

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-mar22item02

# California State Board of EducationMarch 2022 AgendaItem #03

## Subject

The Federal Every Student Succeeds Act: Authorization to Pursue a Waiver for the 2021–22 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 and Other Related Waivers.

## Type of Action

Action, Information

## Summary of the Issue(s)

Pursuant to *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 aligned with alternate academic achievement standards for English language arts/literacy (ELA), mathematics, and science, hereafter referred to as alternate assessments. The alternate assessments for California are the California Alternate Assessments (CAAs) for ELA, mathematics, and science.

In order for California to be eligible for a waiver of the 1.0 percent cap on alternate assessment, it must have assessed at least 95 percent of all students enrolled and 95 percent of students with disabilities in the previous year. Due to testing disruptions brought about by the novel coronavirus disease 2019 (COVID-19). California did not meet the 95 percent participation requirements in 2020–21. Furthermore, a request for a waiver of the 1.0 percent cap requirement must be submitted 90 days before the beginning of California’s annual testing window, which began on January 11, 2022. Based on the California Department of Education’s (CDE’s) data analysis and survey results from local educational agencies (LEAs), the CDE anticipates that California will exceed the 1.0 percent cap for the 2021–22 school year.

## Recommendation

The CDE recommends that the California State Board of Education (SBE) authorize the CDE to submit to the U.S. Department of Education (ED) the draft waiver package found in Attachment 1, which contains the following:

* Request for a waiver of the requirement to assess 95 percent of all eligible students in ELA, mathematics, and science for 2020–21
* Request for a waiver of the requirement that a request for a waiver of the requirement to assess less than 1 percent of eligible students with alternate assessments be submitted at least 90 days before the beginning of the annual testing window for the administration of the statewide assessments
* Request for a waiver of the requirement to assess less than 1 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2021–22 administration
* Request an extension of the plan to report preliminary indicator results for the 2020–21 administration of the CAA for Science

## Brief History of Key Issues

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 year due to the impacts of the 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, however, 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 SBE and the CDE took full advantage of all the flexibilities offered, recognizing the challenges 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 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 the 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 subgroup.

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

In September 2020, the SBE authorized CDE to submit to 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 assessed 95 percent of all students in science and 95 percent of students with disabilities in ELA, mathematics, and science in 2018–19.

### The 95 Percent Participation Rate

Per 34 *CFR* Section 200.6(c)(4)(ii)(B), for a state to be eligible to apply for a waiver of the 1.0 percent cap on alternate assessment from the ED, it must have assessed at least 95 percent of all students enrolled and 95 percent of eligible students with disabilities in the previous year. CAASPP testing participation in 2020–21 was significantly lower than in 2018–19. Less than 25 percent of students completed the Smarter Balanced summative assessments. That low percentage was due in great part to 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 not considered viable.

In its memorandum dated October 29, 2021, the ED acknowledged that, due to COVID-related testing disruptions, many states might not be able to meet the 95 percent participation requirement. Therefore, the ED has invited states to request a waiver of the 95 percent participation rate requirement. The ED memorandum is included as Attachment 2.

### Ninety-Day Timeline for Request of the 1 Percent Waiver

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 percent of students with an alternate assessment is 90 days prior to the beginning of testing. Because the testing window for the CAASPP has already begun, the CDE cannot meet the notification timeline. For this reason, the CDE recommends that the SBE authorize the submission of a waiver request of the 90-day timeline in addition to a request for a waiver of the 1.0 percent cap on eligible students tested with an alternate assessment.

### The 1.0 Percent Cap on Eligible Students Assigned the Alternate Assessment for the 2021–22 Administration

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 collected survey responses from all LEAs regarding their expected eligible 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 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 requests the SBE’s authorization to submit a waiver request for exceeding the 1.0 percent cap in the 2021–22 school year.

### Extension to Use Preliminary Indicators for Reporting the 2020–21 CAA for Science Results

In November 2017, the CDE submitted a plan to the ED to comply with Elementary and Secondary Education Act (ESEA) sections and subsections within 1111(b)(1) and 1111(b)(3) in lieu of receiving a two-year waiver from double testing. This plan outlined how the CDE would comply with the ESEA requirements for both the CAST and the CAA for Science until both became operational (<https://www.cde.ca.gov/be/pn/im/memo-pptb-adad-dec17item01a01.asp>).

The CDE and the SBE requested a waiver from double testing for the CAST and the CAA for Science while the CDE was developing these new science assessments, requesting a two-year waiver that would begin with the 2016–17 school year. The ED denied this request; however, the ED did approve a one-year waiver (i.e., 2016–17 school year) and indicated that the CDE would need to submit a plan on how the CDE would meet ESEA requirements for producing individual student scores and reporting results to parents, teachers, schools, and the public for the 2017–18 school year. In November 2017, the CDE submitted the preliminary indicator plan to the ED to explain how the CDE would meet the ESEA requirements. The CDE did not take any action to the board on this matter but, instead, brought the request and plan via an SBE memo from Keric Ashley, Deputy Superintendent. The ED did not respond to our plan.

The CDE provided preliminary indicators in 2017–18 for both the CAST census field test and the year-two pilot test for the CAA for Science. The CDE also provided preliminary indicators for the 2018–19 CAA for Science census field test. The suspension of testing for the 2019–20 administration due to the COVID-19 pandemic and the limited number of eligible students who completed testing in the 2020–21 administration of the CAA for Science operational field test required the CDE to delay the operationalization of the test for an additional year. As such, the CDE recommends that the SBE authorize the CDE to request an extension to use preliminary indicator results for meeting the reporting requirements for the 2020–21 administration of the CAA for Science.

## 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 (<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; 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 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 CAST, 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 to 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)

The information presented in this agenda item does not contain an economic or fiscal impact.

## Attachment(s)

* Attachment 1: DRAFT Letter from State Superintendent of Public Instruction Thurmond and State Board President Darling-Hammond to ED Regarding Waiver Requests (20 Pages)
* Attachment 2: October 29, 2021 Memorandum from the ED to States titled “Information Regarding the Requirements to Request a Waiver for the 2021–22 School Year (SY) from the One Percent Cap on the Percentage of Students with the Most Significant Cognitive Disabilities Who May Be Assessed with an Alternate Assessment Aligned with Alternate Academic Achievement Standards (AA-AAAS)” (7 Pages)

DRAFTMarch XX, 2022

David Cantrell, Ph.D. Acting Director

Office of Special Education Programs

Office of Special Education and Rehabilitative Services

Patrick Rooney, Director

School Support and Accountability

Office of Elementary and Secondary Education

United States 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 2021–22 school year (page 3).

In addition, the California Department of Education (CDE) and 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 (page 20).

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.

Sincerely,

[**Signature**] [**Signature]**

Tony Thurmond Linda Darling-Hammond

State Superintendent of Public Instruction President

California Department of Education State Board of Education

TT/LDH:tdb

Attachments

## 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)

March 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).

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 California’s 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 | Number of Students Eligible for CAA, 2022 (estimate based on enrollment) | Number of Students Assessed with CAA, 2022 (estimate based on 95% participation) | Participation Rate, 2022 (estimate) |
| --- | --- | --- | --- |
| ELA | 19,513 | 18,538 | 95.00% |
| Math | 19,513 | 18,538 | 95.00% |
| Science | 9,774 | 9,286 | 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 | Number of Eligible Students, 2022 (estimate based on 2022 enrollment) | Number of Students Assessed, 2022 (estimate based on 95% participation) | Participation Rate, 2022 (estimate) |
| --- | --- | --- | --- |
| ELA   | 3,115,258 | 2,959,496 | 95.00% |
| Math | 3,115,258 | 2,959,496 | 95.00% |
| Science  | 1,444,258 | 1,372,046 | 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 | 41 | 1.19% | 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% |
| Econ. disadv. | 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 StudentGroup

| 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 | 41 | 1.16% | 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% |
| Econ. disadv. | 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 | 51 | 0.81% | 36,811 | 394 | 1.07% |
| Native Hawaiian or Pacific Islander | 6,957 | 102 | 1.47% | 949 | 6 | 0.63% | 6,510 | 65 | 1.00% |
| 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% |
| Econ. disadv. | 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.

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. 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/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 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.

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** | **2021 Completion Date** | **2022 Completion Date** |
| --- | --- | --- |
| 1. Presentation to the Advisory Commission for Special Education for awareness and input
 | Did not present | February 2022 |
| 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
 | November 2021  | October 2022 |
| 1. Presentation of 1.0 percent threshold requirements to LEA coordinators at the annual statewide assessment information meetings
 | August 2021 | August 2022 |
| 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
 | October 2021 | September 2022 |
| 1. Administration of the 1.0 Percent Threshold Survey to LEAs

<https://www.cde.ca.gov/ta/tg/ca/caaonepercent.asp> | Fall 2021 | Fall 2022 |
| 1. Submission of the 1.0 percent cap waiver if a review of the 1.0 Percent Threshold Survey data indicates a need for such a request
 | March 2022 | October 2022, if necessary |
| 1. 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 |
| 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 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 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. Public comments that impact this waiver will be included before submission to the ED.

## Extension to Use Preliminary Indicators for Reporting the2020–21 California Alternate Assessment for Science Results

In November 2017, the California Department of Education (CDE) submitted a plan to the U.S. Department of Education (ED) to comply with Elementary and Secondary Education Act (ESEA) sections and subsections within 1111(b)(1) and 1111(b)(3) in lieu of receiving a two-year waiver from double testing. This plan outlined how the CDE would comply with the ESEA requirements for both the California Science Test (CAST) and the California Alternate Assessment (CAA) for Science until the CAA for Science became operational (<https://www.cde.ca.gov/be/pn/im/memo-pptb-adad-dec17item01a01.asp>).

The following two factors, however, have required the CDE to delay the CAA for Science operational field test for an additional year:

* The suspension of testing for the 2019–20 administration due to the novel coronavirus 2019 pandemic
* The limited number of eligible students who completed testing in the 2020–21 administration of the CAA for Science.

Therefore, on behalf of the SBE, the CDE requests an extension to use preliminary indicators for reporting the 2020–21 CAA for Science results. Using the preliminary indicators would address those sections of the ESEA that are required each school year. Table 1 provides the additional updated details regarding California's compliance, by ESEA section/subsection.

Table 1. California Plan for Compliance with the ESEA for the CAA for Science

| **ESEA Section/Subsection** | **California Compliance** |
| --- | --- |
| 1111(b)(1)(A) requires the state adoption of challenging academic standards and achievement standards. | California adopted the California Next Generation Science Standards (CA NGSS) on September 4, 2013. All eligible students in grades five and eight and one grade in high school (i.e., grade ten, eleven, or twelve) whose IEP designates an alternate assessment will participate in the CAA for Science. The CAA for Science items are aligned with Core Content Connectors that are linked to the CA NGSS. A common set of achievement standards, preliminary indicators, will be used to measure performance. |
| 1111(b)(1)(C) requires the state to have academic standards for science, which shall include the same knowledge, skills, and levels of achievement expected of all children. | All eligible students in grades five and eight and once in high school (i.e., grade ten, eleven, or twelve) whose IEP designates an alternate assessment will participate in the assessment by taking the CAA for Science. The CAA for Science items are aligned with Core Content Connectors that are linked to the CA NGSS. A common set of achievement standards, preliminary indicators, will be used to measure performance. |
| 1111(b)(3)(A) requires the state to implement for students yearly academic assessments, including science, that will be used as the primary means of determining the yearly performance of the state, local educational agency (LEA), and school. | California will administer, to all eligible students with an IEP indicating an alternate assessment (i.e., in grades five, eight, and once in high school), the CAA for Science. As part of the plan, California will aggregate student results by the state, LEA, school, and student groups. These results will be available to the public via the California Assessment of Student Performance and Progress Reporting website. |
| 1111(b)(3)(C)(ii) requires the state assessments to be aligned with the adopted academic content standards and achievement standards. | The CAA for Science items are aligned with Core Content Connectors that are linked to the CA NGSS. A common set of achievement standards, preliminary indicators, will be used to measure performance. |
| 1111(b)(3)(C)(v)(II) requires the state to measure the proficiency of all students in science at least once in grades three through five; grades six through eight; and grades ten through twelve. | The tests offer a comprehensive suite of universal tools, designated supports, and accommodations. With the assistance of content experts, California will develop preliminary indicators of student attainment of the CA NGSS for the CAA for Science. The preliminary indicators will consist of three levels. |
| 1111(b)(3)(C)(xii) requires the state to produce individual student interpretive, descriptive, and diagnostic reports by using valid and reliable assessments that are aligned with the state academic standards. These reports allow parents, teachers, and principals to understand and address the specific academic needs of students. | Beginning with the 2017–18 science test administrations, California will continue to produce student scores and preliminary indicators until the first operational field test is completed and to provide LEAs the results for communication to parents and educators. |