

Assembly Bill No. 2785

CHAPTER 579

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

[Approved by Governor September 24, 2016. Filed with
Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2785, 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, assessing, supporting, and reclassifying English learners who may qualify for special education services and pupils with disabilities who may be classified as English learners, as specified, with the goal of providing guidance, for voluntary use by local educational agencies, charter schools, and the state special schools on evidence-based and promising practices for the identification, assessment, support, and reclassification of those pupils and to promote a collaborative approach among general education teachers, special education teachers, school administrators, paraprofessionals, other involved personnel, and parents in determining the most appropriate academic placements and 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 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 the dissemination of the manual and the means of providing professional development on the content of the manual, as specified, but would condition the actual implementation of the plan on an appropriation for that purpose in the annual Budget Act or another enacted statute. The bill 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) There are approximately 1.4 million English learners in California public schools, representing 22 percent of the state's enrollment. Some of these English learners are also pupils who qualify for special education services.

(b) There are approximately 734,000 pupils with disabilities in California public schools, representing 12 percent of the state's enrollment. Some of these pupils with disabilities are also English learners.

(c) The accurate identification of English learners who qualify for special education services, the classification of pupils with disabilities as English learners, and the determination of appropriate services for these pupils is in the interest of pupils, families, educators, local educational agencies, and the state.

(d) The identification, assessment, support, reclassification, and special education exit of these pupils involve complex and interrelated processes, and educators would benefit from state guidance on how best to identify these pupils.

(e) Educators would also benefit from state guidance about how to support the learning needs of these pupils.

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

(g) California, which enrolls one in every three English learners in the country, and 35 percent of all English learners who receive special education services in the United States, should provide such guidance for its educators in the form of a manual and professional development on identifying, assessing, supporting, and reclassifying these pupils.

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

56305. (a) On or before July 1, 2018, the department shall develop a manual providing guidance to local educational agencies on identifying, assessing, supporting, and reclassifying English learners who may qualify for special education services and pupils with disabilities who may be classified as English learners.

(b) The goal of the manual shall be to provide guidance, for voluntary use by local educational agencies, charter schools, and the state special schools, on evidence-based and promising practices for the identification, assessment, support, and reclassification of these pupils and to promote a collaborative approach among general education teachers, special education teachers, school administrators, paraprofessionals, other involved personnel,

and parents in determining the most appropriate academic placements and services for these pupils.

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

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

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

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

(1) Guidance for accurately identifying English learners who may have disabilities and accurately classifying pupils with disabilities as English learners, including guidance on avoiding overidentification and underidentification of these pupils for special education services and in different disability categories and in different grade spans.

(2) Information on second language acquisition and progress, including guidance on distinguishing between language acquisition and disabilities.

(3) Examples of prereferral strategies, early interventions, and early intervening strategies specifically addressing the needs of English learners, including examples of early interventions for pupils in preschool and the primary grades who are acquiring foundational language and literacy skills.

(4) Guidance on referral processes.

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

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

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

(8) Guidance on how to support the language and content learning needs of English learners who may have disabilities, including how to do so in the least restrictive environment, as described in Section 56040.1, and in a manner that enables access to the core curriculum.

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

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

(11) Information on the role of culture and acculturation, to the extent it is related to the process of identifying English learners for special education services.

(12) Guidance for working with families, including guidance on meeting the needs of nonnative English speaking parents, guardians, and educational rights holders in special education proceedings.

(13) Examples of any plans or processes used by local educational agencies for continuous evaluation and systemic review and guidance on

sharing information between special education and English learner programs within local educational agencies for the purpose of tracking effectiveness, to the extent permitted under state and federal law regarding the privacy of pupil information.

(14) State and federal law, regulations, and guidance related to the rights of English learners and pupils with disabilities.

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

(f) The manual shall be written for ease of use by educators. The department is encouraged to incorporate features such as flowcharts, checklists, sample forms, and case examples.

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

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

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

(2) “Pupils with disabilities” includes pupils who have been or may later be identified as individuals with exceptional needs, as defined in Section 56026, including pupils who have been or may later be identified as having a low incidence disability, as defined in Section 56026.5, or a severe disability, as defined in Section 56030.5, and also includes pupils with disabilities who may be later classified as English learners.

(i) (1) (A) In implementing this section, the department, with input from the stakeholder group, shall develop a plan for the dissemination of the manual and the means of providing professional development on the content of the manual. The plan shall address how the state and local educational agencies can collaborate in meeting both of these objectives in a cost-effective manner.

(B) Implementation of the plan developed pursuant to subparagraph (A) shall be contingent upon an appropriation for that purpose in the annual Budget Act or another enacted statute.

(2) The plan shall be submitted to the state board, 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.

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