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AB-2735 English learners: participation in standard instructional program. (2017-2018)

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Assembly Bill No. 2735

CHAPTER 304

An act to add Section 60811.8 to the Education Code, relating to English learners.

[Approved by Governor September 07, 2018. Filed with Secretary of State September 07, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, O'Donnell. English learners: participation in standard instructional program.

Existing law requires each school district that has one or more pupils who are English learners, and, to the extent required by federal law, each county office of education and each charter school, to assess the English language development of each pupil in order to determine the pupil's level of proficiency, as specified, and requires the Superintendent of Public Instruction to review existing assessments that assess the English language development of pupils whose primary language is a language other than English.

This bill, commencing with the 2019–20 school year, would prohibit a middle school or high school pupil, as defined, who is classified as an English learner, except as specified, from being denied participation in a school's standard instructional program, as defined, by being denied enrollment in specified courses, including, among others, courses required for graduation and college admission. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) California is home to the largest population of English learners in the country, and one in three English learners in the United States resides in California.

(b) There are approximately 1.4 million English learners in California public schools. About 2.7 million pupils speak a language other than English in their homes, representing about 43 percent of the state's public school enrollment.

(c) Decades of research examining the course-taking patterns of English learners in California school districts and across the country have found that English learners can experience restricted access to the core curriculum and advanced coursework

necessary to graduate from high school and meet higher education admissions requirements, even when controlling for prior achievement.

(d) (1) The federal Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.), as interpreted by the court in *Castañeda v. Pickard* (1981) 648 F.2d 989, prohibits the denial of English learners' equal participation in the standard instructional programs of schools, and requires programs that are used in the early part of an English learner's school career that first focus on the development of English language skills to be designed to remedy any academic deficits in other areas that may develop during participation in the program and to be reasonably calculated to enable pupils to attain parity of participation in the standard instructional program within a reasonable length of time after they enter the school system.

(2) It is the intent of the Legislature to clarify these requirements for California public schools.

SEC. 2. Section 60811.8 is added to the Education Code, to read:

60811.8. (a) Commencing in the 2019–20 school year, a middle school or high school pupil who is classified as an English learner, except as specified in subdivision (d), shall not be denied participation in the standard instructional program of a school by being denied any of the following:

(1) Enrollment in courses that are part of the standard instructional program of the school that the pupil attends. For purposes of this section, "standard instructional program" means, at a minimum, core curriculum courses, as defined in clause (i) of subparagraph (B) of paragraph (6) of subdivision (b) of Section 33126, courses required to meet state and local graduation requirements, and courses required for middle school grade promotion.

(2) Enrollment in a full course load of courses that are part of the standard instructional program.

(3) Enrollment in courses that are not part of a school's standard instructional program that either meet the subject matter requirements for purposes of recognition for college admission pursuant to Section 66205.5 or are advanced courses, such as honors or advanced placement courses, on the sole basis of a pupil's classification as an English learner.

(b) Nothing in this section shall be construed to require a school to create supplemental courses in languages other than English.

(c) For purposes of this section, "pupil" includes a pupil attending a school operated by a school district or a county office of education, a charter school, or the state special schools for the blind and the deaf.

(d) (1) Provided that, pursuant to federal law, the pupil's course of study is designed to remedy any academic deficits incurred during participation and that the pupil's course of study is reasonably calculated to enable that pupil to attain parity of participation in the standard instructional program within a reasonable length of time after he or she enters the school system, the following pupils may be denied access to enrollment in a course described in paragraph (1) of subdivision (a):

(A) A middle school or high school pupil who is classified as an English learner and who has recently arrived in the United States, as defined in Section 1111(b)(3)(A) of the federal Every Student Succeeds Act (Public Law 114-95).

(B) A middle school or high school pupil who is classified as an English learner and who is participating in a program designed to meet the academic and transitional needs of newly arrived immigrant pupils that has as a primary objective the development of English language proficiency.

(2) This section shall not be construed to prohibit, restrict, or discourage the enrollment of a pupil described in paragraph (1) in courses described in paragraph (1) of subdivision (a).

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.