

AMENDED IN ASSEMBLY APRIL 27, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2785

Introduced by Assembly Member O'Donnell

February 19, 2016

An act to add Section 56305 to the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2785, as amended, O'Donnell. 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~~ *identifying, assessing,* and supporting English learners who *may* qualify for special education services, as specified, with the goal of providing ~~state guidance to educators on the identification~~ *guidance, for voluntary use by local educational agencies, including charter schools, on evidence-based and promising practices for the identification, assessment,* and support of English learners ~~with~~ *who may have* disabilities and to promote a

collaborative approach among *general education* teachers, *special education teachers*, school administrators, other personnel, and parents in determining the most appropriate academic placements and ~~supports~~ *services* for these pupils. *The bill would require the department to post the manual on its Internet Web site and on its professional development Internet Web site.* In developing the manual, the bill would require the department to review manuals *and other resources* produced on this topic by ~~other states~~ *local educational agencies, special education administrators, other organizations, other states, and the federal government*, 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 *for staff at schoolsites and administrators of local educational agencies* 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, *the California Collaborative for Educational Excellence, the Advisory Commission on Special Education*, 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.

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~~. *who qualify for special education services.*
- 7 (b) The accurate identification of English learners ~~for who~~
- 8 *qualify for special education services*, and the determination of ~~the~~
- 9 ~~best academic placement appropriate services~~ for these ~~pupils~~
- 10 *pupils*, is in the interest of pupils, families, educators, local
- 11 educational agencies, and the state.

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

5 (d) Educators would also benefit from state guidance about how
6 to support the learning needs of English learners ~~with disabilities.~~
7 *who qualify for special education services.*

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

12 (f) California, which enrolls one in every three English learners
13 in the country, *and 35 percent of all English learners who receive*
14 *special education services in the United States,* should provide
15 such guidance for its educators in the form of a manual and
16 professional development on ~~identifying~~ *identifying, assessing,*
17 *and serving English learners* ~~with disabilities.~~ *who qualify for*
18 *special education services.*

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

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

24 (b) The goal of the manual shall be to ~~provide state guidance~~
25 ~~to educators on the identification~~ *guidance, for voluntary use by*
26 *local educational agencies, including charter schools, on*
27 *evidence-based and promising practices for the identification,*
28 *assessment,* and support of English learners ~~with~~ *who may have*
29 disabilities and to promote a collaborative approach among *general*
30 *education teachers, special education teachers,* school
31 administrators, other personnel, and parents in determining the
32 most appropriate academic placements and ~~supports~~ *services* for
33 these pupils.

34 (c) In developing the manual, the department shall do both of
35 the following:

36 (1) Review manuals *and other resources* produced on this topic
37 ~~by other states.~~ *local educational agencies, special education*
38 *administrators, other organizations, other states, and the federal*
39 *government.*

1 (2) Establish and consult with a stakeholder group comprised
2 of experts and practitioners. These individuals shall have expertise
3 or experience in either special education, English learner education,
4 or in both.

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

6 (1) Guidance for accurately identifying English learners ~~with~~
7 *who may have disabilities*, including guidance on avoiding the
8 over-identification and under-identification of these ~~pupils~~. *pupils*
9 *for special education services and in different disability categories*
10 *and in different grade spans*.

11 (2) Information on second language acquisition and ~~progress~~.
12 *progress, including guidance on distinguishing between language*
13 *acquisition and disabilities*.

14 (3) ~~A sample Examples of prereferral or intervention program~~.
15 *strategies, early interventions, and early intervening strategies*
16 *specifically addressing the needs of English learners, including*
17 *examples of early interventions for pupils in preschool and the*
18 *primary grades who are acquiring foundational language and*
19 *literacy skills*.

20 (4) Guidance on referral processes.

21 (5) Guidance on the use of assessments, including the use of
22 multiple measures as well as assessment accommodations for both
23 language and ~~disability~~. *disability, including assessment*
24 *accommodations in primary languages*.

25 (6) *Guidance on the consideration of extrinsic factors, such as*
26 *vision and health, in the identification of pupils*.

27 ~~(6)~~

28 (7) Guidance on the development of individualized education
29 programs for English ~~learners~~. *learners, including the composition*
30 *of individualized education program teams*.

31 ~~(7)~~

32 (8) Guidance on how to support the language and content
33 learning needs of English learners ~~with~~ *who may have disabilities*,
34 including how to do so in ~~inclusive settings~~. *the least restrictive*
35 *environment, as described in Section 56040.1*.

36 (9) *Guidance regarding placement or continued placement in*
37 *bilingual programs and on providing services and instruction in*
38 *primary languages*.

39 (10) *Guidance on special education exit and English learner*
40 *reclassification processes for English learners with disabilities*.

1 ~~(8)~~
2 (11) Information on the role of culture and ~~acculturation.~~
3 *acculturation, to the extent it is related to the process of identifying*
4 *English learners for special education services.*

5 ~~(9)~~
6 (12) Guidance for working with families, including guidance
7 on meeting the needs of nonnative English ~~speakers~~ *speaking*
8 *parents, guardians, and educational rights holders in special*
9 *education proceedings.*

10 ~~(10) A sample plan~~
11 (13) *Examples of any plans or processes used by local*
12 *educational agencies for continuous evaluation and systemic*
13 *review, including guidance on tracking effectiveness and sharing*
14 *information between special education and English learner*
15 *programs within local educational agencies, to the extent permitted*
16 *under state and federal law.*

17 ~~(11) Laws and regulations~~
18 (14) *State and federal law, regulations, and guidance related*
19 *to the rights of English learners and pupils with disabilities.*

20 (e) *All guidance in the manual shall be consistent with state*
21 *and federal law, regulations, and guidance regarding English*
22 *learners and special education.*

23 ~~(e)~~
24 (f) *The manual shall be written for ease of use by ~~educators and~~*
25 *~~shall include~~ educators. The department is encouraged to*
26 *incorporate graphic organizers and other helpful features such as*
27 *flowcharts, checklists, sample forms, and case examples.*

28 (g) *The department shall post the manual on its Internet Web*
29 *site and on its professional development Internet Web site.*

30 (h) *For purposes of this section, the following terms have the*
31 *following meanings:*

32 (1) *“English learners” includes pupils who have been classified*
33 *as English learners and those who may later be classified as*
34 *English learners.*

35 (2) *“Pupils with disabilities” includes pupils who have been or*
36 *may be identified as individuals with exceptional needs, as defined*
37 *in Section 56026, including pupils who have been or may be*
38 *identified as having a low incidence disability, as defined in Section*
39 *56026.5, or a severe disability, as defined in Section 56030.5.*

40 ~~(f)~~

- 1 (i) (1) In implementing this section, the department, with input
2 from the stakeholder group, shall develop a plan for dissemination
3 of the manual and providing professional development *for staff at*
4 *schoolsites and administrators of local educational agencies* on
5 the content of the manual. The plan shall address how *the state*
6 *and* local educational agencies can collaborate ~~with the department~~
7 in meeting both of these objectives.
- 8 (2) The plan shall be submitted to the state board, the
9 Department of Finance, the Legislative Analyst’s Office, *the*
10 *California Collaborative for Educational Excellence, the Advisory*
11 *Commission on Special Education*, and the appropriate policy and
12 fiscal committees of the Legislature on or before July 1, 2018.
- 13 ~~(g)~~
- 14 (j) It is the intent of the Legislature that this section be funded
15 with federal funds, to the extent permissible.