

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 491**

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**Introduced by Assembly Member Gonzalez**

February 23, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Gonzalez. English learners: ~~reclassification: proficiency assessment: reclassification.~~

~~(1) Existing~~

*Existing* law required the State Department of Education, 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 of Education 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 required the department to issue, by January 1, 2014, a report that includes specified findings, research, analysis, recommendations, and best practices.

This bill would additionally require the department, by July 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.

~~(2) Existing law requires the Superintendent of Public Instruction, with the approval of the state board, 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-no*.

*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

1 parents of English learners, experts with demonstrated experience  
2 in developing and administering assessments for English learners,  
3 classroom or resource teachers, or both, school district  
4 administrators with expertise in curriculum, instruction, assessment,  
5 and accountability, and researchers possessing expertise in the  
6 education of English learners.

7 (c) The group of experts described in subdivision (b) shall  
8 develop a study design that may include a sampling methodology  
9 for purposes of selecting the school districts that will be part of  
10 the review and analysis to identify best practices pursuant to  
11 subdivision (a).

12 (d) For purposes of completing the review and analysis required  
13 pursuant to subdivision (a), the department shall examine and  
14 report on the following:

15 (1) The practices and standards used by a sampling of school  
16 districts that represent the geographic, socioeconomic, and  
17 demographic diversity of school districts in the state to meet the  
18 four reclassification criteria specified in subdivision (f) of Section  
19 313.

20 (2) The extent to which school districts are following the  
21 guidelines established by the state board.

22 (3) The range of reclassification criteria developed by school  
23 districts.

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

26 (1) English language proficiency and academic performance  
27 data.

28 (2) The relationship of the reclassification criteria to  
29 reclassification rates.

30 (3) The academic performance of pupils after reclassification  
31 as English proficient.

32 (4) The relationship of the reclassification criteria to the  
33 academic performance of pupils after reclassification.

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

38 (g) By January 1, 2014, the department shall issue a report that  
39 includes the department's findings, research, analysis,

1 recommendations, and best practices pursuant to subdivisions (a),  
2 (d), (e), and (f).

3 (h) By July 1, 2016, the department shall recommend, and the  
4 state board shall adopt, the department's recommendations and  
5 best practices pursuant to subdivisions (a), (d), (e), and (f), as  
6 reported pursuant to subdivision (g).

7 (i) By January 1, 2017, the department shall issue an updated  
8 report that reflects any changes in analysis and recommendations  
9 as a result of the adoption by the state board of the common core  
10 standards pursuant to Section 60605.8 and the English language  
11 development standards adopted pursuant to former Section  
12 60811.3, as that section read on June 30, 2013, or Section 60811.4.

13 (j) This section shall be implemented only if state or federal  
14 funds are appropriated as necessary to fully fund this purpose or  
15 if private funds are made available as necessary to fully fund this  
16 purpose.

17 ~~SEC. 2. Section 52052 of the Education Code is amended to~~  
18 ~~read:~~

19 ~~52052. (a) (1) The Superintendent, with the approval of the~~  
20 ~~state board, shall develop an Academic Performance Index (API),~~  
21 ~~to measure the performance of schools and school districts,~~  
22 ~~especially the academic performance of pupils.~~

23 ~~(2) A school or school district shall demonstrate comparable~~  
24 ~~improvement in academic achievement as measured by the API~~  
25 ~~by all numerically significant pupil subgroups at the school or~~  
26 ~~school district, including all of the following:~~

27 ~~(A) Ethnic subgroups.~~

28 ~~(B) Socioeconomically disadvantaged pupils.~~

29 ~~(C) English learners.~~

30 ~~(D) Pupils with disabilities.~~

31 ~~(E) Foster youth.~~

32 ~~(F) Reclassified English learners.~~

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

36 ~~(B) Notwithstanding subparagraph (A), for a subgroup of pupils~~  
37 ~~who are foster youth, a numerically significant pupil subgroup is~~  
38 ~~one that consists of at least 15 pupils.~~

39 ~~(C) For a school or school district with an API score that is~~  
40 ~~based on no fewer than 11 and no more than 99 pupils with valid~~

1 test scores, numerically significant pupil subgroups shall be defined  
2 by the Superintendent, with the approval of the state board.

3 ~~(4) (A) The API shall consist of a variety of indicators currently~~  
4 ~~reported to the department, including, but not limited to, the results~~  
5 ~~of the achievement test administered pursuant to Section 60640,~~  
6 ~~attendance rates for pupils in elementary schools, middle schools,~~  
7 ~~and secondary schools, and the graduation rates for pupils in~~  
8 ~~secondary schools.~~

9 ~~(B) The Superintendent, with the approval of the state board,~~  
10 ~~may also incorporate into the API the rates at which pupils~~  
11 ~~successfully promote from one grade to the next in middle school~~  
12 ~~and high school, and successfully matriculate from middle school~~  
13 ~~to high school.~~

14 ~~(C) Graduation rates for pupils in secondary schools shall be~~  
15 ~~calculated for the API as follows:~~

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

21 ~~(ii) The number of pupils entering grade 9 for the first time in~~  
22 ~~the school year three school years before the current school year,~~  
23 ~~plus the number of pupils who transferred into the class graduating~~  
24 ~~at the end of the current school year between the school year that~~  
25 ~~was three school years before the current school year and the date~~  
26 ~~of graduation, less the number of pupils who transferred out of the~~  
27 ~~school between the school year that was three school years before~~  
28 ~~the current school year and the date of graduation who were~~  
29 ~~members of the class that is graduating at the end of the current~~  
30 ~~school year.~~

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

36 ~~(iv) The number of pupils entering grade 9 for the first time in~~  
37 ~~the school year four years before the current school year, plus the~~  
38 ~~number of pupils who transferred into the class graduating at the~~  
39 ~~end of the current school year between the school year that was~~  
40 ~~four school years before the current school year and the date of~~

1 graduation, less the number of pupils who transferred out of the  
2 school between the school year that was four years before the  
3 current school year and the date of graduation who were members  
4 of the class that is graduating at the end of the current school year.

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

10 (vi) ~~The number of pupils entering grade 9 for the first time in~~  
11 ~~the school year five years before the current school year, plus the~~  
12 ~~number of pupils who transferred into the class graduating at the~~  
13 ~~end of the current school year between the school year that was~~  
14 ~~five school years before the current school year and the date of~~  
15 ~~graduation, less the number of pupils who transferred out of the~~  
16 ~~school between the school year that was five years before the~~  
17 ~~current school year and the date of graduation who were members~~  
18 ~~of the class that is graduating at the end of the current school year.~~

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

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

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

27 (iii) ~~Notwithstanding clauses (i) and (ii), schools and school~~  
28 ~~districts shall be granted full credit in their API scores for~~  
29 ~~graduating in five or six years a pupil with disabilities who~~  
30 ~~graduates in accordance with his or her individualized education~~  
31 ~~program.~~

32 (E) ~~The pupil data collected for the API that comes from the~~  
33 ~~achievement test administered pursuant to Section 60640 and the~~  
34 ~~high school exit examination administered pursuant to Section~~  
35 ~~60851, when fully implemented, shall be disaggregated by special~~  
36 ~~education status, English learners, socioeconomic status, gender,~~  
37 ~~and ethnic group. Only the test scores of pupils who were counted~~  
38 ~~as part of the enrollment in the annual data collection of the~~  
39 ~~California Basic Educational Data System for the current fiscal~~

1 year and who were continuously enrolled during that year may be  
2 included in the test result reports in the API score of the school.

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

7 ~~(ii) In addition to the elements required by this paragraph, the~~  
8 ~~Superintendent, with the approval of the state board, may~~  
9 ~~incorporate into the index for secondary schools valid, reliable,~~  
10 ~~and stable measures of pupil preparedness for postsecondary~~  
11 ~~education and career.~~

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

15 ~~(H) It is the intent of the Legislature that the state's system of~~  
16 ~~public school accountability be more closely aligned with both the~~  
17 ~~public's expectations for public education and the workforce needs~~  
18 ~~of the state's economy. It is therefore necessary that the~~  
19 ~~accountability system evolve beyond its narrow focus on pupil test~~  
20 ~~scores to encompass other valuable information about school~~  
21 ~~performance, including, but not limited to, pupil preparedness for~~  
22 ~~college and career, as well as the high school graduation rates~~  
23 ~~already required by law.~~

24 ~~(I) The Superintendent shall annually determine the accuracy~~  
25 ~~of the graduation rate data. Notwithstanding any other law,~~  
26 ~~graduation rates for pupils in dropout recovery high schools shall~~  
27 ~~not be included in the API. For purposes of this subparagraph,~~  
28 ~~"dropout recovery high school" means a high school in which 50~~  
29 ~~percent or more of its pupils have been designated as dropouts~~  
30 ~~pursuant to the exit/withdrawal codes developed by the department~~  
31 ~~or left a school and were not otherwise enrolled in a school for a~~  
32 ~~period of at least 180 days.~~

33 ~~(J) To complement the API, the Superintendent, with the~~  
34 ~~approval of the state board, may develop and implement a program~~  
35 ~~of school quality review that features locally convened panels to~~  
36 ~~visit schools, observe teachers, interview pupils, and examine pupil~~  
37 ~~work, if an appropriation for this purpose is made in the annual~~  
38 ~~Budget Act.~~

39 ~~(K) The Superintendent shall annually provide to local~~  
40 ~~educational agencies and the public a transparent and~~

1 understandable explanation of the individual components of the  
 2 API and their relative values within the API.  
 3 (L) An additional element chosen by the Superintendent and  
 4 the state board for inclusion in the API pursuant to this paragraph  
 5 shall not be incorporated into the API until at least one full school  
 6 year after the state board's decision to include the element into the  
 7 API.  
 8 (b) Pupil scores from the following tests, when available and  
 9 when found to be valid and reliable for this purpose, shall be  
 10 incorporated into the API:  
 11 (1) The standards-based achievement tests provided for in  
 12 Section 60642.5.  
 13 (2) The high school exit examination.  
 14 (c) Based on the API, the Superintendent shall develop, and the  
 15 state board shall adopt, expected annual percentage growth targets  
 16 for all schools based on their API baseline score from the previous  
 17 year. Schools are expected to meet these growth targets through  
 18 effective allocation of available resources. For schools below the  
 19 statewide API performance target adopted by the state board  
 20 pursuant to subdivision (d), the minimum annual percentage growth  
 21 target shall be 5 percent of the difference between the actual API  
 22 score of a school and the statewide API performance target, or one  
 23 API point, whichever is greater. Schools at or above the statewide  
 24 API performance target shall have, as their growth target,  
 25 maintenance of their API score above the statewide API  
 26 performance target. However, the state board may set differential  
 27 growth targets based on grade level of instruction and may set  
 28 higher growth targets for the lowest performing schools because  
 29 they have the greatest room for improvement. To meet its growth  
 30 target, a school shall demonstrate that the annual growth in its API  
 31 is equal to or more than its schoolwide annual percentage growth  
 32 target and that all numerically significant pupil subgroups, as  
 33 defined in subdivision (a), are making comparable improvement.  
 34 (d) Upon adoption of state performance standards by the state  
 35 board, the Superintendent shall recommend, and the state board  
 36 shall adopt, a statewide API performance target that includes  
 37 consideration of performance standards and represents the  
 38 proficiency level required to meet the state performance target.  
 39 (e) (1) A school or school district with 11 to 99 pupils with  
 40 valid test scores shall receive an API score with an asterisk that

1 indicates less statistical certainty than API scores based on 100 or  
2 more test scores.

3 ~~(2) A school or school district annually shall receive an API~~  
4 ~~score, unless the Superintendent determines that an API score~~  
5 ~~would be an invalid measure of the performance of the school or~~  
6 ~~school district for one or more of the following reasons:~~

7 ~~(A) Irregularities in testing procedures occurred.~~

8 ~~(B) The data used to calculate the API score of the school or~~  
9 ~~school district are not representative of the pupil population at the~~  
10 ~~school or school district.~~

11 ~~(C) Significant demographic changes in the pupil population~~  
12 ~~render year-to-year comparisons of pupil performance invalid.~~

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

15 ~~(E) Insufficient pupil participation in the assessments included~~  
16 ~~in the API.~~

17 ~~(F) A transition to new standards-based assessments~~  
18 ~~compromises comparability of results across schools or school~~  
19 ~~districts. The Superintendent may use the authority in this~~  
20 ~~subparagraph in the 2013–14 and 2014–15 school years only, with~~  
21 ~~the approval of the state board.~~

22 ~~(3) If a school or school district has fewer than 100 pupils with~~  
23 ~~valid test scores, the calculation of the API or adequate yearly~~  
24 ~~progress pursuant to the federal No Child Left Behind Act of 2001~~  
25 ~~(20 U.S.C. Sec. 6301 et seq.) and federal regulations may be~~  
26 ~~calculated over more than one annual administration of the tests~~  
27 ~~administered pursuant to Section 60640 and the high school exit~~  
28 ~~examination administered pursuant to Section 60851, consistent~~  
29 ~~with regulations adopted by the state board.~~

30 ~~(4) Any school or school district that does not receive an API~~  
31 ~~calculated pursuant to subparagraph (F) of paragraph (2) shall not~~  
32 ~~receive an API growth target pursuant to subdivision (c). Schools~~  
33 ~~and school districts that do not have an API calculated pursuant~~  
34 ~~to subparagraph (F) of paragraph (2) shall use one of the following:~~

35 ~~(A) The most recent API calculation.~~

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

37 ~~(C) Alternative measures that show increases in pupil academic~~  
38 ~~achievement for all groups of pupils schoolwide and among~~  
39 ~~significant subgroups.~~

- 1     ~~(f) Only schools with 100 or more test scores contributing to~~
- 2     ~~the API may be included in the API rankings.~~
- 3     ~~(g) The Superintendent, with the approval of the state board,~~
- 4     ~~shall develop an alternative accountability system for schools under~~
- 5     ~~the jurisdiction of a county board of education or a county~~
- 6     ~~superintendent of schools, community day schools, nonpublic,~~
- 7     ~~nonsectarian schools pursuant to Section 56366, and alternative~~
- 8     ~~schools serving high-risk pupils, including continuation high~~
- 9     ~~schools and opportunity schools. Schools in the alternative~~
- 10    ~~accountability system may receive an API score, but shall not be~~
- 11    ~~included in the API rankings.~~
- 12    ~~(h) For purposes of this section, county offices of education~~
- 13    ~~shall be considered school districts.~~
- 14    ~~SEC. 3. If the Commission on State Mandates determines that~~
- 15    ~~this act contains costs mandated by the state, reimbursement to~~
- 16    ~~local agencies and school districts for those costs shall be made~~
- 17    ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
- 18    ~~4 of Title 2 of the Government Code.~~