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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Gonzalez

February 23, 2015

An act to amend ~~Sections 435 and 440~~ *Section 313.2* of, and to add ~~Section 52164.7~~ *313.3* to, the Education Code, relating to English learners.

LEGISLATIVE COUNSEL’S DIGEST

AB 491, as amended, Gonzalez. English learners: identification: notice.

Existing law requires ~~a local educational agency to provide instructional services to English learners, as specified, and requires each school district to make a determination of the primary language of a pupil when the pupil enrolls in the school district 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 year that includes, among other things,~~ the reason for the pupil’s classification as an English learner.

This bill would require the notice *of assessment of a child's English proficiency* 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.~~ *learner.*

~~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~~ The 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.

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 313.2 of the Education Code is amended
- 2 to read:
- 3 313.2. (a) The department shall annually ascertain the number
- 4 of pupils in each school district and school, including a school that
- 5 is within the jurisdiction of a county office of education and a
- 6 charter school, who are, or are at risk of becoming, long-term
- 7 English learners, as those terms are defined in Section 313.1.
- 8 (b) The department shall annually provide the information
- 9 described in subdivision (a) to school districts and schools and
- 10 post on the department's Internet Web site the number of long-term

English learners and English learners at risk of becoming long-term English learners in the state.

(c) In addition to the information specified in subdivision (b) of Section 440, the notice of assessment of a child's English proficiency shall also contain all of the following information:

(1) Whether the child is a long-term English learner or English learner at risk of becoming a long-term English learner, as those terms are defined in Section 313.1.

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

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

SEC. 2. Section 313.3 is added to the Education Code, to read:

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

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

"If a language other than English is noted on your child's home language survey, the law requires us to test your child's English and primary language proficiency."

"If there is a mistake in completing the home language survey, you may dispute the school district's determination of your child's primary language and ask the school district to redetermine your child's primary language. (Education Code Section 52164.1.)"

"Once your child's English and primary language proficiency is tested and your child is identified as an English learner, changing the home language survey will not change your child's 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. 3. 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 435 of the Education Code is amended~~
10 ~~to read:~~

11 435. For purposes of this chapter, the following terms have the
12 following meanings:

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

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

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

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

38 (e) ~~“English learner at risk of becoming a long-term English~~
39 ~~learner” means an English learner who is enrolled in any of grades~~
40 ~~5 to 11, inclusive, in schools in the United States for four years,~~

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

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

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

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

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

18 (2) The level of English proficiency.

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

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

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

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

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

36 (4) Information regarding a parent or guardian's option to
37 decline to allow the child to become enrolled in the program or to
38 choose to allow the child to become enrolled in an alternative
39 program.

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

~~(e) In addition to the information specified in subdivision (b), the notice shall also contain the following information:~~

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

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

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

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

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

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

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

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

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

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

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

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