

**ASSEMBLY BILL**

**No. 2350**

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**Introduced by Assembly Member O'Donnell**

February 18, 2016

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An act to amend Section 313 of the Education Code, relating to English learners.

LEGISLATIVE COUNSEL'S DIGEST

AB 2350, as introduced, O'Donnell. English learners: English language proficiency assessment.

Existing law requires each school district that has one or more pupils who are English learners and, to the extent required by federal law, each county office of education and each 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 that the assessment primarily use the English language development test identified or developed, or developed or acquired, by the Superintendent pursuant to a specified statute.

This bill would delete English language development tests that are identified or acquired, but not developed, from tests that may be used by the assessment referenced above. The bill would also make nonsubstantive changes to this provision.

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

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

1 SECTION 1. Section 313 of the Education Code is amended  
2 to read:

3 313. (a) Each school district that has one or more pupils who  
4 are English learners and, to the extent required by federal law,  
5 each county office of education and each charter school shall assess  
6 the English language development of each pupil in order to  
7 determine the level of proficiency for purposes of this chapter.

8 (b) The department, with the approval of the state board, shall  
9 establish procedures for conducting the assessment required  
10 pursuant to subdivision (a) and for the reclassification of a pupil  
11 from English learner to English proficient.

12 (c) Commencing with the 2000–01 school year until subdivision  
13 (d) is implemented, the assessment shall be conducted upon initial  
14 enrollment, and annually, thereafter, during a period of time  
15 determined by the Superintendent and the state board. The annual  
16 assessments shall continue until the pupil is redesignated as English  
17 proficient. The assessment shall primarily ~~utilize~~ *use* the English  
18 language development test ~~identified or~~ developed by the  
19 Superintendent pursuant to Chapter 7 (commencing with Section  
20 60810) of Part 33 of Division 4 of Title 2.

21 (d) (1) This subdivision shall not be implemented unless and  
22 until the department receives written documentation from the  
23 United States Department of Education that federal law permits  
24 the implementation of the changes set forth in this subdivision or  
25 until the 2013–14 school year, whichever occurs later.

26 (2) The assessment shall be conducted annually during a period  
27 that commences on the day upon which 55 percent of the  
28 instructional year is completed through July 1 of that calendar  
29 year. Annual assessments shall continue until the pupil is  
30 redesignated as English proficient. The annual assessment shall  
31 primarily ~~utilize~~ *use* the English language development test  
32 ~~identified or~~ developed by the Superintendent pursuant to Chapter  
33 7 (commencing with Section 60810) of Part 33 of Division 4 of  
34 Title 2.

35 (3) The assessment shall be conducted upon the initial  
36 enrollment of a pupil in order to provide information to be used  
37 to determine if the pupil is an English learner.

1 (A) If the initial enrollment of a pupil occurs on a date outside  
2 of the testing period identified pursuant to paragraph~~(1)~~; (2), the  
3 prior year's annual assessment for the grade in which the pupil is  
4 enrolling shall be used for this purpose.

5 (B) If the initial enrollment of a pupil occurs on a date within  
6 the testing period identified pursuant to paragraph~~(1)~~; (2), the  
7 initial assessment of the pupil shall be conducted as part of the  
8 annual assessment conducted pursuant to paragraph~~(1)~~; (2).

9 (4) Notwithstanding paragraph~~(1)~~; (2), a school district shall  
10 assess the English language development of a pupil pursuant to  
11 this section no more than one time per school year.

12 (e) The~~—assessments~~ *assessment* conducted pursuant to  
13 subdivision (d) shall be conducted in a manner consistent with  
14 federal statutes and regulations.

15 (f) The reclassification procedures developed by the department  
16 shall~~—utilize~~ *use* multiple criteria in determining whether to  
17 reclassify a pupil as proficient in English, including, but not limited  
18 to, all of the following:

19 (1) Assessment of language proficiency using an objective  
20 assessment instrument, including, but not *necessarily* limited to,  
21 the English language development test that is developed~~—or acquired~~  
22 pursuant to Section 60810.

23 (2) Teacher evaluation, including, but not *necessarily* limited  
24 to, a review of the pupil's curriculum mastery.

25 (3) Parental opinion and consultation.

26 (4) Comparison of the performance of the pupil in basic skills  
27 against an empirically established range of performance in basic  
28 skills based upon the performance of English proficient pupils of  
29 the same age, that demonstrates whether the pupil is sufficiently  
30 proficient in English to participate effectively in a curriculum  
31 designed for pupils of the same age whose native language is  
32 English.

33 (g) This section does not preclude a school district or county  
34 office of education from testing English learners more than once  
35 in a school year if the school district or county office of education  
36 chooses to do so.

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