

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jan24item04

# California State Board of Education January 2024 Agenda Item #07

## Subject

Request to Ratify a Letter to the U.S. Department of Education Regarding 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 Reading/Language Arts, Mathematics, and Science.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

The California Department of Education (CDE) seeks approval from the California State Board of Education (SBE) to ratify the letter that was submitted to the U.S. Department of Education (ED) in response to the letter received on October 27, 2023, regarding the 1.0 percent cap on the percentage of eligible students with the most significant cognitive disabilities who may be assessed with alternate assessments based on alternate academic achievement standards (AA-AAAS). The Elementary and Secondary Education Act of 1965 (ESEA) 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 reading/language arts, mathematics, and science.

On February 4, 2020, ED placed a condition on CDE’s 2020 Title I, Part A grant award after California exceeded the 1.0 percent cap in reading/language arts, mathematics, and science for the 2018–19 school year. In the 2021‒22 school year, California exceeded the 1.0 percent cap for reading/language arts and mathematics. As a result, a condition has been placed on CDE’s fiscal year 2023 Title I, Part A grant award. The CDE is required to submit by November 27, 2023, a revised plan for how the state will come into compliance with the requirement to assess no more than 1.0 percent of students with an AA-AAAS. On November 17, 2023, upon CDE request, ED confirmed an extension until December 15, 2023, for California to provide its response. Attachment 1 provides California’s response letter to ED.

## Recommendation

The CDE recommends that the SBE ratify the response letter submitted to the ED regarding 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 for reading/language arts, mathematics, and science as provided in Attachment 1.

## Brief History of Key Issues

On October 27, 2023, the CDE and the SBE (collectively, California) received a letter from the ED, Office of Elementary and Secondary Education, which indicated California had exceeded the 1.0 percent cap of students with the most significant cognitive disabilities taking an AA-AAAS in the 2021‒22 school year. The ESEA 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 reading/language arts, mathematics, and science.

On February 4, 2020, ED placed a condition on CDE’s Title I, Part A grant award after California exceeded the 1.0 percent cap in reading/language arts, mathematics, and science for the 2018–19 school year. As the participation rates for reading/language arts and mathematics exceeded 1.0 percent in the 2021–22 school year, a condition will remain for CDE’s fiscal year 2023 Title I, Part A grant award. To satisfy the condition placed on CDE’s Title I, Part A grant award, the CDE must:

* Submit, within 30 calendar days of the date of the letter, a revised plan for how the State will come into compliance with the requirement to assess no more than 1.0 percent of students with an AA-AAAS; and
* Demonstrate that the State assessed less than 1.0 percent of its students with an AA-AAAS in reading/language arts and mathematics.

Attachment 1 provides California’s response letter submitted to ED on December 6, 2023, which includes an update of accomplishments, a revised plan, and timeline of key activities for meeting the 1.0 percent cap requirement for alternate assessments.

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

In November 2023, the SBE authorized the CDE to submit to the ED a request for the waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for English language arts/literacy (ELA), mathematics, and science for the 2023–24 administration. The SBE also authorized the CDE to submit to the ED a request for a waiver of the requirement that a request for a waiver of the 1.0 percent cap be submitted at least 90 days before the beginning of the annual testing window for the California Alternate Assessment (CAA) for ELA, mathematics, and science (<https://www.cde.ca.gov/be/ag/ag/yr23/documents/nov23item11.docx>).

In July 2022, the SBE authorized the CDE to submit to the ED a request for the waiver of the requirement to assess less than 1.0 percent of eligible students with an alternate assessment for ELA, mathematics, and science for the 2022–23 administration. The SBE also authorized the CDE to submit to the ED a request for a waiver of the requirement that a request for a waiver of the 1.0 percent cap be submitted at least 90 days before the beginning of the annual testing window for the CAA for Science (<https://www.cde.ca.gov/be/ag/ag/yr22/documents/jul22item06.docx>).

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

In September 2020, the SBE provided approval for the CDE to request a waiver under the Every Student Succeeds Act, 34 *Code of Federal Regulations* 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 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>).

## Fiscal Analysis (as appropriate)

Not applicable.

## Attachment(s)

* Attachment 1: Letter from State Superintendent of Public Instruction   
  Tony Thurmond and State Board President Linda Darling-Hammond to U.S. Department of Education Regarding 1.0 Percent Cap on Alternate Assessments (5 pages)
* Attachment 2: Letter from U.S. Department of Education Regarding 1.0 Percent Cap on Alternate Assessments to State Superintendent of Public Instruction Tony Thurmond and State Board President Linda Darling-Hammond (2 pages)