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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 491  
**Author:** Gonzalez  
**Version:** May 31, 2016  
**Urgency:** No  
**Consultant:** Kathleen Chavira  
**Hearing Date:** June 15, 2016  
**Fiscal:** Yes

**Subject:** English learners: identification: notice

## SUMMARY

This bill expands parental notification requirements relative to long-term English learners, requires the California Department of Education (CDE) to develop a sample notification letter disclosing the use of the results of the home language survey used to determine the primary language of a student upon enrollment, and requires districts to provide the letter to parents at the time the home language survey is provided.

## BACKGROUND

Existing law defines a long-term English learner and a student at risk of becoming a long-term English learner. (Education Code § 313.1)

Existing law requires that the CDE annually ascertain and report the number of students who are, or are at risk of becoming, long-term English learners and to provide this information to districts and schools. (EC § 313.2)

Existing law requires the determination of a student's primary language upon enrollment and assessment of the language skills of all students whose primary language is other than English. (EC § 52164.1)

Federal law requires that a school district that receives federal funds for providing a language instruction education program for limited English proficient students to provide notice to a parent within 30 days of the start of the school year of specified information if their child has been identified for participation in the program. In addition, state law requires that, in conformance with these provisions, that the notice include specified information. (Title 20, § 7012, USC)

Both federal and State law require that each school district with English language learners annually assess these students' English language development until they are redesignated as English proficient. (EC § 313)

**ANALYSIS**

This bill:

- 1) Expands parental notification requirements regarding the assessment of a student's English language proficiency to additionally contain the following information:
  - a) Whether the child is a long-term English learner (EL) or at risk of becoming a long-term EL.
  - b) The manner in which the English language development instruction will:
    - i) Meet the long-term EL or at risk of becoming a long-term EL educational strengths and needs.
    - ii) Help the EL or at risk of becoming a long-term EL develop English proficiency and meet age-appropriate academic standards.
- 2) Requires the California Department of Education to develop and make available a sample notification letter explaining the purposes of the home language survey letter and the procedures for identification and reclassification of ELs. Additionally, it:
  - a) Requires that the notification letter include specified statements advising parents how they can dispute the school's determination.
  - b) Requires that districts provide the notification letter to parents/guardians at the same time the home language survey is provided.
- 3) Updates federal law cross references and makes other technical changes.

**STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author, while federal law requires parental notification of a student's English proficiency within 30 days of the start of school, no information is currently provided regarding students who are long term ELs or who are at risk of becoming long-term ELs. Additionally, the author is concerned that the home language survey required under sunset California law does not provide parents with an understanding of the purpose of the survey and the procedures for identification and reclassification of ELs. This bill is intended to prevent students from being misclassified upon initial enrollment at a school.
- 2) ***Long-term English Learners.*** A 2010 report by Californians Together, *Reparable Harm: Fulfilling the Unkept Promise of Educational Opportunity for California's Long-Term English Learners*, presented survey data collected from 40 school districts. Major findings of the survey included the following:

- a) The majority (59%) of secondary school English learners (EL) are “Long-Term English Learners (defined as being in US schools for more than six years without sufficient English proficiency to be reclassified).
- b) California school districts that do not have a shared definition of Long-term English learners.
- c) Several contributing factors include; no receipt of language development programs, being given elementary school curricula and materials that were not designed to meet EL needs, weak language development program models, inconsistent programs, social and linguistic isolation and other things.
- d) Few districts have designated programs or formal approaches designed for Long-Term English Learners.

As a result of this report, legislation was enacted (AB 2193, Chapter 427, Statutes of 2012) to statutorily define “long-term English learner” and “at risk of becoming a long-term English learner” and to require that the California Department Education (CDE) ascertain and provide the number of students who meet these definitions to districts and schools.

This bill would require that existing notification requirements regarding the assessment of a student’s English language proficiency include specific information for students identified as a long-term EL or at risk of becoming a long-term EL.

- 3) **Home Language Survey.** Current law requires schools to determine the language(s) spoken in the home of each student. This determination begins with a home language survey (HLS), which is completed by the parents or guardians at the time the student is first enrolled. The CDE provides a sample form, available in various languages to assist with this identification process.

According to the CDE, a redetermination of a primary language is only required if the results are disputed by a parent or guardian. If a language other than English was inaccurately included on the HLS, a parent/guardian may request to update the HLS to accurately reflect the language(s) spoken in the home. However, if a pupil has already completed a California English Language Development Test (CELDT) and has been designated an English learner, the pupil must take the assessment annually until they are reclassified fluent English proficient.

This bill is intended to respond to concerns that the current home language survey process “misidentifies” students as English learners and makes it difficult to correct any “misidentifications”. The bill would require that the home language survey information include disclosures regarding the purpose of the home language survey, the ability of a parent to dispute the determination, and the inability to make any changes once the child has been tested and identified as an English learner.

- 4) **Are there issues?** In March 2013, in response to concerns regarding inaccurate identification of English learners (ELs), California Department of Education (CDE) gathered suggestions for possible home language survey (HLS) revisions from the statewide Bilingual Coordinators' Network of district and county professionals. In September 2013, the CDE participated in a national working session with several states, stakeholders, and researchers convened by the Council of Chief State School Officers aimed at strengthening the reliability, accuracy, and usefulness of HLS questions and processes. In February and May of 2014, the CDE met with representatives from five local educational agencies, researchers, and other stakeholders to review the current HLS and make recommendations for revising the tool. From these meetings, the workgroup developed survey questions to be used in an HLS Pilot Study conducted by the West Ed Regional Education Laboratory-West and California Comprehensive Center in collaboration with the University of California Los Angeles Graduate School of Education & Information Studies.

The HLS Pilot Study examined the clarity of the HLS (questions and the extent to which these may better predict which students are potential ELs and need to be assessed. Approximately 20 schools participated in the study from five participating districts including ABC Unified School District, Coachella Valley Unified School District, Inglewood Unified School District, Robla Elementary School District, and Torrance Unified School District.

According to the CDE, because the sample size was limited to 150 students, the results of the pilot study do not yield sufficient information to recommend policy decisions. The CDE recommended a more extensive and systematic study be conducted at a later date when the English Learner Proficiency Assessment is operational.

- 5) **Technical clean-up.** As currently drafted, the bill creates duplicate definitions, adds new language to provisions which have sunset and modifies language intended to conform to federal law requirements.

**Staff recommends** that the bill be redrafted to ensure that these provisions are appropriately and accurately incorporated into the Education Code. Specifically:

- a) **Staff recommends** the bill be amended to delete Section 1 of the bill.
- b) **Staff also recommends** the bill be amended to delete Section 2 of the bill and to instead insert the provisions of subdivision (c) in section 313.2.
  - i) On Page 5, line 6, the language should be redrafted to read "In addition to the information required in subdivision (b) of section 440, the notice of assessment of a child's English proficiency shall include the following information:"
  - ii) On Page 5, line 9 to add before the period "as those terms are defined in section 313.1"

- c) **Staff further recommends** that Section 3 of the bill be deleted and a new section containing these provisions be established within Chapter 3 (Sections 300-340).
- 6) **English learners.** The California Department of Education (CDE) provides the following information on English learners in California's public schools:
- a) In the 2014-15 school year there were approximately 1.4 million English learners in California public schools, constituting 22.3 percent of the total enrollment.
  - b) Over 2.6 million students (42.9 percent of public school enrollment) spoke a language other than English in their home.
  - c) 73 percent of English learners are enrolled in the elementary grades (K-6) with the remaining 27 percent enrolled in grades 7-12.
  - d) Although English learner data is collected for 60 language groups, 94 percent speak one of the top ten languages in the state, which include Spanish (83.7 percent), Vietnamese, Pilipino (Filipino or Tagalog), Cantonese, Mandarin, Arabic, Hmong, Korean, Punjabi, and Russian.
  - e) During 2013-14 the CDE administered the California English Language Development Test (CELDT) to 1.4 million students, 1.1 million of whom were tested under the annual assessment window.
  - f) In 2012-13 and 2013-14, approximately 12 percent of English learners were reclassified as English proficient. Prior to that approximately 11 percent of English learners were annually reclassified, with the notable exception that in 2011-12, 16.3 percent were reclassified.

## SUPPORT

Association of California School Administrators  
San Diego Unified School District

## OPPOSITION

None received.

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