

AMENDED IN SENATE MAY 31, 2016
AMENDED IN ASSEMBLY APRIL 30, 2015
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AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Gonzalez

February 23, 2015

An act to amend ~~Section 313.5~~ of Sections 435 and 440 of, and to add Section 52164.7 to, the Education Code, relating to English learners.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law requires a local educational agency to provide instructional services to English learners, as specified, and requires each parent or guardian of a pupil enrolled in a public school to receive notice of an assessment of a pupil's English proficiency no later than 30 days after the start of the school year. Existing law specifies the information required to be included in the notice, including the reason for the pupil's classification as an English learner.

This bill would require the notice to include specified additional information, including whether a child is a long-term English learner or is an English learner at risk of becoming a long-term English learner, as those terms would be defined in the bill.

Existing law requires each school district to make a determination of the primary language of a pupil when the pupil enrolls in the school district.

This bill would require a school district to provide a notification letter to a pupil's parent or guardian at the time a home language survey is provided that explains the purpose of the home language survey and the procedures for identification and reclassification of English learners. The bill would require the State Department of Education to make a sample notification letter available to all public schools.

Because the bill would impose additional requirements on local educational agencies, the bill would impose a state-mandated local program.

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.

~~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, and requires the department, 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 the English language development standards.~~

~~This bill would change the issue date of this initial report to January 1, 2019, and would delete the updated report requirement. The bill would additionally require the department, by July 1, 2022, 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.~~

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

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

1 *SECTION 1. Section 435 of the Education Code is amended*
2 *to read:*

3 435. For purposes of this chapter, the following terms have the
4 following meanings:

5 (a) “English learner” or “pupil of limited English proficiency”
6 means a pupil who was not born in the United States or whose
7 native language is a language other than English or who comes
8 from an environment where a language other than English is
9 dominant; and whose difficulties in speaking, reading, writing, or
10 understanding the English language may be sufficient to deny the
11 individual the ability to meet the state’s proficient level of
12 achievement on state assessments, the ability to successfully
13 achieve in classrooms where the language of instruction is English,
14 or the opportunity to participate fully in society.

15 (b) “Long-term English learner” means an English learner who
16 is enrolled in any of grades 6 to 12, inclusive, has been enrolled
17 in schools in the United States for more than six years, has
18 remained at the same English language proficiency level for two
19 or more consecutive years as determined by the English language
20 development test identified in Section 60810 or any successor test,
21 and scores far below basic or below basic on the English language
22 arts standards-based achievement test administered pursuant to
23 Section 60640 or any successor test.

24 ~~(b)~~

25 (c) “Immigrant pupil” means a pupil who was born in a country
26 other than the United States and who has attended a kindergarten
27 class or any of grades 1 to 12, inclusive, in a school in the United
28 States for three or fewer years.

29 ~~(e)~~

30 (d) “Federal No Child Left Behind Act of 2001” means Public
31 Law Number 107-110 (20 U.S.C. Sec. ~~6801~~, 6801 et seq.).

32 (e) “English learner at risk of becoming a long-term English
33 learner” means an English learner who is enrolled in any of grades

1 5 to 11, inclusive, in schools in the United States for four years,
2 scores at the intermediate level or below on the English language
3 development test identified in Section 60810 or any successor test,
4 and scores in the fourth year at below basic or far below basic
5 level on the English language arts standards-based achievement
6 test administered pursuant to Section 60640 or any successor test.

7 SEC. 2. Section 440 of the Education Code is amended to read:

8 440. (a) A local educational agency shall provide instructional
9 services to limited-English-proficient pupils and immigrant pupils
10 in conformity with Section 6801 and following of Title 20 of the
11 United States Code.

12 (b) In accordance with Section ~~7012~~ 6312 of Title 20 of the
13 United States Code, each parent or guardian of a pupil enrolled in
14 a public school shall receive notice of the assessment of his or her
15 child's English language proficiency not later than 30 days after
16 the start of the school year. The notice shall include all of the
17 following:

18 (1) The reason for the child's classification as limited English
19 proficient.

20 (2) The level of English proficiency.

21 (3) A description of the program for the English language
22 development instruction, including a description of all of the
23 following:

24 (A) The manner in which the program will meet the educational
25 strengths and needs of the child.

26 (B) The manner in which the program will help the child develop
27 his or her English proficiency and meet age appropriate academic
28 standards.

29 (C) The specific exit requirements for the program, the expected
30 rate of transition from the program into classrooms that are not
31 tailored for limited-English-proficient children, and the expected
32 rate of graduation from secondary school for the program if funds
33 available under Sections 6801 and following of Title 20 of the
34 United States Code are used for children in secondary schools.

35 (D) Where the child has been identified as having exceptional
36 needs, the manner in which the program meets the requirements
37 of the child's individualized education ~~plan~~ program.

38 (4) Information regarding a parent or guardian's option to
39 decline to allow the child to become enrolled in the program or to

1 choose to allow the child to become enrolled in an alternative
2 program.

3 (5) Information designed to assist a parent or guardian in
4 selecting among available programs, if more than one program is
5 offered.

6 *(c) In addition to the information specified in subdivision (b),
7 the notice shall also contain the following information:*

8 *(1) Whether the child is a long-term English learner or English
9 learner at risk of becoming a long-term English learner.*

10 *(2) The manner in which the program for English language
11 development instruction will meet the educational strengths and
12 needs of long-term English learners or pupils at risk of becoming
13 long-term English learners.*

14 *(3) The manner in which the program for English language
15 development instruction will help long-term English learners or
16 those at risk of becoming long-term English learners develop
17 English proficiency and meet age-appropriate academic standards.*

18 SEC. 3. Section 52164.7 is added to the Education Code, to
19 read:

20 52164.7. *(a) The department shall make available to public
21 schools a sample notification letter that shall be provided with the
22 home language survey used to determine the primary language of
23 the pupil at the time of enrollment in accordance with Section
24 52164.1. The notification letter shall explain the purpose of the
25 home language survey and the procedures for identification and
26 reclassification of English learners.*

27 *(b) The notification letter shall include, but is not limited to, all
28 of the following statements:*

29 *“If a language other than English is noted on your child’s home
30 language survey, the law requires us to test your child’s English
31 and primary language proficiency.”*

32 *“If there is a mistake in completing the home language survey,
33 you may dispute the school district’s determination of your child’s
34 primary language and ask the school district to redetermine your
35 child’s primary language. (Education Code Section 52164.1.)”*

36 *“Once your child’s English and primary language proficiency
37 is tested and your child is identified as an English learner,
38 changing the home language survey will not change your child’s
39 identification as an English learner.”*

1 (c) A school district shall provide the notification letter to the
2 parents or guardians of a pupil at the time the home language
3 survey is provided.

4 SEC. 4. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

9 SECTION 1. ~~Section 313.5 of the Education Code is amended~~
10 ~~to read:~~

11 ~~313.5. (a) By January 1, 2014, the department shall review~~
12 ~~and analyze the criteria, policies, and practices that a sampling of~~
13 ~~school districts that represent the geographic, socioeconomic, and~~
14 ~~demographic diversity of school districts in the state use to~~
15 ~~reclassify English learners, and recommend to the Legislature and~~
16 ~~state board any guideline, regulatory, or statutory changes that the~~
17 ~~department determines are necessary to identify when English~~
18 ~~learners are prepared for the successful transition to classrooms~~
19 ~~and curricula that require English proficiency.~~

20 ~~(b) For purposes of completing the review and analysis required~~
21 ~~pursuant to subdivision (a), the department shall consult with~~
22 ~~parents of English learners, experts with demonstrated experience~~
23 ~~in developing and administering assessments for English learners,~~
24 ~~classroom or resource teachers, or both, school district~~
25 ~~administrators with expertise in curriculum, instruction, assessment,~~
26 ~~and accountability, and researchers possessing expertise in the~~
27 ~~education of English learners.~~

28 ~~(c) The group of experts described in subdivision (b) shall~~
29 ~~develop a study design that may include a sampling methodology~~
30 ~~for purposes of selecting the school districts that will be part of~~
31 ~~the review and analysis to identify best practices pursuant to~~
32 ~~subdivision (a).~~

33 ~~(d) For purposes of completing the review and analysis required~~
34 ~~pursuant to subdivision (a), the department shall examine and~~
35 ~~report on the following:~~

36 ~~(1) The practices and standards used by a sampling of school~~
37 ~~districts that represent the geographic, socioeconomic, and~~
38 ~~demographic diversity of school districts in the state to meet the~~
39 ~~four reclassification criteria specified in subdivision (f) of Section~~
40 ~~313.~~

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

3 ~~(3) The range of reclassification criteria developed by school~~
4 ~~districts.~~

5 ~~(e) As part of the examination required pursuant to subdivision~~
6 ~~(d), the department shall analyze the following:~~

7 ~~(1) English language proficiency and academic performance~~
8 ~~data.~~

9 ~~(2) The relationship of the reclassification criteria to~~
10 ~~reclassification rates.~~

11 ~~(3) The academic performance of pupils after reclassification~~
12 ~~as English proficient.~~

13 ~~(4) The relationship of the reclassification criteria to the~~
14 ~~academic performance of pupils after reclassification.~~

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

19 ~~(g) By January 1, 2019, the department shall issue a report that~~
20 ~~includes the department's findings, research, analysis,~~
21 ~~recommendations, and best practices pursuant to subdivisions (a),~~
22 ~~(d), (e), and (f).~~

23 ~~(h) By July 1, 2022 the department shall recommend, and the~~
24 ~~state board shall adopt, the department's recommendations and~~
25 ~~best practices pursuant to subdivisions (a), (d), (e), and (f), as~~
26 ~~reported pursuant to subdivision (g).~~

27 ~~(i) This section shall be implemented only if state or federal~~
28 ~~funds are appropriated as necessary to fully fund this purpose or~~
29 ~~if private funds are made available as necessary to fully fund this~~
30 ~~purpose.~~