

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1767**

---

---

**Introduced by Assembly Member Norby**

February 17, 2012

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1767, as amended, Norby. Pupils: English learners: reclassification.

Existing law requires each school district that has one or more pupils who are English learners, and to the extent required by federal law, a county office of education and a charter school, to assess the English language development of each of those pupils in order to determine their level of proficiency. Existing law requires annual assessments to continue until a pupil is redesignated as English proficient and requires the assessment to utilize primarily the English language development test identified or developed by the Superintendent of Public Instruction pursuant to specified provisions.

The Leroy Greene California Assessment of Academic Achievement Act requires school districts, charter schools, and county offices of education to administer to each of their pupils in grades 2 to 11, inclusive, certain achievement tests, including the standards-based achievement tests that are part of the Standardized Testing and Reporting (STAR) Program.

This bill would require that a pupil *in any of grades 3 to 11, inclusive*, ~~be redesignated as English proficient~~ *eligible to be reclassified as fluent*

*English proficient* if the pupil attains the proficient level of performance on the English language arts STAR test, a score of intermediate or above on all portions of the California English Language Development Test, and a 3.0 grade point average at the end of ~~any the school semester, and would~~ year; and, upon attainment of these requirements, would require the pupil to be reclassified as fluent English proficient upon verified approval submitted by the pupil’s parent or legal guardian. To the extent this bill would require local educational agencies to perform additional duties regarding the reclassification of English learners, the bill would impose a state-mandated local program.

The bill would authorize ~~the~~ a school district to continue to receive state funding designated for its English learners for up to 2 years after the pupil has been ~~redesignated~~ reclassified as ~~English proficient~~. *fluent English proficient*, and would state the intent of the Legislature that the school district use the funding for the purpose of monitoring pupils who have been reclassified as *fluent English proficient* for up to 2 years. The bill also would correct some cross-references.

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: ~~no~~-yes.

*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

1 pursuant to subdivision (a) and for the reclassification of a pupil  
2 from English learner to English proficient.

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

13 (1) (A) A pupil *in any of grades 3 to 11, inclusive*, shall be  
14 ~~redesignated as English proficient~~ *eligible to be reclassified as*  
15 *fluent English proficient* if the pupil attains ~~both~~ *all* of the  
16 following:

17 ~~(A)~~

18 (i) The proficient level of performance on the English language  
19 arts test administered pursuant to Article 4 (commencing with  
20 Section 60640) of Chapter 5 of Part 33 of Division 4 of Title 2.

21 (ii) *The score of intermediate or above on all portions of the*  
22 *California English Language Development Test.*

23 ~~(B)~~

24 (iii) A 3.0 grade point average at the end of ~~any~~ *the* school  
25 *semester year.*

26 (B) *Upon attaining the requirements of subparagraph (A), a*  
27 *pupil shall be reclassified as fluent English proficient upon verified*  
28 *approval submitted by the pupil’s parent or legal guardian.*

29 (2) (A) A school district may continue to receive state funding  
30 designated for its English learners for up to two years after the  
31 pupil has been reclassified as ~~English proficient~~ *fluent English*  
32 *proficient.*

33 (B) *It is the intent of the Legislature that the school district use*  
34 *the funding pursuant to this paragraph for the purpose of*  
35 *monitoring pupils who have been reclassified as fluent English*  
36 *proficient for up to two years.*

37 (d) (1) This subdivision shall not be implemented unless and  
38 until the department receives written documentation from the  
39 United States Department of Education that federal law permits

1 the implementation of the changes set forth in this subdivision or  
2 until the 2013–14 school year, whichever occurs later.

3 (2) The assessment shall be conducted annually during a period  
4 that commences on the day upon which 55 percent of the  
5 instructional year is completed through July 1 of that calendar  
6 year. Annual assessments shall continue until the pupil is  
7 ~~redesignated~~ *reclassified* as English proficient. The annual  
8 assessment shall primarily utilize the English language  
9 development test identified or developed by the Superintendent  
10 pursuant to Chapter 7 (commencing with Section 60810) of Part  
11 33 of Division 4 of Title 2.

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

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

19 (B) If the initial enrollment of a pupil occurs on a date within  
20 the testing period identified pursuant to paragraph (2), the initial  
21 assessment of the pupil shall be conducted as part of the annual  
22 assessment conducted pursuant to paragraph (2).

23 (4) Notwithstanding paragraph (2), a school district shall assess  
24 the English language development of a pupil pursuant to this  
25 section no more than one time per school year.

26 (e) The assessments conducted pursuant to subdivision (d) shall  
27 be conducted in a manner consistent with federal statutes and  
28 regulations.

29 (f) The reclassification procedures developed by the department  
30 shall utilize multiple criteria in determining whether to reclassify  
31 a pupil as proficient in English, including, but not limited to, all  
32 of the following:

33 (1) Assessment of language proficiency using an objective  
34 assessment instrument, including, but not limited to, the English  
35 language development test that is developed or acquired pursuant  
36 to Section 60810.

37 (2) Teacher evaluation, including, but not limited to, a review  
38 of the pupil's curriculum mastery.

39 (3) Parental opinion and consultation.

1 (4) Comparison of the performance of the pupil in basic skills  
2 against an empirically established range of performance in basic  
3 skills based upon the performance of English proficient pupils of  
4 the same age, that demonstrates whether the pupil is sufficiently  
5 proficient in English to participate effectively in a curriculum  
6 designed for pupils of the same age whose native language is  
7 English.

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

12 *SEC. 2. If the Commission on State Mandates determines that*  
13 *this act contains costs mandated by the state, reimbursement to*  
14 *local agencies and school districts for those costs shall be made*  
15 *pursuant to Part 7 (commencing with Section 17500) of Division*  
16 *4 of Title 2 of the Government Code.*