

AMENDED IN SENATE APRIL 3, 2014

SENATE BILL

No. 1108

Introduced by Senator Padilla

February 19, 2014

An act to amend Sections 313.5 and 52052 of the Education Code, relating to English learners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1108, as amended, Padilla. English learners: reclassification.

(1) Existing law requires each school district that has one or more pupils who are English learners, and to the extent required by federal law, a county office of education and a charter school, to assess the English language development of each of those pupils in order to determine their level of proficiency. Existing law requires the State Department of Education, with the approval of the State Board of Education, to establish procedures for conducting the assessment and for the reclassification of a pupil from English learner to English proficient.

~~Existing law requires the Superintendent of Public Instruction to apportion funds appropriated for purposes of assessing the English language development of pupils whose primary language is a language other than English to enable school districts to use the California English language development test to identify pupils who are limited English proficient, determine the level of English language proficiency of those pupils, and to assess the progress of those pupils in acquiring the skills of listening, reading, speaking, and writing in English.~~

Existing law requires the department, by January 1, 2014, to review and analyze the criteria, policies, and practices that a sampling of school districts that represent the geographic, socioeconomic, and demographic

diversity of school districts in the state use to reclassify English learners and recommend to the Legislature and state board any guideline, regulatory, or statutory changes that the department determines are necessary to identify when English learners are prepared for the successful transition to classrooms and curricula that require English proficiency.

Existing law requires the department, by January 1, 2014, to issue a report on its findings, research, analysis, recommendations, and best practices, and by January 1, 2017, to issue an updated report that reflects any changes in analysis and recommendations as a result of the adoption by the state board of the common core standards and related English language development standards.

Existing law makes implementation of these provisions contingent on an appropriation of federal or state funds or on the availability of private funding.

~~This bill would additionally require the department, by January 1, 2016, to recommend, and the state board to adopt, the department's recommendations and best practices pursuant to the department's recommendations in the report referenced above.~~ *extend the due date for the department's report from January 1, 2014, to January 1, 2016.*

(2) Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop an Academic Performance Index, as specified, to measure the performance of schools and school districts. Existing law requires schools and school districts to demonstrate comparable improvement in academic achievement as measured by the Academic Performance Index by all numerically significant pupil subgroups at the school or school district, including ethnic subgroups, socioeconomically disadvantaged pupils, English learners, pupils with disabilities, and foster youth.

This bill would add reclassified English learners to the list of numerically significant pupil subgroups designated in this provision. To the extent that this provision would impose new duties on schools and school districts, it would constitute a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. Section 313.5 of the Education Code is amended
2 to read:
- 3 313.5. (a) By January 1, 2014, the department shall review
4 and analyze the criteria, policies, and practices that a sampling of
5 school districts that represent the geographic, socioeconomic, and
6 demographic diversity of school districts in the state use to
7 reclassify English learners, and recommend to the Legislature and
8 state board any guideline, regulatory, or statutory changes that the
9 department determines are necessary to identify when English
10 learners are prepared for the successful transition to classrooms
11 and curricula that require English proficiency.
- 12 (b) For purposes of completing the review and analysis required
13 pursuant to subdivision (a), the department shall consult with
14 parents of English learners, experts with demonstrated experience
15 in developing and administering assessments for English learners,
16 classroom or resource teachers, or both, school district
17 administrators with expertise in curriculum, instruction, assessment,
18 and accountability, and researchers possessing expertise in the
19 education of English learners.
- 20 (c) The group of experts described in subdivision (b) shall
21 develop a study design that may include a sampling methodology
22 for purposes of selecting the school districts that will be part of
23 the review and analysis to identify best practices pursuant to
24 subdivision (a).
- 25 (d) For purposes of completing the review and analysis required
26 pursuant to subdivision (a), the department shall examine and
27 report on the following:
- 28 (1) The practices and standards used by a sampling of school
29 districts that represent the geographic, socioeconomic, and
30 demographic diversity of school districts in the state to meet the
31 four reclassification criteria specified in subdivision (f) of Section
32 313.
- 33 (2) The extent to which school districts are following the
34 guidelines established by the state board.

1 (3) The range of reclassification criteria developed by school
2 districts.

3 (e) As part of the examination required pursuant to subdivision
4 (d), the department shall analyze the following:

5 (1) English language proficiency and academic performance
6 data.

7 (2) The relationship of the reclassification criteria to
8 reclassification rates.

9 (3) The academic performance of pupils after reclassification
10 as English proficient.

11 (4) The relationship of the reclassification criteria to the
12 academic performance of pupils after reclassification.

13 (f) In its report, the department also shall identify any other
14 pupil outcome measures that indicate an English learner is prepared
15 to successfully transition to a classroom and curricula that require
16 English proficiency.

17 (g) By January 1, ~~2014~~, 2016, the department shall issue a report
18 that includes the department’s findings, research, analysis,
19 recommendations, and best practices pursuant to subdivisions (a),
20 (d), ~~(e)~~, (e), and (f).

21 ~~(h) By January 1, 2016, the department shall recommend, and~~
22 ~~the state board shall adopt, the department’s recommendations and~~
23 ~~best practices pursuant to subdivisions (a), (d), (e), and (f), as~~
24 ~~reported pursuant to subdivision (g).~~

25 (i)
26 (h) By January 1, 2017, the department shall issue an updated
27 report that reflects any changes in analysis and recommendations
28 as a result of the adoption by the state board of the common core
29 standards pursuant to Section 60605.8 and the English language
30 development standards adopted pursuant to former Section 60811.3
31 as it read on June 30, 2013.

32 (j)
33 (i) This section shall be implemented only if state or federal
34 funds are appropriated as necessary to fully fund this purpose or
35 if private funds are made available as necessary to fully fund this
36 purpose.

37 SEC. 2. Section 52052 of the Education Code is amended to
38 read:

39 52052. (a) (1) The Superintendent, with approval of the state
40 board, shall develop an Academic Performance Index (API), to

1 measure the performance of schools and school districts, especially
2 the academic performance of pupils.

3 (2) A school or school district shall demonstrate comparable
4 improvement in academic achievement as measured by the API
5 by all numerically significant pupil subgroups at the school or
6 school district, including:

7 (A) Ethnic subgroups.

8 (B) Socioeconomically disadvantaged pupils.

9 (C) English learners.

10 (D) Pupils with disabilities.

11 (E) Foster youth.

12 (F) Reclassified English learners.

13 (3) (A) For purposes of this section, a numerically significant
14 pupil subgroup is one that consists of at least 30 pupils, each of
15 whom has a valid test score.

16 (B) Notwithstanding subparagraph (A), for a subgroup of pupils
17 who are foster youth, a numerically significant pupil subgroup is
18 one that consists of at least 15 pupils.

19 (C) For a school or school district with an API score that is
20 based on no fewer than 11 and no more than 99 pupils with valid
21 test scores, numerically significant pupil subgroups shall be defined
22 by the Superintendent, with approval by the state board.

23 (4) (A) The API shall consist of a variety of indicators currently
24 reported to the department, including, but not limited to, the results
25 of the achievement test administered pursuant to Section 60640,
26 attendance rates for pupils in elementary schools, middle schools,
27 and secondary schools, and the graduation rates for pupils in
28 secondary schools.

29 (B) The Superintendent, with the approval of the state board,
30 may also incorporate into the API the rates at which pupils
31 successfully promote from one grade to the next in middle school
32 and high school, and successfully matriculate from middle school
33 to high school.

34 (C) Graduation rates for pupils in secondary schools shall be
35 calculated for the API as follows:

36 (i) Four-year graduation rates shall be calculated by taking the
37 number of pupils who graduated on time for the current school
38 year, which is considered to be three school years after the pupils
39 entered grade 9 for the first time, and dividing that number by the
40 total calculated in clause (ii).

1 (ii) The number of pupils entering grade 9 for the first time in
2 the school year three school years before the current school year,
3 plus the number of pupils who transferred into the class graduating
4 at the end of the current school year between the school year that
5 was three school years before the current school year and the date
6 of graduation, less the number of pupils who transferred out of the
7 school between the school year that was three school years before
8 the current school year and the date of graduation who were
9 members of the class that is graduating at the end of the current
10 school year.

11 (iii) Five-year graduation rates shall be calculated by taking the
12 number of pupils who graduated on time for the current school
13 year, which is considered to be four school years after the pupils
14 entered grade 9 for the first time, and dividing that number by the
15 total calculated in clause (iv).

16 (iv) The number of pupils entering grade 9 for the first time in
17 the school year four years before the current school year, plus the
18 number of pupils who transferred into the class graduating at the
19 end of the current school year between the school year that was
20 four school years before the current school year and the date of
21 graduation, less the number of pupils who transferred out of the
22 school between the school year that was four years before the
23 current school year and the date of graduation who were members
24 of the class that is graduating at the end of the current school year.

25 (v) Six-year graduation rates shall be calculated by taking the
26 number of pupils who graduated on time for the current school
27 year, which is considered to be five school years after the pupils
28 entered grade 9 for the first time, and dividing that number by the
29 total calculated in clause (vi).

30 (vi) The number of pupils entering grade 9 for the first time in
31 the school year five years before the current school year, plus the
32 number of pupils who transferred into the class graduating at the
33 end of the current school year between the school year that was
34 five school years before the current school year and the date of
35 graduation, less the number of pupils who transferred out of the
36 school between the school year that was five years before the
37 current school year and the date of graduation who were members
38 of the class that is graduating at the end of the current school year.

39 (D) The inclusion of five- and six-year graduation rates for
40 pupils in secondary schools shall meet the following requirements:

1 (i) Schools and school districts shall be granted one-half the
2 credit in their API scores for graduating pupils in five years that
3 they are granted for graduating pupils in four years.

4 (ii) Schools and school districts shall be granted one-quarter the
5 credit in their API scores for graduating pupils in six years that
6 they are granted for graduating pupils in four years.

7 (iii) Notwithstanding clauses (i) and (ii), schools and school
8 districts shall be granted full credit in their API scores for
9 graduating in five or six years a pupil with disabilities who
10 graduates in accordance with his or her individualized education
11 program.

12 (E) The pupil data collected for the API that comes from the
13 achievement test administered pursuant to Section 60640 and the
14 high school exit examination administered pursuant to Section
15 60851, when fully implemented, shall be desegregated by special
16 education status, English learners, socioeconomic status, gender,
17 and ethnic group. Only the test scores of pupils who were counted
18 as part of the enrollment in the annual data collection of the
19 California Basic Educational Data System for the current fiscal
20 year and who were continuously enrolled during that year may be
21 included in the test result reports in the API score of the school.

22 (F) (i) Commencing with the baseline API calculation in 2016,
23 and for each year thereafter, results of the achievement test and
24 other tests specified in subdivision (b) shall constitute no more
25 than 60 percent of the value of the index for secondary schools.

26 (ii) In addition to the elements required by this paragraph, the
27 Superintendent, with approval of the state board, may incorporate
28 into the index for secondary schools valid, reliable, and stable
29 measures of pupil preparedness for postsecondary education and
30 career.

31 (G) Results of the achievement test and other tests specified in
32 subdivision (b) shall constitute at least 60 percent of the value of
33 the index for primary schools and middle schools.

34 (H) It is the intent of the Legislature that the state's system of
35 public school accountability be more closely aligned with both the
36 public's expectations for public education and the workforce needs
37 of the state's economy. It is therefore necessary that the
38 accountability system evolve beyond its narrow focus on pupil test
39 scores to encompass other valuable information about school
40 performance, including, but not limited to, pupil preparedness for

1 college and career, as well as the high school graduation rates
2 already required by law.

3 (I) The Superintendent shall annually determine the accuracy
4 of the graduation rate data. Notwithstanding any other law,
5 graduation rates for pupils in dropout recovery high schools shall
6 not be included in the API. For purposes of this subparagraph,
7 “dropout recovery high school” means a high school in which 50
8 percent or more of its pupils have been designated as dropouts
9 pursuant to the exit/withdrawal codes developed by the department
10 or left a school and were not otherwise enrolled in a school for a
11 period of at least 180 days.

12 (J) To complement the API, the Superintendent, with the
13 approval of the state board, may develop and implement a program
14 of school quality review that features locally convened panels to
15 visit schools, observe teachers, interview pupils, and examine pupil
16 work, if an appropriation for this purpose is made in the annual
17 Budget Act.

18 (K) The Superintendent shall annually provide to local
19 educational agencies and the public a transparent and
20 understandable explanation of the individual components of the
21 API and their relative values within the API.

22 (L) An additional element chosen by the Superintendent and
23 the state board for inclusion in the API pursuant to this paragraph
24 shall not be incorporated into the API until at least one full school
25 year after the state board’s decision to include the element into the
26 API.

27 (b) Pupil scores from the following tests, when available and
28 when found to be valid and reliable for this purpose, shall be
29 incorporated into the API:

30 (1) The standards-based achievement tests provided for in
31 Section 60642.5.

32 (2) The high school exit examination.

33 (c) Based on the API, the Superintendent shall develop, and the
34 state board shall adopt, expected annual percentage growth targets
35 for all schools based on their API baseline score from the previous
36 year. Schools are expected to meet these growth targets through
37 effective allocation of available resources. For schools below the
38 statewide API performance target adopted by the state board
39 pursuant to subdivision (d), the minimum annual percentage growth
40 target shall be 5 percent of the difference between the actual API

1 score of a school and the statewide API performance target, or one
2 API point, whichever is greater. Schools at or above the statewide
3 API performance target shall have, as their growth target,
4 maintenance of their API score above the statewide API
5 performance target. However, the state board may set differential
6 growth targets based on grade level of instruction and may set
7 higher growth targets for the lowest performing schools because
8 they have the greatest room for improvement. To meet its growth
9 target, a school shall demonstrate that the annual growth in its API
10 is equal to or more than its schoolwide annual percentage growth
11 target and that all numerically significant pupil subgroups, as
12 defined in subdivision (a), are making comparable improvement.

13 (d) Upon adoption of state performance standards by the state
14 board, the Superintendent shall recommend, and the state board
15 shall adopt, a statewide API performance target that includes
16 consideration of performance standards and represents the
17 proficiency level required to meet the state performance target.

18 (e) (1) A school or school district with 11 to 99 pupils with
19 valid test scores shall receive an API score with an asterisk that
20 indicates less statistical certainty than API scores based on 100 or
21 more test scores.

22 (2) A school or school district annually shall receive an API
23 score, unless the Superintendent determines that an API score
24 would be an invalid measure of the performance of the school or
25 school district for one or more of the following reasons:

26 (A) Irregularities in testing procedures occurred.

27 (B) The data used to calculate the API score of the school or
28 school district are not representative of the pupil population at the
29 school or school district.

30 (C) Significant demographic changes in the pupil population
31 render year-to-year comparisons of pupil performance invalid.

32 (D) The department discovers or receives information indicating
33 that the integrity of the API score has been compromised.

34 (E) Insufficient pupil participation in the assessments included
35 in the API.

36 (F) A transition to new standards-based assessments
37 compromises comparability of results across schools or school
38 districts. The Superintendent may use the authority in this
39 subparagraph in the 2013–14 and 2014–15 school years only, with
40 approval of the state board.

1 (3) If a school or school district has fewer than 100 pupils with
2 valid test scores, the calculation of the API or adequate yearly
3 progress pursuant to the federal No Child Left Behind Act of 2001
4 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be
5 calculated over more than one annual administration of the tests
6 administered pursuant to Section 60640 and the high school exit
7 examination administered pursuant to Section 60851, consistent
8 with regulations adopted by the state board.

9 (4) Any school or school district that does not receive an API
10 calculated pursuant to subparagraph (F) of paragraph (2) shall not
11 receive an API growth target pursuant to subdivision (c). Schools
12 and school districts that do not have an API calculated pursuant
13 to subparagraph (F) of paragraph (2) shall use one of the following:

14 (A) The most recent API calculation.

15 (B) An average of the three most recent annual API calculations.

16 (C) Alternative measures that show increases in pupil academic
17 achievement for all groups of pupils schoolwide and among
18 significant subgroups.

19 (f) Only schools with 100 or more test scores contributing to
20 the API may be included in the API rankings.

21 (g) The Superintendent, with the approval of the state board,
22 shall develop an alternative accountability system for schools under
23 the jurisdiction of a county board of education or a county
24 superintendent of schools, community day schools, nonpublic,
25 nonsectarian schools pursuant to Section 56366, and alternative
26 schools serving high-risk pupils, including continuation high
27 schools and opportunity schools. Schools in the alternative
28 accountability system may receive an API score, but shall not be
29 included in the API rankings.

30 (h) For purposes of this section, county offices of education
31 shall be considered school districts.

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.