included a mandatory state plan to come into compliance with the 1.0 percent participation threshold. To develop, submit, and implement the required plan, the Assessment Development and Administration Division worked with representatives from the Special Education Division and the Analysis, Measurement, and Accountability Reporting Division of CDE, as well as several stakeholder groups.

The CDE received a follow-up letter from the ED (Attachment 1) on February 4, 2020. The letter indicated that the state had exceeded the 1.0 percent threshold on students taking alternate assessments based on AA-AAAS for the 2018–19 school year. During that year, California had AA-AAAS participation rates greater than 1.0 percent in reading/language arts, mathematics, and science. In addition, assessment participation rates in science were lower than 95 percent for all students and lower than 95 percent in reading/language arts, mathematics, and science for students with disabilities. As a result, the ED will continue to place a grant condition on California's fiscal year 2020 Title I, Part A award.

The CDE annually surveys local educational agencies (LEAs) concerning the 1.0 percent threshold and the number of students taking alternate assessments based on AA-AAAS. The survey response can be publicly accessed on the 1.0 Percent Threshold on Alternate Assessments web page located at [https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp.](https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp)

While there is a limit on the percentage of students statewide who may take the alternate assessments based on AA-AAAS, there are no limitations on LEA individualized education program teams identifying students for alternate assessment. As part of the annual survey, each LEA submits information justifying the need to assess more than 1.0 percent of its students in any subject with an assessment based on AA-AAAS. In compliance with federal law, the CDE makes justification information publicly available; it can be found on the CDE California Alternate Assessments 1.0 Percent Threshold Data web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp>.

Exceeding the 1.0 percent statewide threshold requires the CDE to carry out the following:

1. By no later than October 1, 2020, provide assessment participation data on reading/language arts, mathematics, and science and an update on the progress made in implementing the state plan.
2. Provide evidence that the state is assessing less than 1.0 percent of its students on an alternate assessment based on AA-AAAS for each subject.

The correspondences attached provide detailed information on this issue. Attachment 2 outlines the progress made over the past year and the planned effort to gain compliance for California’s statewide 1.0 percent participation threshold on the alternate assessments based on AA-AAAS.

## Attachment(s)

* Attachment 1: U.S. Department of Education’s February 4, 2020, Notification Letter regarding California’s having exceeded the 1.0 percent threshold   
  (3 Pages).
* Attachment 2: California State Board of Education’s response to the U.S. Department of Education’s Notification Letter regarding California’s having exceeded the 1.0 percent threshold (4 Pages).

**Attachment 1: U.S. Department of Education’s February 4, 2020, Notification Letter regarding California’s having exceeded the 1.0 percent threshold**



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

**FEB 0 4 2020**

The Honorable Tony Thurmond

Superintendent

California Department of Education

1430 N Street

Sacramento, CA 95814

Dr. Linda Darling-Hammond

President

California State Board of Education

1430 N Street, Room 5111

Sacramento, CA 95814

Dear Superintendent Thurmond and Dr. Darling-Hammond:

I am writing to follow up on a letter I sent you on June 4, 2019, regarding the California Department of Education's (CDE) percentage of students with the most significant cognitive disabilities taking an alternate assessment aligned with alternate academic achievement standards (AA-AAAS). As you know, the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), limits the percentage of students that a State may assess with an AA-AAAS to no more than 1.0 percent of all assessed students in a State for each subject. In that letter, I noted that California had exceeded the 1.0 percent threshold in the 2017–2018 school year in reading/language arts, mathematics, and science based on data submitted to the Department via the ED*Facts* reporting system.

I recognize that the limit on the number of students with the most significant cognitive disabilities who may be assessed with an AA-AAAS was a new requirement starting in the 2017–2018 school year, and understand that many States needed time to provide training and guidance to reduce their AA-AAAS participation rates. Because CDE had rates of AA-AAAS participation that were greater than 1.0 percent in reading/language arts, mathematics, and science without a waiver; and had assessment participation rates that were less than 95 percent for all students in science and less than 95 percent for students with disabilities in reading/language arts, mathematics and science, the Department placed a grant condition on the State's fiscal year 2019 Title I, Part A award. This condition required that the State submit a plan for reducing the rate of AA-AAAS participation in future years in order to come into compliance with the 1.0 percent requirement. The condition also required that the State submit assessment participation data (including AA-AAAS participation) via ED*Facts* for the 2018–2019 school year by October 1, 2019. Thank you for providing both the plan and data that were requested in the June 4 letter.

In reviewing CDE's 2018–2019 data, it appears, that the AA-AAAS participation rates for reading/language arts, mathematics and science are still above 1.0 percent. As a result, the grant condition on CDE's Title I, Part A grant award will continue. In order to satisfy this condition, CDE must:

1. Provide, not later than October 1, 2020, assessment participation data in reading/language arts, mathematics and science and an update on the progress it has made in implementing its plan.

2. Provide evidence that it is assessing less than 1.0 percent of its students on an AA-AAAS for each subject.

I appreciate the plan California developed and submitted in summer 2019 to address this issue and look forward to seeing the results of your implementation of this plan over the next year.

The Department continues to support California and all States to ensure all students are being assessed using the right assessments. Over the past two years, the National Center on Educational Outcomes has facilitated a variety of technical assistance activities for States working to meet the 1.0 percent threshold. I note that CDE has participated in some of these activities. You may find resources from these activities available at <https://nceo.info/Assessments/alternate_assessments>.

I appreciate the work you are doing to improve your schools and provide a high-quality education for students. If you have any questions, please contact my staff at [ESEA.Assessment@ed.gov](mailto:ESEA.Assessment@ed.gov).

Sincerely,

/s/

Frank T. Brogan

Assistant Secretary for

Elementary and Secondary Education

**Attachment 2: California State Board of Education’s response to the U.S. Department of Education’s Notification Letter regarding California’s having exceeded the 1.0 percent threshold**



April 3, 2020

Frank T. Brogan, Assistant Secretary

Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW   
Washington, DC 20202

Dear Assistant Secretary Brogan:

Subject: Exceeding the 1.0 Percent Threshold for Alternate Assessments

The California Department of Education (CDE) and the California State Board of Education (SBE) (collectively, California) received a letter on February 4, 2020, from the U.S. Department of Education (ED), regarding the percentage of its students taking alternate assessments based on alternate academic achievement standards   
(AA-AAAS) in school year 2018–2019. California acknowledges that it had participation rates slightly higher than 1.0 percent in reading/language arts, mathematics, and science. It also acknowledges that assessment participation rates were lower than 95 percent for all students in science and for students with disabilities in reading/language arts, mathematics, and science.

Although California narrowly exceeded the 1.0 percent threshold set by the ED, it asserts that students who took the AA-AAAS-based assessments were tested appropriately and in compliance with federal law as determined by each student’s individualized education program (IEP) team. This is a discussion that takes place at the local level and considers individual student needs as required by the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

California has worked with and will continue to work with our local educational agency (LEA) partners and stakeholders to ensure maximum participation rates and that every student is taking the most appropriate assessment based on individual need. In Table 1, California provides an update on its participation-related accomplishments over the past year as well as a plan and timeline of key activities to meet the following grant condition requirements:

* Provide, no later than October 1, 2020, assessment participation data on reading/language arts, mathematics, and science and an update on the progress California has made in implementing its plan.
* Provide evidence that California is assessing less than 1.0 percent of its students on an AA-AAAS-based assessment for each subject.

**Table 1. Update of Accomplishments, Plan, and Timeline of Key Activities for Compliance with the 1.0 Percent Requirement for Alternate Assessments for the 2020–2021 School Year**

| **Description of Activity** | **Anticipated Completion** | **2019 Completion Status** | **2020 Anticipated Completion** |
| --- | --- | --- | --- |
| 1. Presentation of ED notification letter to the Advisory Commission for Special Education for awareness and input | June 2019 | Completed | April 2020 |
| 1. Analysis of assessment data to identify LEAs that exceeded the 1.0 percent threshold and did not complete the 1.0 percent threshold survey; notification to LEAs of their responsibility to report and provide justification | June–August 2019 | Three-year Analysis Completed | June–August 2020 |
| 1. Presentation of 1.0 percent threshold requirements to LEA coordinators at the annual statewide assessment information meetings | August 2019 | Completed | August 2019 |
| 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 | September 2019 | Completed | September 2019 |
| 1. Administration of the 1.0 Percent Threshold Survey to LEAs | Fall 2019 | See <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> | Fall 2020 |
| 1. Submission of a 2019–2020 application for the 1.0 percent threshold waiver if a review of the 1.0 Percent Threshold Survey data indicates a need for such a request | December 2019 | May 2020 | December 2020 if necessary |
| 1. Review of guidelines and provision of guidance, during pretest workshops throughout the state, on participation in the AA-AAAS-based assessments to ensure appropriate identification of students for alternate assessments | September 2019–February 2020 | Completed | September 2020–February 2021 |

Additional accomplishments include the following:

* California continues to participate in the National Center on Educational Outcomes (NCEO) meetings. The information gathered at these meetings will facilitate communications to LEAs that have been identified as having exceeded the 1.0 percent threshold. Participation in the NCEO meetings will continue to support California’s ongoing efforts to move toward compliance.
* In coordination with our assessment contractor, Educational Testing Service, California created the State Assessment Metric Interface (SAMI) for our Test Operations Management System, which is accessed by local assessment coordinators and the CDE. The SAMI allows for real-time monitoring the percentage of AA-AAAS-based testing in the state and facilitates interaction with LEAs during the testing window.

The CDE will continue to monitor samples of students to ensure that students with disabilities are given the accessibility supports required in their IEP. The review will include a comparison of the accessibility supports in the IEP and the supports made available to the student on California Assessment of Student Performance and Progress tests, including Smarter Balanced. Once the LEA is selected for a monitoring activity, student files are randomly selected for review. The CDE anticipates reviewing 350 student files annually. LEAs with noncompliance identified will be required to go through a corrective action process.

The CDE also will continue to annually monitor alternate assessment data. LEAs that exceed the 1.0 percent cap will be required to provide the CDE with detailed justification. Monitoring data will be used to develop targeted, content-specific training and support aimed at addressing each LEA’s unique needs. The CDE will continue to provide professional learning opportunities such as the CDE Alternate Assessment IEP Team Guidance available at <https://www.cde.ca.gov/ta/tg/ca/caaiepteamrev.asp> and CDE IEP Educator resources available at <https://www.cde.ca.gov/ta/tg/sa/documents/iepedresource.pdf> for IEP team members and other educators, particularly on the nature of the alternate assessment and the students who are eligible to participate under the “California Alternate Assessment Decision Confirmation Worksheet,” which is available at <https://www.cde.ca.gov/ta/tg/ca/documents/altassessmentdecision.pdf>.

California is committed to ensuring that all of its students with disabilities are assessed appropriately and will continue to provide monitoring and technical assistance in this regard. It looks forward to working with the ED to ensure ongoing compliance with federal law.

For questions related to this letter, please contact Joseph Saenz, Federal Policy Liaison, by phone at 916-319-0570 or by email at [JSaenz@cde.ca.gov](mailto:JSaenz@cde.ca.gov).

Sincerely,

/s/

Tony Thurmond

State Superintendent of Public Instruction

California Department of Education

/s/

Linda Darling-Hammond

President

California State Board of Education

TT/LDH:jb