

AMENDED IN ASSEMBLY APRIL 7, 2016  
AMENDED IN ASSEMBLY MARCH 17, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2785**

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**Introduced by Assembly Member O'Donnell**

February 19, 2016

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An act to amend Sections 430, 435, and 444 of, and to add Section 447 to, ~~add Section 56305 to the Education Code, relating to English language acquisition. special education.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2785, as amended, O'Donnell. ~~English language acquisition: the federal Every Student Succeeds Act. Special education: English learners: manual.~~

*Existing law requires local educational agencies to actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education.*

*This bill would require the State Department of Education, on or before July 1, 2018, to develop a manual providing guidance to local educational agencies on identifying and supporting English learners who qualify for special education services, as specified, with the goal of providing state guidance to educators on the identification and support of English learners with disabilities and to promote a collaborative approach among teachers, school administrators, other personnel, and parents in determining the most appropriate academic*

*placements and supports for these pupils. In developing the manual, the bill would require the department to review manuals produced on this topic by other states and to establish and consult with a stakeholder group comprised of specified experts and practitioners. As part of implementing these provisions, the bill would require the department, with input from the stakeholder group, to develop a plan for dissemination of the manual and providing professional development on the content of the manual, as specified, and would require the department to submit the plan to the State Board of Education, the Department of Finance, the Legislative Analyst’s Office, and the appropriate policy and fiscal committees of the Legislature on or before July 1, 2018. The bill would state the intent of the Legislature that its provisions be funded with federal funds, to the extent permissible.*

~~Existing law declares the intent of the Legislature to amend provisions of the Education Code related to ensuring that all pupils have reasonable access to educational opportunities that are necessary in order for the pupils to achieve at high levels in English and in the other core curriculum areas of instruction to the extent that the federal No Child Left Behind Act of 2001 is amended.~~

~~This bill would require the Department of Education to review these Education Code provisions for conformity with the federal Every Student Succeeds Act, which amended the No Child Left Behind Act of 2001, and to report any necessary conforming changes to the Legislature.~~

~~This bill would also update obsolete references to the federal No Child Left Behind Act of 2001.~~

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. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *There are approximately 1.4 million English learners in*
- 4     *California public schools, representing 22 percent of the state’s*
- 5     *enrollment. Some of these English learners are also pupils with*
- 6     *disabilities.*
- 7     (b) *The accurate identification of English learners for special*
- 8     *education and the determination of the best academic placement*

1 *for these pupils is in the interest of pupils, families, educators,*  
2 *local educational agencies, and the state.*

3 *(c) The identification of English learners for special education*  
4 *involves complex and interrelated processes, and educators would*  
5 *benefit from state guidance on how best to identify these pupils.*

6 *(d) Educators would also benefit from state guidance about how*  
7 *to support the learning needs of English learners with disabilities.*

8 *(e) Other states have provided their educators with such*  
9 *guidance through manuals on English learners and special*  
10 *education. The federal government recommends that states develop*  
11 *guidance for educators on this topic.*

12 *(f) California, which enrolls one in every three English learners*  
13 *in the country, should provide such guidance for its educators in*  
14 *the form of a manual and professional development on identifying*  
15 *and serving English learners with disabilities.*

16 *SEC. 2. Section 56305 is added to the Education Code, to read:*

17 *56305. (a) On or before July 1, 2018, the department shall*  
18 *develop a manual providing guidance to local educational agencies*  
19 *on identifying and supporting English learners who qualify for*  
20 *special education services.*

21 *(b) The goal of the manual shall be to provide state guidance*  
22 *to educators on the identification and support of English learners*  
23 *with disabilities and to promote a collaborative approach among*  
24 *teachers, school administrators, other personnel, and parents in*  
25 *determining the most appropriate academic placements and*  
26 *supports for these pupils.*

27 *(c) In developing the manual, the department shall do both of*  
28 *the following:*

29 *(1) Review manuals produced on this topic by other states.*

30 *(2) Establish and consult with a stakeholder group comprised*  
31 *of experts and practitioners. These individuals shall have expertise*  
32 *or experience in either special education, English learner*  
33 *education, or in both.*

34 *(d) The manual shall include all of the following topics:*

35 *(1) Guidance for accurately identifying English learners with*  
36 *disabilities, including guidance on avoiding the over-identification*  
37 *and under-identification of these pupils.*

38 *(2) Information on second language acquisition and progress.*

39 *(3) A sample prereferral or intervention program.*

40 *(4) Guidance on referral processes.*

1 (5) *Guidance on the use of assessments, including the use of*  
 2 *multiple measures as well as assessment accommodations for both*  
 3 *language and disability.*

4 (6) *Guidance on the development of individualized education*  
 5 *programs for English learners.*

6 (7) *Guidance on how to support the language and content*  
 7 *learning needs of English learners with disabilities, including how*  
 8 *to do so in inclusive settings.*

9 (8) *Information on the role of culture and acculturation.*

10 (9) *Guidance for working with families, including guidance on*  
 11 *meeting the needs of nonnative English speakers in special*  
 12 *education proceedings.*

13 (10) *A sample plan for continuous evaluation and systemic*  
 14 *review, including guidance on tracking effectiveness and sharing*  
 15 *information between special education and English learner*  
 16 *programs within local educational agencies, to the extent permitted*  
 17 *under state and federal law.*

18 (11) *Laws and regulations related to the rights of English*  
 19 *learners and pupils with disabilities.*

20 (e) *The manual shall be written for ease of use by educators*  
 21 *and shall include graphic organizers and other helpful features*  
 22 *such as flowcharts, checklists, sample forms, and case examples.*

23 (f) (1) *In implementing this section, the department, with input*  
 24 *from the stakeholder group, shall develop a plan for dissemination*  
 25 *of the manual and providing professional development on the*  
 26 *content of the manual. The plan shall address how local*  
 27 *educational agencies can collaborate with the department in*  
 28 *meeting both of these objectives.*

29 (2) *The plan shall be submitted to the state board, the*  
 30 *Department of Finance, the Legislative Analyst’s Office, and the*  
 31 *appropriate policy and fiscal committees of the Legislature on or*  
 32 *before July 1, 2018.*

33 (g) *It is the intent of the Legislature that this section be funded*  
 34 *with federal funds, to the extent permissible.*

35 ~~SECTION 1. Section 430 of the Education Code is amended~~  
 36 ~~to read:~~

37 ~~430. (a) This chapter shall be known, and may be cited, as the~~  
 38 ~~English Learner and Immigrant Pupil Federal Conformity Act.~~

39 ~~(b) The purpose of this chapter is to ensure that instructional~~  
 40 ~~services are provided to pupils with limited English proficiency~~

1 in conformity with federal requirements that are designed to ensure  
2 that all pupils have reasonable access to educational opportunities  
3 that are necessary in order for the pupils to achieve at high levels  
4 in English and in the other core curriculum areas of instruction.

5 ~~(e) This chapter is intended to be declaratory of Title III of the  
6 federal Every Student Succeeds Act (20 U.S.C. Sec. 6301 et seq.)  
7 and is intended to assist local educational agencies in understanding  
8 the requirements and funding formulas to provide allowable  
9 services. It is the intent of the Legislature that, to the extent federal  
10 law is amended, this chapter will be amended to conform to those  
11 changes.~~

12 ~~(d) The requirements of this chapter apply only to local  
13 educational agencies that receive federal funds pursuant to Title  
14 III of the federal Every Student Succeeds Act.~~

15 ~~SEC. 2. Section 435 of the Education Code is amended to read:~~

16 ~~435. For purposes of this chapter, the following terms have the  
17 following meanings:~~

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

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

32 ~~(c) “Federal Every Student Succeeds Act” means Public Law  
33 Number 114–95 (20 U.S.C. Sec. 6301, et seq.).~~

34 ~~SEC. 3. Section 444 of the Education Code is amended to read:~~

35 ~~444. In accordance with Section 6826 (c) of Title 20 of the  
36 United States Code, a local educational agency that receives a  
37 federal subgrant pursuant to Sections 6801 and following of Title  
38 20 of the United States Code shall include in its plan a certification  
39 that all teachers in any language instruction education program for  
40 limited-English-proficient pupils that is, or will be, funded under~~

1 Part A of Title III of the federal Every Student Succeeds Act are  
2 fluent in English and any other language used for instruction,  
3 including having written and oral communication skills.

4 SEC. 4. Section 447 is added to the Education Code, to read:

5 447. On or before January 1, 2018, the department shall review  
6 this chapter for conformity with the federal Every Student Succeeds  
7 Act, and shall report any necessary conforming changes to the  
8 Legislature pursuant to Section 9795 of the Government Code.

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