



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

MAY 19 2015

The Honorable Michael W. Kirst
President
California State Board of Education
1430 N Street, Suite 5111
Sacramento, CA 95814

The Honorable Tom Torlakson
Superintendent of Public Instruction
California Department of Education
P.O. Box 944272
Sacramento, CA 94244

Dear President Kirst and Superintendent Torlakson:

I am writing in response to the California Department of Education (CDE's) requests of March 20 and 27, 2015, to amend its State accountability plan under Title I and Title III of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Accountability Determinations based on the School Year (SY) 2014–2015 Assessments

California submitted a request to waive accountability determinations based on State assessments administered during the school year (SY) 2014–2015 due to this being the first year that the State is administering new, more challenging State assessments in reading/language arts and mathematics aligned to the State's college- and career-ready content standards. After reviewing CDE's request, I am pleased to grant, pursuant to my authority under ESEA section 9401, the following waiver for SY 2014–2015:

- A one-year waiver of ESEA sections 1116(a)(1)(A) and 1116(c)(1)(A) and the corresponding regulatory provisions to the extent they require a local educational agency (LEA) and a state educational agency (SEA), respectively, to use the results from the State's academic assessments to make adequate yearly progress (AYP) determinations for schools and LEAs.

Under this waiver, California and its LEAs are not required to include results on State assessments administered in the SY 2014–2015 in making AYP determinations for LEAs and schools, respectively. I am granting this waiver because it is likely to increase the quality of instruction and improve the academic achievement of students by enabling CDE and its LEAs to focus on administering the new State assessments and setting high achievement standards for the knowledge and skills students need to demonstrate they are ready for college and the workforce.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

This waiver is granted to the CDE on conditions that it will do the following:

- CDE will ensure that all students are included in the statewide assessment system in SY 2014–2015.
- CDE and its LEAs will meet all reporting obligations with respect to reporting the achievement and participation rates of students who take the State assessments in SY 2014–2015.
- CDE and its LEAs will report performance against the State’s annual measurable objectives (AMOs) using results from the State assessments administered in SY 2014–2015.
- CDE and its LEAs will calculate and report AYP for SY 2014–2015 with respect to participation rates and other academic indicators, including the graduation rate for high schools; LEAs and schools that do not make AYP in SY 2014–2015 based on participation rate, graduation rate for high schools, or the other academic indicators for elementary and middle schools would advance to offer the next level of interventions.
- All other schools and LEAs in California that have been identified as in need of improvement will carry forward the accountability determinations, and corresponding interventions, in SY 2015–2016 that they have in SY 2014–2015; CDE and its LEAs will provide the necessary notice to parents as required in ESEA section 1116(c)(6) and (b)(6), respectively, prior to the start of SY 2015–2016.
- CDE will continue to administer its State assessments in SY 2015–2016 and will include those results in determining AYP. CDE and its LEAs will assign new accountability determinations for 2016–2017 based on whether an LEA or school has made AYP, including results from the SY 2015–2016 State assessments.

Alternate Assessments based on Alternate Academic Achievement Standards

California also requested to field test new alternate assessments based on alternate academic achievement standards to all students eligible for the alternate assessments in SY 2014–2015. California is proposing to suspend inclusion of the results of these assessments in calculating AYP for one year and not report the results to parents or on State or LEA report cards. As noted above, California is permitted to suspend using assessment results in calculating AYP for SY 2014–2015 for all students, which would include students with the most significant cognitive disabilities who take alternate assessments. However as a condition of this flexibility, California must report achievement results for all students on assessments administered in SY 2014–2015. The right of students with disabilities to access all programs and services, academic, nonacademic, and extracurricular, is guaranteed by the Individuals with Disabilities Education Act (IDEA). The IDEA requires a school district to provide a “free appropriate public education” to each qualified child with a disability who is in the school district’s jurisdiction. The term “free appropriate public education” as defined by the IDEA, Section 602(9), includes special education and related services that are provided in conformity with the individualized education program (IEP) required under section 614(d), and includes both evaluation and periodic reevaluation of students who have been provided special education or related services, as well as provision of educational records being provided to parents for their review. Without information on test results, parents will be denied the opportunity to make informed decisions regarding their child’s IEP and take advantage of any interventions that flow from the results of student assessments.

For these reasons, the U.S. Department of Education (ED) is unable to approve CDE's request to not report the results of the alternate assessment based on alternate achievement standards to parents or on SEA or LEA report cards. CDE must report results of the SY 2014–2015 assessments for all students, including students with the most significant cognitive disabilities who take an alternate assessment based on alternate academic achievement standards.

CDE must provide a high-quality plan, including key milestones, detailed timeline, parties responsible, resources (e.g., staff time, additional funding), and any significant obstacles within 30 days after the receipt of this letter for how it and its LEAs will report on State and LEA report cards student performance against the State's AMOs using results from the State assessments administered in SY 2014–2015 for all students, including students with the most significant cognitive disabilities who take an alternate assessment based on alternate academic achievement standards. If CDE does not report results of the SY 2014–2015 assessments for all students, ED may take further action, which could include placing California on high risk for non-compliance to IDEA and Title I, Part A legislative requirements.

English Language Proficiency (ELP) Assessment

On March 20, 2015, CDE requested an amendment to California's Title III, Part A portion of the Consolidated State Application. CDE requested to change the State's K-1 California English Language Development Test (CELDT) domain weights. CDE's amendment request to change the State's K-1 CELDT domain weights is approved.

However, CDE has not yet resolved a Title III, Part A monitoring finding to ensure that the California's ELP assessment is aligned with the State's new ELP standards, which the State adopted on November 7, 2012, and which were fully implemented in SY 2013–2014. According to the CDE, the CELDT is not aligned with these new standards. On February 24, 2015, CDE submitted a proposed timeline to have a fully operational, aligned ELP assessment by SY 2017–2018. California's proposed timeline results in the State administering an unaligned ELP assessment from SY 2013–2014 until SY 2017–2018. Having an aligned assessment is vital to ensure that schools, teachers, and parents have accurate information upon which to make base decisions about instruction and supports for individual students.

For these reasons, ED is unable to approve CDE's proposed timeline to have a fully operational, aligned ELP assessment by SY 2017–2018. CDE must provide a high-quality plan, including key milestones, detailed timeline, parties responsible, resources (e.g., staff time, additional funding), and any significant obstacles within 30 days of receipt of this letter, to implement an aligned ELP assessment by no later than SY 2016–2017. If the CDE fails to provide a high-quality plan for implementation of the aligned ELP assessment by at least SY 2016–2017, ED may take further action, which could include placing California on high risk for non-compliance to Title III, Part A legislative requirements.

Title I Accountability Workbook

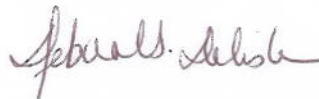
I am pleased to approve several other changes to CDE's Title I accountability workbook, which are summarized in the enclosure. CDE must submit a revised accountability workbook that includes those changes within 30 days of receipt of this letter. Any further requests to amend

California's accountability workbook must be submitted to the ED for review and approval as required by ESEA section 1111(f)(2).

Please also be aware that approval of amendments to California's Title I accountability workbook does not indicate that the amendments comply with Federal civil rights requirements, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and requirements under the Individuals with Disabilities Education Act (IDEA).

I am confident that California will continue to advance its efforts to hold schools and school districts accountable for the achievement of all students, including English learners and students with disabilities. If you need any additional assistance to implement the standards, assessments, and accountability provisions of the ESEA, please contact me or Amy Bae of my staff at: OSS.California@ed.gov. Thank you for your continued focus on enhancing education for all of California's students.

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah S. Delisle", written in a cursive style.

Deborah S. Delisle
Assistant Secretary

Enclosure

cc: Keric Ashley, Interim Deputy Superintendent

Amendments to California's Title I Accountability Workbook

The following is a summary of the State's request to amend its Title Accountability Workbook.

Acceptable amendments

The following amendments are aligned with the statute and regulations.

Include All Schools in the Accountability System (Element 1.1)

Revision: For schools without a tested grade, California determines whether the school made adequate yearly progress (AYP) by pairing the school with other schools in the same LEA. Due to changes to the State's assessment system, California will no longer assess students in grade 2. This amendment reflects that pairing will occur for elementary schools with only kindergarten, grade one, and/or grade two students and will be based solely on grade three test results (rather than grade two test results) in the paired schools.

New Statewide Assessments (Elements 1.3 and 6.1)

Revision: These amendments reflect the new assessments being administered for the first time in SY 2014–2015. As noted below, ED does not approve California's request related to alternate assessments based on alternate academic achievement standards.

Please note that approval of this amendment does not constitute approval of California's assessment system. The State will be required to submit evidence regarding its assessment system for peer review. More details about ED's peer review criteria and process will be provided in summer 2015.

Definition of Socioeconomically Disadvantaged (SED) Students (Element 5.1)

Revision: California will revise its definition of socioeconomically disadvantaged (SED) students to include migrant, foster youth, and homeless students in addition to students eligible for free and reduced-priced meals (FRPM) and/or if the highest level of education for both of the student's parents/guardians is less than a high school diploma.

Other Academic Indicator for Elementary and Middle Schools (Element 7.2)

Revision: California will eliminate the academic performance index (API) as the other academic indicator for elementary and middle schools and elementary and unified school districts and instead will use attendance rates (based on average daily attendance).

Unacceptable amendments

The following amendments are not aligned with the statute and regulations and are therefore not approved.

Suspend the Use of Results from Alternate Assessments based on Alternate Academic Achievement Standards (Element 1.3)

California requested to not report results from the State's alternate assessments based on alternate academic achievement standards (AA-AAAS) for SY 2014–2015. While the State has been approved for a waiver, as noted earlier, to exclude student assessment results from AYP determinations, the State must include all students in the assessment system and report results on the assessments to parents and schools to provide useful information about a student's knowledge and abilities.

Suspend Reporting Against Annual Measurable Objectives (AMOs) for the 2014-2015 School Year (Element 3.2)

California requested that for State and LEA report cards based on SY 2014–2015 data, assessment results not be reported against the State's AMOs. As noted above, California has been approved for a waiver to exclude student assessment results from AYP determinations but the State must report results on the assessments on its State and LEA report cards, including performance against California's AMOs, to provide information on the school's and LEA's performance to parents and the public.

Amendment to the California's Consolidated State Application

The following is a summary of the State's request to amend its Title III, Part A.

Acceptable amendments

The following amendment is aligned with the statute and regulations.

K-1 English Language Proficiency (ELP) Domain Weights

California will use a composite score for its ELP progress and proficiency measures for the K-1 California English Language Development Test (CELDT) with the following weights: 45 percent for the domain of listening, 45 percent for the domain of speaking, and 5 percent each for the domains of reading and writing.