

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 81 (Gonzalez Fletcher) – As Introduced January 5, 2017

**SUBJECT:** English learners: identification: notice

**SUMMARY:** Requires that parents be annually informed if their children are long term English learners (LTELs) or at risk of becoming LTELs (ARLTELs), and requires the California Department of Education (CDE) to develop a sample notification letter providing parents information about the home language survey. Specifically, this bill:

- 1) Expands existing parental notification requirements regarding the assessment of a student's English proficiency to contain information on:
  - a) whether the child is an LTEL or an ARLTEL
  - b) the manner in which the district's program for English language development (ELD) instruction will meet the educational strengths and needs of LTELs or ARLTELs
  - c) the manner in which the program for ELD instruction will help LTELs and ARLTELs develop English proficiency and meet age-appropriate academic standards
- 2) Requires the CDE to make available to schools a sample notification letter and requires that it be provided with the home language survey used to determine the primary language of a student at the time of enrollment.
- 3) Requires that the notification letter explain the purpose of the home language survey and the procedures for classification and reclassification of English learners.
- 4) Requires the notification letter to include, but not be limited to, the following statements:
  - a) "If a language other than English is noted on your child's home language survey, the law requires us to test your child's English language proficiency."
  - b) "Once your child's English language proficiency is tested and your child is identified as an English learner, changing the home language survey will not change your child's identification as an English learner."

**EXISTING LAW:**

- 1) Requires each school district to assess the English language development of students who may be English learners within 30 days of initial enrollment, and if determined to be English learners annually thereafter to assess until the students are redesignated as fluent English proficient.
- 2) Defines "Long-term English learner" to mean an English learner who:

- a) is enrolled in any of grades 6 to 12
  - b) has been enrolled in schools in the United States for six years or more
  - c) has remained at the same English language proficiency level for two or more consecutive prior years, or has regressed to a lower English language proficiency level, as determined by the English language development test or a score determined by the Superintendent of Public Instruction (SPI) on any successor test
  - d) for a student in any of grades 6 to 9, has scored far below basic or below basic on the prior year's English language arts standards-based achievement test, or a score determined by the Superintendent on any successor test.
- 3) Defines "English learner at risk of becoming a long-term English learner" as an English learner who:
- a) is enrolled in any of grades 3 to 12
  - b) has been enrolled in schools in the United States for four to five years
  - c) has scored at the intermediate level or below on the prior year's English language development test identified or developed pursuant to Section 60810, or a score determined by the SPI on any successor test.
  - d) for a student in any of grades 3 to 9, has scored in the fourth or fifth year at the below basic or far below basic level on the prior year's English language arts test, or a score determined by the SPI on any successor test.
- 4) Requires that the CDE annually ascertain and report the number of students who are, or are at risk of becoming, LTELs and to provide this information to districts and schools.
- 5) Requires, in accordance with federal law (Title 20, § 7012, USC), local educational agencies (LEAs) to provide notice to each parent of the assessment of his or her child's English language proficiency not later than 30 days after the start of the school year.
- 6) Requires (EC 440b) that the notice include all of the following:
- a) the reason for the child's classification as limited English proficient
  - b) the level of English proficiency
  - c) a description of the program for the English language development instruction, including:
    - i. a description of all the manner in which the program will meet the educational strengths and needs of the child
    - ii. the manner in which the program will help the child develop his or her English proficiency and meet age appropriate academic standards
    - iii. the specific exit requirements for the program
    - iv. the expected rate of transition from the program into classrooms that are not tailored for limited-English-proficient children
    - v. the expected rate of graduation from secondary school for the program
    - vi. where the child has been identified as having exceptional needs, the manner in which the program meets the requirements of the child's individualized education plan

- (d) Information regarding a parent or guardian's option to decline to allow the child to become enrolled in the program or to choose to allow the child to become enrolled in an alternative program.
  - (e) Information designed to assist a parent or guardian in selecting among available programs, if more than one program is offered.
- 7) Requires the SPI to prescribe census taking methods for the determination of the primary language of students. Requires that this determination occur when students enroll, and once determined need not be redetermined unless the parent or guardian claims that there is an error. States that home language determinations are made only once, unless the parent disputes them (EC 52164).

**FISCAL EFFECT:** The Office of Legislative Counsel has keyed this bill as a state-mandated local program.

**COMMENTS:**

*Need for the bill.* This bill is intended to provide parents information on their children's status as English learners, and to prevent students from being misclassified as English learners upon initial enrollment at a school.

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 to parents regarding students who are LTELs or ARLTELs. This bill is intended to increase parent/teacher engagement and the development of specific plans in order to reduce the number of students who are designated LTELs. Additionally, the author is concerned that the home language survey does not provide parents with information regarding the purpose of the Home Language Survey (HLS) and the procedures for identification and reclassification of English Learners.

*Similar bill vetoed last year.* AB 491 (Gonzalez) of the 2015-16 Session, was substantially similar to this bill. It was vetoed by Governor Brown, who stated:

This bill would, among other things, require school districts to provide parents, at the time of enrolling their student, information explaining how their responses to a home language survey may lead to their student being designated as an English learner.

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.

This bill is identical to AB 491 except for the deletion of 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."

***Who determines which students are LTELs and ARLTELs?*** The CDE currently provides LEAs reports on students they have determined meet the statutory definition of LTEL and ARLTEL. The CDE sends these reports in the spring, and makes the determination based on enrollment and assessment information they maintain.

Under this bill, it appears that LEAs would have a choice: they could use the CDE report as the basis for the parent notification of LTEL/ARLTEL status, or they could make the determination themselves using their own data. As demonstrated below, the decision has implications for the accuracy of the information provided to parents.

***The challenge of providing current information to parents under the current LTEL definition.*** Providing accurate information about LTEL/ARLTEL status is difficult because of the statutory definition of LTEL/ARLTEL, which requires the use of prior year assessment data. This definition provides schools with important information for instructional planning, but cannot generate “point in time” information regarding students’ status.

To understand which information would be used in the parent notification letter, it may be useful to imagine the case of an 8<sup>th</sup> grade English learner student who takes the CELDT or ELPAC (hereafter CELDT) the summer before or during the first few months of her 8<sup>th</sup> grade year, during the testing window of July 1 to October 31. As required by this bill, the parent notification letter regarding her status is sent during the first 30 days of her 8<sup>th</sup> grade school year.

- CDE-determined LTEL/ARLTEL status: The LEA may choose to send the parent the notification based on the student’s 7<sup>th</sup> grade CDE report. This student’s 7<sup>th</sup> grade report includes CELDT data from the summers before her 5<sup>th</sup> grade and 6<sup>th</sup> grade years. If she has taken the CELDT in between the CDE’s 7<sup>th</sup> grade report and the beginning of her 8<sup>th</sup> grade year, this information is not included in the determination of LTEL/ARLTEL status. Her 7<sup>th</sup> grade ELA scores also cannot be used, because statute requires that the report include data from the *prior year* (in this case, 6<sup>th</sup> grade). Even if the statute allowed for current year ELA scores to be used, this student’s 7<sup>th</sup> grade scores are not available when the CDE report is generated. If this student’s CELDT scores improve in 6<sup>th</sup>, 7<sup>th</sup>, or 8<sup>th</sup> grade, or her ELA scores improved in her 7<sup>th</sup> grade year, she may not meet the criteria to be classified as an LTEL/ARLTEL at the beginning of 8<sup>th</sup> grade.
- LEA-determined LTEL/ARLTEL status: The LEA may choose to make the determination of whether this 8<sup>th</sup> grade student is an LTEL/ARLTEL on its own. The LEA will require enrollment and assessment data to make this determination, and for unified districts this should not present a problem. If she has recently transferred, or has moved from an elementary to a high school district it is not clear if this information will be readily available. Assuming that it is, the LEA combines this information with CELDT scores from the summers before her 6<sup>th</sup> and 7<sup>th</sup> grade years. The LEA may use ELA scores from the 7<sup>th</sup> grade year, if those results are received in time. If this student’s CELDT scores improved in 7<sup>th</sup>, or 8<sup>th</sup> grade, or her ELA scores improved in her 7<sup>th</sup> grade year, she may not meet the criteria to be classified as an LTEL/ARLTEL.

Whichever set of information parents are provided, the definition in current law means that some data which might alter the student’s status will be excluded. If the parent notice were required to be sent in the spring of her 8<sup>th</sup> grade year, LEAs could use the CDE report as the basis for their notifications. This would occur prior to the summer/fall administration of the CELDT, so the

information would be more current. However, sending this notice in the fall, as required by this bill, would likely allow for the incorporation of more recent ELA scores.

Given the potential for some parents to be misinformed about their children's status as LTELs or ARLTELS, *the Committee may wish to consider* if parents should be informed that more recent data may have changed their student's status, and encourage them to consult with their schools for the most up-to-date information.

***Permit broader local identification and notification.*** The Los Angeles Unified School District (LAUSD) already provides information to parents about their students' LTEL/ARLTEL status. LAUSD provides twice-annual notification to parents, followed by two parent-teacher conferences to review current language status, program placement, test results, and goals for achieving reclassification, and accelerated academic progress targets.

Notably, LAUSD does not use the state definition of LTEL, instead choosing to use a broader definition which does not include any assessment or other academic data. LAUSD bases its LTEL determination solely on the number of years the student has been an EL (using five years instead of six as the benchmark), and the grade level of the student (grade 6 or higher). This allows for more current information to be provided to parents, since a student's EL classification is revisited frequently.

Given that this district is already providing notification to parents, that the criteria used result in a more accurate notice, and that the district is using a local definition of LTEL which is broader than the one in state law, *staff recommends that the bill be amended* to permit school districts to notify parents using a broader definition of LTEL and ARLTEL, provided that this definition includes all students who are designated under state law, and that they also notify parents that their criteria are not the same as those in state law.

***New data on LTELs and ARLTELS*** In accordance with SB 750 (Mendoza, Chapter 660, Statutes of 2015) the CDE published has data on LTELs and ARLTELS on its DataQuest website. The data shows that, in the 2015-16 school year, of the 460,000 ELs in grades 6-12, 239,000 are LTELs, representing 62.6% of all ELs who have been ELs for 6 or more years. Of the 872,000 ELs in grades 3 to 12, 157,000 are ARLTELS.

***Issue may need to be revisited as EL reclassification criteria and ELD assessment are in transition.*** Two elements of English learner policy which are related to LTEL/ARLTEL definitions are in transition, and may require that the issues in this bill be revisited.

The Every Student Succeeds Act (ESSA) requires that states establish standardized, statewide exit procedures to reclassify ELs. SB 463 (Lara) of this Session would establish statewide reclassification criteria for ELs, and is pending in the Senate Education Committee.

In addition, the state's English language development assessment is also in transition. According to CDE, field testing of the new English Language Proficiency Assessment for California (ELPAC) assessment will begin in the fall of 2017, the first summative ELPAC administration will be in the spring of 2018, and the first full year of ELPAC administration will be in the 2018-19 school year. The ELPAC test window will also be shifted from summer/fall to winter/spring.

***The Committee may wish to consider*** whether, should statewide reclassification criteria be adopted, the definitions of LTEL and ARLTEL should be simplified and made consistent with those criteria. Using a definition such as the one in use in LAUSD, for example, could make parental notification administratively easier as well as more accurate.

***Concerns about the home language survey.*** Current law requires schools to determine the language(s) spoken in the home of each student. This determination begins with the parent's completion of the home language survey when time the student is first enrolled. The CDE provides a sample form, available in two languages, to assist with this identification process.

Current law requires school districts to redetermine the primary language of a student only 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, once a student has taken the CELDT and has been designated an English learner, the student must take the assessment annually until they are reclassified as 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 parents be informed that if a language other than English is noted on the HLS, the law requires that the student be tested. It also requires that parents be informed that once a student's English proficiency is tested and the student is identified as an English learner, no changes to the HLS will alter the student's identification as an EL.

In 2013, in response to concerns regarding inaccurate identification of ELs, the CDE gathered suggestions for possible HLS revisions from the statewide Bilingual Coordinators' Network of district and county professionals. Later that year, 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 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 WestEd Regional Education Laboratory-West and California Comprehensive Center in collaboration with the University of California, Los Angeles Graduate School of Education and 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.

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 ELPAC is operational.

***CDE revises their sample home language survey notification letter.*** In December, 2016, the CDE revised its HLS template form, in response to the issues raised by AB 491 (Gonzalez). The CDE added the following statements to the template:

“The process begins with determining the language(s) spoken in the home of each student. The responses to the home language survey will assist in determining if a student’s proficiency in English should be tested.”

“If an error is made completing this home language survey, you may request correction before your student’s English proficiency is assessed.”

In addition, ELPAC draft regulations, which CDE anticipates will be operative by July, 2017, require that parents be notified in writing of districts’ plans to assess students. This may present an opportunity for parents to correct an error in the home language survey prior to the administration of the assessment.

***Related and prior legislation.*** AB 491 (Gonzalez) of the 2016-16 Session, was substantially similar to this bill. It required that parents be annually informed if their children are LTELs or ARLTELs, required the CDE to develop a sample notification letter informing parents of their right to dispute school districts’ determinations of primary language, and required districts to provide the letter to parents at the time the home language survey is provided. As noted above, this bill was vetoed (see above for veto message).

SB 463 (Lara) of this Session would establish statewide reclassification criteria for ELs, as specified, and as required by federal law. SB 463 is pending in the Senate Education Committee.

SB 750 (Mendoza, Chapter 660, Statutes of 2015) modified the definitions of a LTEL and ARLTEL and required the CDE to post on its website the number of long-term English learners and English learners at risk of becoming long-term English learners in the state. regarding these students.

AB 2193 (Lara, Chapter 427, Statutes of 2012) “long-term English learner” and “English learner at risk of becoming a long-term English learner” and required the CDE to annually ascertain and provide to school districts and schools the number of students in each school district and school who are, or are at risk of becoming, long-term English learners.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of California School Administrators  
California Federation of Teachers  
California School Boards Association  
California State PTA  
Coalition for Humane Immigrant Rights  
San Francisco Unified School District

### **Opposition**

None on file

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