



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 21, 2022

The Honorable Linda Darling-Hammond
State Board President
California State Board of Education
1430 N Street, Room 5111
Sacramento, CA 95814

The Honorable Tony Thurmond
State Superintendent of Education
California Department of Education
1430 N Street
Sacramento, CA 95814

Dear Board President Darling-Hammond and Superintendent Thurmond:

I am writing in response to the California Department of Education's (CDE's) request on May 4, 2022, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA) of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State. Based on data from the 2018-2019 and 2020-2021 school years, CDE concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2021-2022 school year.

After reviewing CDE's waiver request, I am declining to exercise my authority under section 8401(b) of the ESEA to grant a one-year waiver for school year 2021-2022, of section 1111(b)(2)(D)(i)(I) of the ESEA, so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in reading/language arts, mathematics, and science. I am declining to grant the State'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 in science and 95 percent of students with disabilities in reading/language arts, mathematics, and science.

In a letter from the Department to States on October 29, 2021¹, States were advised that, in requesting a waiver to the 1.0 percent cap on alternate assessment participation for 2021-2022, the requirement in 34 CFR § 200.6(c)(4)(ii)(B) (which requires that a State must have assessed at least 95 percent of students in the prior year to be eligible for a 1.0 percent waiver) could be set aside for 2020-2021 participation data if the State could demonstrate that it had met the 95 percent participation threshold for all students and for all students with disabilities in the 2018-19 school year. California did not assess at least 95 percent of all students and students with disabilities in 2020-2021. In addition, California did not assess at least 95 percent of all students with disabilities in any of the required subject areas in 2018-2019.

¹ See : <https://oese.ed.gov/files/2021/10/Memo-to-States-re-One-Percent-Waiver-Requirements-2021-2022.pdf>.

Therefore, the State is not eligible for a waiver from the 1.0 percent cap on alternate assessment participation in 2021-2022.

If the 2018-19 assessment data the CDE reported in its waiver request are not accurate, CDE may revise its waiver request, consistent with section 8401(b)(4)(B)(ii) of the ESEA, to meet the requirements under sections 8401(b)(1)(C) and (F). The revised waiver request must address how the requirements are met in 34 CFR § 200.6(c)(4), specifically the requirement of assessing 95 percent of all students and 95 percent of students with disabilities. The revised waiver request must be submitted no later than 60 days from the date of this letter. Also, the grant condition originally placed on CDE's Title I, Part A grant award in 2019 will remain in place until the State can demonstrate that it meets the requirements of statute and regulations for alternate assessment participation.

I also want to remind you of the requirement in 34 CFR § 200.6(c)(3)(iv) that the State must make publicly available the information submitted by an LEA justifying the need of the LEA to assess more than 1.0 percent of its students on the AA-AAAS, provided that such information does not reveal personally identifiable information about an individual student. I also encourage you to make available your State's plan and timeline and your progress to date in reducing the percentage of students taking the AA-AAAS.

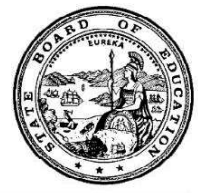
I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact my staff at ESEA.Assessment@ed.gov.

Sincerely,

/s/

James F. Lane, Ed.D.
Senior Advisor, Office of the Secretary
Delegated the Authority to Perform the Functions and
Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Mao J. Vang, CDE Director Assessment Development and Administration Division



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

April 21, 2022

Patrick Rooney, Director
School Support and Accountability
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue SW
Washington, D.C. 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, D.C. 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 2021–22 school year (Attachment 1, page 1).

In addition, the California Department of Education (CDE) and the California State Board of Education (SBE) are requesting an extension of California's Plan for Compliance with the Elementary and Secondary Education Act (ESEA) for the California Alternate Assessment (CAA) for Science for the 2020–21 administration (Attachment 1, page 16).

For more information or questions about the attached waiver requests for the 2021–22 school year, please contact Cheryl Cotton, Deputy Superintendent, by email at CCotton@cde.ca.gov or by phone at 916-323-6398.

April 21, 2022
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Sincerely,

Tony Thurmond
State Superintendent of Public Instruction
California Department of Education

Linda Darling-Hammond
President
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)

April 21, 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 Section 111[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).

On October 29, 2021, the ED sent all states a memorandum with information on requesting 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 AA-AAAS. In that memorandum, the ED invited states that did not meet the 95 percent participation rate requirement in 2020–21 to apply for a waiver of that requirement as a condition of requesting the waiver of the 1.0 percent cap. California's request for a waiver of the 1.0 percent cap was denied for 2020–21 due to California not having met the 95 percent participation rate in science for all students and in all subjects for students with disabilities (<https://oese.ed.gov/files/2021/01/ca-one-percent-waiver-letter.pdf>). Given the additional flexibility afforded by the ED per the October 2021 memorandum, California is submitting this waiver request package.

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 percent participation in the CAAs for English language arts/literacy (ELA), mathematics, and science for the 2021–22 school year. The CDE anticipates that participation rates for the CAAs for 2021–22 will be 1.02 percent for ELA and mathematics and 1.06 percent for science.

The CDE and SBE are requesting each of the following waivers related to the 1.0 percent cap:

- Waiver of the requirement in 34 *CFR* Section 200.6(c)(4)(ii)(B) to assess 95 percent of all eligible students in ELA, mathematics, and science for the 2020–21 test administration

- Waiver of the requirement in 34 *CFR* Section 200.6(c)(4)(i) that a request for a waiver of the requirement to assess less than 1 percent of eligible students with an AA-AAAS be submitted at least 90 days prior to the beginning of the annual test administration
- Waiver of the requirement in 34 *CFR* Section 200.6(c)(2) to assess less than 1 percent of eligible students with an AA-AAAS for the 2021–22 test administration

Overview

The 2019–20 and 2020–21 school years presented unprecedented challenges for communities, educators, students, and parents/guardians. The schooling experience was disrupted and different from any other years due to the impacts of the novel coronavirus 2019 (COVID-19) pandemic. Although the federal testing requirement was waived for the 2019–20 school year, the ED informed states that, for the 2020–21 school year, they were required to administer statewide academic assessments for ELA, mathematics, and science as well as the English language proficiency assessments. With those requirements, the ED provided states the following flexibilities to support the administration of assessments:

- Administering a shortened version of statewide assessments
- Offering remote administration, where feasible
- Extending the testing window to the greatest extent practicable

The CDE and SBE took full advantage of all the flexibilities offered, recognizing the challenges local education agencies (LEAs) faced in administering the state assessments during the pandemic. While the CDE made available all assessments within the California Assessment of Student Performance and Progress (CAASPP) and supported LEAs in the administration of these assessments, the SBE and the CDE recognized that for some LEAs, administration of the designated state assessments could prove an insurmountable challenge. This was true because most districts provided remote learning instruction until well into the spring. Many students lacked computers with secure browsers that would allow for remote administration of the test, and many experienced broadband or connectivity problems that made remote testing infeasible.

Therefore, to maximize the collection of evidence of student performance, LEAs that could not viably administer the CAASPP ELA and mathematics tests were required to administer local assessments that met specific criteria approved by the SBE during its March 2021 meeting. The SBE required that local assessments meet the following criteria:

- Aligned with California Common Core State Standards for ELA and mathematics

- Available to assess students in grades three through eight and grade eleven
- Uniformly administered across a grade level, grade span, school, or district
- Produce results that could be reported to parents/guardians and educators about individual students, and to the public by school and by district, disaggregated by student group.

The CDE recognized that it would not be viable for many schools to locate a local assessment to administer in place of the state science test, or a local alternate assessment for eligible students with the most significant cognitive disabilities who require an AA-AAAS. As such, the CDE’s guidance was that students who were required or eligible to take the California Science Test (CAST) or any of the California alternate assessments would not be administered a local assessment. Due to the importance of an in-person test examiner in the administration of alternate assessments, LEAs were advised not to administer any alternate assessments in a remote administration.

Testing participation in 2020–21 was significantly lower than in 2018–19. Less than 25 percent of students completed the statewide summative assessments in all subject areas in 2020–21. Much of that was due to COVID-related testing disruptions and the significant number of schools that assessed students in ELA and mathematics with a local assessment where administration of the Smarter Balanced summative assessments was considered not viable.

Table 1 and table 2 display the 2020–21 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, 2020–21

Content Area	Number of Eligible Students, 2021	Number of Students Assessed, 2021	Participation Rate, 2021
ELA	3,165,673	754,744	23.84%
Math	3,165,673	760,921	24.04%
Science	1,513,484	250,286	16.54%

Table 2. Overall Participation Rates of Students with Disabilities by Content Area, 2020–21

Content Area	Number of Students with Disabilities, 2021*	Number of Students with Disabilities Assessed, 2021†	Participation Rate, 2021
ELA	419,011	89,466	21.35%
Math	419,011	90,156	21.52%
Science	193,350	27,742	14.35%

*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.

Table 3 and table 4 display the 2018–19 overall participation rates for all students and overall participation rates for students with disabilities by each content area.

Table 3. Overall Participation Rates for All Students, 2018–19

Content Area	Number of Eligible Students, 2019*	Number of Students Assessed, 2019†	Participation Rate, 2019
ELA	3,297,186	3,200,402	97.06%
Math	3,297,186	3,208,320	97.30%
Science	1,587,963	1,494,156	94.09%

*Includes those eligible for general and alternate assessments.

†Includes those assessed with general and alternate assessments.

Table 4. Overall Participation Rates of Students with Disabilities by Content Area, 2018–19

Content Area	Number of Students with Disabilities, 2019*	Number of Students with Disabilities Assessed, 2019†	Participation Rate, 2019
ELA	427,329	403,257	94.37%
Math	427,329	401,690	94.00%
Science	205,068	179,924	87.74%

*Includes students with an IDEA indicator who are eligible for general and alternate assessments.

†Includes both general and alternate assessments.

Alternate Assessment Participation Rates

Table 5 shows the CAA participation of eligible students with disabilities by content area for 2020–21.

Table 5. CAA Participation Rates of Eligible Students by Content Area, 2020–21

Content Area	Number of Students Eligible for CAA, 2021	Number of Students Assessed with CAA, 2021	Participation Rate, 2021
ELA	31,777	11,118	34.99%
Math	31,777	10,973	34.53%
Science	15,307	2,485	16.23%

Table 6 shows the CAA participation of eligible students with disabilities by content area for 2018–19.

Table 6. CAA Participation Rates of Eligible Students by Content Area, 2018–19

Content Area	Number of Students Eligible for CAA, 2019	Number of Students Assessed with CAA, 2019	Participation Rate, 2019
ELA	41,052	37,492	91.33%
Math	41,052	37,349	90.98%
Science*	23,980	19,162	79.91%

* The 2018–19 administration of the CAA for Science was a census field test.

Table 7 shows the CAA participation rates based on the overall number of assessed students by content area for 2020–21. The data shows that ELA and mathematics exceeded the 1.0 percent threshold, and science was very close to 1.0 percent. Based on this data, California requests a waiver for all three content areas for 2021–22.

Table 7. Overall CAA Participation Rates of Eligible Students by Content Area, 2020–21

Content Area	Number of Students Assessed, 2021*	Number of Eligible Students Assessed with CAA, 2021	Percentage of Eligible Students Assessed with CAA, 2021
ELA	754,744	11,118	1.47%
Math	760,921	10,973	1.44%
Science	250,286	2,485	0.99%

*Includes both the general and alternate assessments.

Estimated Participation Rates for 2021–22

The CDE has collected survey responses from all LEAs regarding their expected student participation in alternate assessments for the 2021–22 school year. Furthermore, the CDE has reviewed alternate assessment participation data from 2018–19 and 2020–21. 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 8 shows the CAA participation rate estimates for all students in 2021–22.

Table 8. Estimated CAA Participation Rates of Eligible Students by Content Area, 2022

Content Area	Estimated Number of Students Eligible for CAA, 2022 (based on enrollment/registration)	Estimated Number of Students Assessed with CAA, 2022 (estimate based on 95% participation)	Participation Rate, 2022 (estimate)
ELA	31,200	29,640	95.00%
Math	31,200	29,640	95.00%
Science	15,200	14,440	95.00%

Table 9 shows the overall participation rate estimates for all students in 2021–22.

Table 9. Estimated Overall Participation Rates for All Students, 2022

Content Area	Estimated Number of Eligible Students, 2022 (based on enrollment/registration)	Number of Students Assessed, 2022 (estimate based on 95% participation)	Participation Rate, 2022 (estimate)
ELA	3,115,500	2,959,725	95.00%
Math	3,115,500	2,959,725	95.00%
Science	1,516,500	1,440,675	95.00%

The 1 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, mathematics, and science assessments opened on January 11, 2022. Ninety days prior to January 11, 2022, would have been October 14, 2021; therefore, this waiver request does not meet the 90-day requirement.

The CAA for science testing window opened September 7, 2021, per *Education Code (EC)* Section 855(a)(2). Ninety days prior to September 7, 2021, would have been June 9, 2021; therefore, this waiver request does not meet the 90-day requirement.

Because the annual testing window has already begun, the CDE cannot submit this waiver request 90 days prior to testing. As a result, California requests a waiver of **34 CFR Section 200.6(c)(4)(i)**. In the future, should the need for a waiver arise, the state will submit a waiver request 90 days before the testing window opens, as feasible.

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 2021–22. Tables 10 through 12 show detailed student group participation rates for the CAA of eligible students by content area for 2018–19 and 2020–21, and an estimate of the 2021–22 participation.

Table 10. CAA for ELA Participation Rates by Student Group

Student Group	Number of Students Assessed, 2019	Number of Students Assessed with CAA, 2019	Percentage of Students Assessed with CAA, 2019	Number of Students Assessed, 2021	Number of Students Assessed with CAA, 2021	Percentage of Students Assessed with CAA, 2021	Number of Students Assessed, 2022 (estimate based on enrollment in grades 3–8 and 11)	Number of Students Assessed with CAA, 2022 (estimate based on 2021 test registration)	Percentage of Students Assessed with CAA, 2022 (estimate)
All Students	3,200,402	37,492	1.17%	754,744	11,118	1.47%	3,115,258	31,777	1.02%
Females	1,559,635	12,190	0.78%	371,412	3,484	0.94%	1,513,531	10,231	0.68%
Males	1,640,767	25,302	1.54%	383,156	7,634	1.99%	1,600,203	21,546	1.35%
Black	170,509	3,039	1.78%	31,111	699	2.25%	161,117	2,379	1.48%
Hispanic	1,763,840	21,458	1.22%	387,532	5,897	1.52%	1,742,382	18,228	1.05%
Asian	297,055	2,900	0.98%	74,055	904	1.22%	298,542	2,765	0.93%
White	720,663	7,179	1.00%	195,704	2,716	1.39%	649,913	5,947	0.92%
American Indian or Alaska Native	15,908	241	1.51%	4,928	82	1.66%	14,091	168	1.19%
Filipino	70,404	984	1.40%	16,588	245	1.48%	72,562	772	1.06%
Native Hawaiian or Pacific Islander	14,637	168	1.15%	3,454			13,455	124	0.92%
Two or more races	126,148	1,226	0.97%	41,372	534	1.29%	131,605	1,394	1.06%
English learners	522,251	11,157	2.14%	117,608	2,604	2.21%	582,965	9,454	1.62%
Economically disadvantaged	1,953,500	24,552	1.26%	420,837	6,813	1.62%	1,862,627	20,302	1.09%

Table 11. CAA for Mathematics Participation Rates by Student Group

Student Group	Number of Students Assessed, 2019	Number of Students Assessed with CAA, 2019	Percentage of Students Assessed with CAA, 2019	Number of Students Assessed, 2021	Number of Students Assessed with CAA, 2021	Percentage of Students Assessed with CAA, 2021	Number of Students Assessed, 2022 (estimate based on enrollment in grades 3–8 and 11)	Number of Students Assessed with CAA, 2022 (estimate based on 2021 test registration)	Percentage of Students Assessed with CAA, 2022 (estimate)
All Students	3,208,320	37,349	1.16%	760,921	10,973	1.44%	3,115,257	31,777	1.02%
Females	1,563,025	12,136	0.78%	374,072	3,445	0.92%	1,513,531	10,231	0.68%
Males	1,645,295	25,213	1.53%	386,676	7,528	1.95%	1,600,202	21,546	1.35%
Black	169,891	3,021	1.78%	31,908	684	2.14%	161,117	2,379	1.48%
Hispanic	1,769,667	21,369	1.21%	391,099	5,822	1.49%	1,742,381	18,228	1.05%
Asian	299,784	2,906	0.97%	73,981	891	1.20%	298,542	2,765	0.93%
White	720,316	7,148	0.99%	196,992	2,681	1.36%	649,913	5,947	0.92%
American Indian or Alaska Native	15,867	238	1.50%	4,826	78	1.62%	14,091	168	1.19%
Filipino	70,647	982	1.39%	16,687	245	1.47%	72,562	772	1.06%
Native Hawaiian or Pacific Islander	14,599	169	1.16%	3,536			13,455	124	0.92%
Two or more races	125,903	1,218	0.97%	41,892	531	1.27%	131,605	1,394	1.06%
English learners	535,110	11,151	2.08%	119,463	2,567	2.15%	582,964	9,454	1.62%
Economically disadvantaged	1,958,522	24,471	1.25%	423,582	6,707	1.58%	1,862,626	20,302	1.09%

Table 12. CAA for Science Participation Rates by Student Group

Student Group	Number of Students Assessed, 2019	Number of Students Assessed with CAA, 2019	Percentage of Students Assessed with CAA, 2019	Number of Students Assessed, 2021	Number of Students Assessed with CAA, 2021	Percentage of Students Assessed with CAA, 2021	Number of Students Assessed, 2022 (estimate based on enrollment in grades 5, 8, and HS)	Number of Students Assessed with CAA, 2022 (estimate based on 2021 test registration)	Percentage of Students Assessed with CAA, 2022 (estimate)
All Students	1,494,156	19,162	1.28%	250,286	2,485	0.99%	1,444,258	15,307	1.06%
Females	729,529	6,397	0.88%	123,820	778	0.63%	701,718	4,994	0.71%
Males	764,627	12,765	1.67%	126,398	1,707	1.35%	741,613	10,312	1.39%
Black	79,476	1,557	1.96%	9,120	128	1.40%	74,910	1,164	1.55%
Hispanic	811,961	10,543	1.30%	130,349	1,357	1.04%	801,673	8,761	1.09%
Asian	142,521	1,564	1.10%	25,333	164	0.65%	145,431	1,246	0.86%
White	345,494	3,995	1.16%	64,754	642	0.99%	302,907	3,003	0.99%
American Indian or Alaska Native	7,578	111	1.46%	1,743	29	1.66%	6,319	90	1.42%
Filipino	37,443	568	1.52%	6,285			36,811	394	1.07%
Native Hawaiian or Pacific Islander	6,957	102	1.47%	949			6,510		
Two or more races	53,789	590	1.10%	11,753	108	0.92%	57,222	584	1.02%
English learners	195,400	5,103	2.61%	31,626	459	1.45%	217,387	4,240	1.95%
Economically disadvantaged	888,475	12,078	1.36%	141,228	1,547	1.10%	848,128	9,826	1.16%

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 had all the LEAs in the state submit a two-part Justification Form. Part A of the form is completed by all the LEAs and provides participation projections for the spring assessment administration. If the LEA anticipated exceeding the 1.0 percent threshold of students who would be assessed using the AA-AAAS, the LEA was required to complete Part B and provide a written justification. The CDE's 1 Percent Threshold on Alternate Assessments web page at <https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> provides information on this requirement.

LEAs were required to submit the justification form to the CDE by October 22, 2021. The justification form for 2021–22 includes assurances that the LEA has ensured that its educators have been trained on the state guidelines and that 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 on the reasons for exceeding the 1.0 percent cap. The LEA assessment coordinator is required to sign the justification document to provide assurance that the contents of the LEA's plan are accurate:

By submitting the justification form, the LEA certified that eligible students identified to take the CAAs 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 2021–22

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.

- A. 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. 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’ individualized education program (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/tq/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/tq/ca/caaiepteamrev.asp>)

- B. 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 percent threshold on participation with the AA-AAAS. Current CDE procedures require all LEAs to report their specific participation rates, regardless of whether the LEA exceeded the threshold. The CDE will engage with LEAs that exceeded the 1 percent threshold. That engagement may include the dissemination of information related to 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.

- C. 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	2021 Completion Date	2022 Completion Date
1. Presentation to the Advisory Commission for Special Education for awareness and input	Did not present	February 2022
2. 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	November 2021	October 2022
3. Presentation of 1.0 percent threshold requirements to LEA coordinators at the annual statewide assessment information meetings	August 2021	August 2022
4. 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	October 2021	September 2022
5. Administration of the 1.0 Percent Threshold Survey to LEAs https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp	Fall 2021	Fall 2022
6. Submission of the 1.0 percent cap waiver if a review of the spring 2022 administration data indicates a need for such a request	March 2022	July 2022
7. Review of guidelines and provision of guidance, during pretest workshops throughout the state, on eligibility for participation in the AA-AAAS to ensure appropriate identification of students for alternate assessments	September 2020 –September 2021	September 2021–February 2022

Description of Activity	2021 Completion Date	2022 Completion Date
8. 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 potential disproportionality	January 2022– July 2022	January 2023– July 2023

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

California provided to the public and to local educational agencies notice and reasonable time for comment in the manner in which California customarily provides similar notice and opportunity for comment. The agenda for the SBE meeting was uploaded ten 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. There were no public comments.