
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 81 **Hearing Date:** June 7, 2017
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Urgency: No **Fiscal:** Yes
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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:

- 1) Defines a long-term English learner and a student at risk of becoming a long-term English learner. (Education Code § 313.1)
- 2) 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)
- 3) 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)
- 4) 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)
- 5) Under federal and state law, requires 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 or at risk of coming a long-term English learner.
 - b) The manner in which the English language development instruction will:
 - i) Meet the long-term English learner or at risk of becoming a long-term English learners educational strengths and needs.
 - ii) Help the English learners or at risk of becoming long-term English learner develop English proficiency and meet age-appropriate academic standards.
 - c) Authorizes a local educational agency (LEA) or charter school to send a notice to parents and guardians that identifies students as long-term English learners or at risk of becoming long-term English, that include students in addition to those who meet the state's definition of long-term English learners, if all of the following conditions are met:
 - i) The definitions used by the LEA or charter schools are broader than those defined under existing state law and consequently include all students who meet that definition.
 - ii) The notice states that the definitions used by the LEA or charter school are broader than those in state law.
 - iii) The notice includes the information specified in i) and ii) above.
 - d) 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 English learners. Additionally, it:
 - i) Requires that the notification letter include specified statements advising parents how they can dispute the schools' determination.
 - ii) Requires that districts provide the notification letter to the parent/guardian at the same time the home language survey is provided.

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 English learners or who are at risk of coming long-term English learners. 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 English learners. This bill is intended to prevent students from being misclassified upon initial enrollment at a school.

- 2) ***Long-term English Learners (EL).*** 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 percent) of secondary school ELs 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 ELs.
 - 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 ELs.

As a result of this report, legislation was enacted (AB 2193, Lara, 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 of Education (CDE) ascertain and provide the number of students who meet these definitions to districts and schools.

This bill requires 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) ***Flexibility for broader local identification and notification.*** This bill was recently amended to allow districts that use a broader definition of long-term English Learners to notify parents based on that definition rather than the state’s definition. This allows districts like Los Angeles Unified School District that bases its long-term English Learner determination solely on the number of years the student has been an English Learner, and the grade level of the student to send a notice to parents/guardians that identifies students as long-term English learners or at risk of becoming long-term English. This provides for more current information to be provided to parents, since a student’s English Learner classification is revisited frequently.
- 4) ***Home Language Survey.*** Existing 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 California Department of Education (CDE) provides a sample form, available in various languages to assist with this identification process.

According to the CDE, per newly adopted regulations prior to administration of the initial assessment for English proficiency local educational agencies (LEAs) are required to notify a parent/guardian in writing that the student will be assessed. Additionally, if a language other than English was inaccurately included on the home language survey (HLS), a parent/guardian may request correction before the student is initially assessed. Following the administration of the initial assessment but before the summative assessment a parent may also request review of its determination based on specified evidence. However, if a pupil has already completed a California English Language Development Test (CELDT) pupil must take the assessment annually until they are reclassified fluent English proficient. Committee staff notes that CDE is transitioning from the CELDT to the English Language Proficiency Assessment for California (ELPAC) as the state English Language proficiency assessment by 2018.

This bill is intended to respond to concerns that the current home language survey process “misidentifies” students as ELs and makes it difficult to correct any “misidentifications”. The bill requires that the home language survey information includes disclosures regarding the purpose of the home language survey, and the inability to make any changes once the child has been tested and identified as an EL.

- 5) ***Are there issues?*** In March 2013, in response to concerns regarding inaccurate identification of ELs, CDE gathered suggestions for possible 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 Home Language Survey 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.

- 6) **English learners (ELs).** The California Department of Education (CDE) provides the following information on ELs in California's public schools:
- a) In the 2015-16 school year there were approximately 1.374 million ELs in California public schools, constituting 22.1 percent of the total enrollment.
 - b) Over 2.6 million students (42.8 percent of public school enrollment) spoke a language other than English in their home.
 - c) 73 percent of ELs are enrolled in the elementary grades (K-6) with the remaining 27 percent enrolled in grades 7-12.
 - d) Although EL data is collected for 60 language groups, 94 percent speak one of the top ten languages in the state, which include Spanish (83.5 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 to 1.4 million students, 1.1 million of whom were tested under the annual assessment window.
 - f) The statewide average rate of annual reclassification of English learners to English proficient is approximately 11 percent.
- 7) **Related and prior legislation.**

SB 463 (Lara, 2017) would establish a statewide standard for the reclassification of a student from ELs to English proficient by requiring a local educational agency to determine reclassification according to the specified criteria. SB 463 was approved by the Senate and sent to the Assembly.

SB 491 (Gonzalez, 2016) substantially similar to this bill, would have expanded parental notification requirements relative to long-term ELs, required the 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. Unlike, this bill SB 491 included the following sentence from the text of the proposed parental notification letter: "You may dispute the school district's determination of your child's primary language and ask the school district to redetermine your child's primary language." SB 491 also allows schools to send to notify parents using a broader definition of long-term English learners and those at risk. SB 491 was vetoed by the Governor whose message read:

"Given that English learners constitute approximately one-fourth of students enrolled in California public schools, I agree that we need to do a better job explaining to parents how their student may be designated as an English learner and what happens once they receive this designation.

The specific statements included in this bill, however, are not clear and will cause more confusion for parents, not less.

This is an important matter that we have to get right.”

SUPPORT

Association of California School Administrators
California Association for Bilingual Education
California Federation of Teachers
California Immigrant Policy Center
Californians Together Coalition
Los Angeles Unified School District
San Francisco Unified School District

OPPOSITION

None received

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