
Introduced by Senator Wyland

February 22, 2013

An act to amend Section 52164.1 of the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 542, as introduced, Wyland. Pupil instruction: census of pupils of limited English proficiency.

Existing law requires each school district to ascertain the total number of pupils of limited English proficiency within the school district, and requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to prescribe census-taking methods that include, among other things, an assessment of the language skills of each pupil enrolled in the school district.

This bill would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 52164.1 of the Education Code is
2 amended to read:
3 52164.1. ~~The superintendent~~ *Superintendent*, with the approval
4 of the ~~State Board of Education~~ *state board*, shall prescribe
5 census-taking methods, applicable to all school districts in the
6 state, which shall include, but need not be limited to, the following:
7 (a) A determination of the primary language of each pupil
8 enrolled in the school district. The primary language of ~~new pupils~~
9 *a pupil* shall be determined ~~as they enroll~~ *when the pupil enrolls*.

1 Once determined, the primary language need not be redetermined
 2 unless the *pupil's* parent or guardian claims there is an error. Home
 3 language determinations are required only once, unless the results
 4 are disputed by a parent or guardian.

5 (b) An assessment of the language skills of all pupils whose
 6 primary language is other than English. All the skills listed in
 7 subdivision (m) of Section 52163 shall be assessed, except that
 8 reading and writing skills need not be assessed for pupils in
 9 kindergarten and grades 1 and 2. For those pupils who, on the basis
 10 of oral language proficiency alone, are clearly limited English
 11 proficient, assessment of reading and writing skills shall be
 12 necessary only to the extent required by subdivision (c). This
 13 assessment, which shall be made ~~as pupils enroll~~ when a *pupil*
 14 *enrolls* in the *school* district, shall determine whether ~~such pupils~~
 15 ~~are a pupil is~~ fluent in English or ~~are~~ *is a pupil* of limited English
 16 proficiency.

17 (c) (1) ~~For those pupils~~ a *pupil* identified as being of limited
 18 English proficiency, a further assessment shall be made to
 19 determine the pupil's primary language proficiency, including
 20 speaking, comprehension, reading, and writing, to the extent
 21 assessment instruments are available. Parallel forms of the
 22 instruments used to determine English proficiency shall be used,
 23 if available. The results of the parallel assessment shall determine
 24 the extent and sequence in which English and the primary language
 25 will be used in the instruction of basic skills.

26 (A)

27 (2) A diagnostic assessment in the language designated for basic
 28 skills instruction measuring speaking, comprehension, reading,
 29 and writing, shall be administered for instructional use at the *school*
 30 district level. ~~Such~~ The diagnostic assessment shall be updated as
 31 necessary to provide a curriculum meeting the individual needs of
 32 each pupil of limited English proficiency.

33 If

34 (3) *If* the assessment conducted pursuant to this subdivision
 35 indicates that the pupil ~~has no~~ *does not have* proficiency in ~~the~~ *his*
 36 *or her* primary language, further assessment of the pupil's primary
 37 language skills, including consultation with the pupil's parents or
 38 guardians, the classroom teacher, the pupil, or others who are
 39 familiar with the pupil's language ability in various environments,
 40 shall be conducted. If this detailed assessment indicates that the

1 pupil ~~has no~~ *does not have* proficiency in his or her primary
2 language, then the pupil is not entitled to the protection of this
3 article.

4 ~~The~~

5 (4) ~~The~~ diagnostic assessment process shall be completed within
6 90 days after the date of the pupil's initial enrollment, and shall
7 be performed in accordance with rules and regulations adopted by
8 the *state* board.

9 ~~The~~

10 (5) ~~The~~ parent or guardian of the pupil shall be notified of the
11 results of the assessment. ~~The Department of Education~~ *department*
12 shall conduct an equivalency study of all language proficiency
13 tests designated for the identification of pupils of limited English
14 proficiency to ~~insure~~ *ensure* uniformity of language classifications
15 and to ~~insure~~ the reliability and validity of ~~such~~ *the* tests. Tests,
16 materials, and procedures to determine proficiency shall be selected
17 to meet psychometric standards and *shall be* administered so as
18 not to be racially, culturally, or sexually discriminatory.

19 ~~The Department of Education~~

20 (6) ~~The~~ *department* shall annually evaluate the adequacy of and
21 designate the instruments to be used by school districts, and ~~such~~
22 *the* instruments shall be available by March 15 of each year.

23 ~~The assessments~~

24 (7) ~~The assessments~~ shall be conducted by ~~persons~~ *a person*
25 who ~~speak~~ *speaks* and ~~understand~~ *understands* English and the
26 primary language of the ~~pupils~~ *pupil* assessed, who ~~are~~ *is*
27 adequately trained and prepared to evaluate cultural and ethnic
28 factors, and who ~~shall follow~~ *follows* procedures formulated by
29 the ~~superintendent~~ *Superintendent* to determine which pupils are
30 pupils of limited English proficiency, as defined in subdivision
31 (m) of Section 52163. A school district may require ~~that~~ the
32 assessment *to be* conducted by ~~persons~~ *a person* who ~~hold~~ *holds*
33 a valid, ~~regular~~ California teaching credential and who ~~meet~~ *meets*
34 the other qualifications specified in this paragraph. The
35 ~~superintendent~~ *Superintendent* may waive the requirement that the
36 assessment be conducted by ~~persons~~ *a person* who can speak and
37 understand the pupil's primary language where the primary
38 language is spoken by a small number of pupils, and the *school*
39 district certifies that it is unable to comply. This certification shall
40 be accompanied by a statement from the *school* district

1 superintendent that the chairperson of the *school* district advisory
2 committee on bilingual education has been consulted and was
3 unable to assist in the effort to locate *an* appropriate ~~individuals~~
4 *person* to administer the assessment.

5 ~~Any~~

6 (8) A *school* district may elect to follow federal census
7 requirements provided that the language skills described in
8 subdivision (m) of Section 52163 are assessed, and provided that
9 ~~such~~ *the* procedures are consistent with Section 52164, the *school*
10 district shall be exempt from the state census procedures described
11 in subdivisions (a) and (b).