

---

## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

---

**Bill No:** SB 460  
**Author:** Allen  
**Version:** April 6, 2015  
**Urgency:** No  
**Consultant:** Kathleen Chavira  
**Hearing Date:** April 22, 2015  
**Fiscal:** Yes

**Subject:** Pupils redesignated as fluent English proficient: local control funding formula: local control and accountability plans

### SUMMARY

This bill, until July 1, 2019, or whenever the state adopts statewide English learner redesignation standards, whichever comes first, requires that local educational agencies continue to receive a percentage of supplemental and concentration grant funding under the Local Control Funding Formula (LCFF) for two additional years after an English Learner (EL) student has been reclassified as Fluent English Proficient (RFEP), and requires that the local educational agency provide specified information regarding these pupils in their Local Control Accountability Plan (LCAP).

### BACKGROUND

The 2013-14 budget replaced the previous K-12 finance system with a new Local Control Funding Formula (LCFF). For school districts and charter schools, the LCFF created base, supplemental, and concentration grants in place of most previously existing K-12 funding streams, including revenue limits and most state categorical programs. County Offices of Education (COEs) also receive base, supplemental, and concentration grants and the LCFF creates separate funding streams for oversight activities and instructional programs. The base grant provides the same amount per Average Daily Attendance (ADA) for all districts and varies according to four grade spans. A supplemental grant (equal to 20 percent of the base grant for school districts and charter schools, 35 percent of the base grant for COEs) is provided for each pupil who is identified as either low income, as determined by eligibility for free or reduced-price meals, an English learner (EL), or in foster care. A concentration factor provides an additional 50 percent of the base grant for each pupil who is eligible for the supplemental grant and who is in excess of 55 percent of the district's or charter school's enrollment (35 percent of the base grant for COEs). The formula uses an "unduplicated count," which means that pupils who fall into more than one category are counted only once. (Education Code § 2574 and § 42238.02)

As part of the LCFF, school districts, COEs, and charter schools are required to develop, adopt, and annually update a three-year Local Control and Accountability Plan (LCAP), beginning on July 1, 2014, using a template adopted by the California State Board of Education (SBE) on or before March 31, 2014. Current law requires that the LCAP include a description of the annual goals to be achieved for all students and subgroups of students in each of eight areas of statutorily identified state priority. Goals must also address any additional local priorities established by the local governing board. (Education Code § 52060)

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. The assessment, the California English Language Development Test (CELDT), must be administered to all students whose primary language is not English within 30 calendar days after they are enrolled in a California public school for the first time, and annually thereafter during a period of time determined by the Superintendent of Public Instruction and the State Board of Education (SBE) until they are reclassified as fluent English proficient.

Current law requires the California Department of Education (CDE), with the approval of the SBE, to establish procedures for conducting the CELDT and for the reclassification of a pupil from English learner to English proficient. Current law requires the reclassification procedures developed by the CDE to use multiple criteria, including, but not limited to, all of the following:

1. An assessment of language proficiency.
2. Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.
3. Parental opinion and consultation.
4. Comparison of the student's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.  
(Education Code § 313)

## ANALYSIS

This bill, until July 1, 2019, or until statewide pupil redesignation standards are adopted, whichever comes first:

1. Expands the definition of "unduplicated pupil" to include a pupil who is redesignated as Fluent English Proficient (RFEP) and provides that the pupil shall count only once for funding purposes.
2. Requires that a county office of education, a school district, or a charter school receive 50 percent and 25 percent of the supplemental grant and the concentration grant add on calculated for a pupil who is redesignated as Fluent English Proficient (RFEP) for the first and second fiscal years, respectively, after the redesignation.
3. Expands LCAP state priority reporting requirements regarding English learners to include identification of any specialized programs or services provided to RFEPs in order for them to maintain proficiency in English and access the common core

academic content standards and a broad course of study that includes specified subject areas.

4. Makes other technical and clarifying corrections.

## STAFF COMMENTS

1. ***Need for the bill.*** According to the author, while the Local Control Funding Formula provides supplemental and concentration funding to meet the needs of English Learner (EL) students, this additional funding could serve as a disincentive to redesignate students as fluent in English. Once an EL student is reclassified, an LEA will not receive supplemental or concentration grant funding unless the pupil is also low-income. The author is concerned that this creates an unintended incentive for districts to maintain students as ELs, rather than reclassify them as fluent English proficient (RFEP).
2. ***Reclassification practices.*** As required under current law, the State Board of Education has issued guidelines for districts' use in determining reclassification. These guidelines are not mandatory, and districts are authorized to adopt local reclassification standards that differ from the State Board's guidelines. Districts may set higher or lower minimum scores on assessments and include other forms of evidence, such as grades or scores on other tests, as part of the reclassification decision. In the 2013-14 school year there were approximately 1.4 million English learners in California public schools, constituting 22.7 percent of the total enrollment. Approximately 12 percent of English Learner students were reclassified as English proficient in 2013-14.

Several reports have recently been issued regarding the reclassification practices of districts. These reports have focused upon narrow cohorts of students, primarily focusing upon larger urban districts and limiting research to students identified as ELs in second grade. It is unclear whether the policy recommendations in these reports can be broadly applied to a population of ELs outside of the more urban districts, and who enter the public school system after second grade, as this type of comprehensive information remains unavailable. It also remains unclear, for the majority of EL students, what reclassification criteria have any relationship to the successful transition of English learners into classrooms and curricula that require English proficiency.

3. ***Related legislation.*** Current law, enacted by SB 1108 (Padilla, Chapter 434, Statutes of 2012), requires the California Department of Education (CDE), if state federal or private funds are provided for this purpose, to review and analyze the criteria, policies and practices that school districts use to reclassify English learners and to recommend any policy changes necessary to identify when English learners are prepared for reclassification. The CDE was required to issue a report of its findings, research, analysis, recommendations, and best practices by January 1, 2014, and by January 1, 2017, to issue an updated report that reflects changes in analysis and recommendations as the result of the adoption of the common core standards and the adoption of a common core standards aligned English language development test. (EC §313.5)

In response to the requirements of SB 1108, the CDE contracted with the Public Policy Institute of California (PPIC) and provided data from the California Longitudinal Pupil Achievement Data System (CALPADS) to conduct an analysis of reclassification practices in California school districts. However, there is concurrence that the report provided by the Public Policy Institute of California (PPIC) did not provide sufficient analysis and information to implement statewide policy regarding reclassification of English learners. According to the California Department of Education (CDE), conducting the comprehensive study envisioned by the bill requires additional resources. Staff notes that although the CDE requested funding through the budget process to conduct the more extensive research and analysis envisioned by SB 1108 (2012), no such funding was proposed in the 2014-15 Budget.

In addition, SB 1108 (Padilla, 2014) proposed extension of the deadline for the CDE to issue its report and added RFEPs as a numerically significant pupil subgroup for the purposes of the Academic Performance Index (API). SB 1108 was heard and passed by this Committee in March 2014 by a vote of 9-0, but was subsequently held under submission in the Senate Appropriations Committee.

4. ***Recent related reports.*** In January 2014, the Public Policy Institute of California (PPIC) issued a report, *Reclassification of English Learners (EL) in California Schools*, which provided a longitudinal analysis of the transition from English learner to Reclassified Fluent English Proficient (RFEP) in California school districts.

According to the report:

RFEP students not only outperform EL students, but also often do as well as native English speakers when it comes to measures of academic outcomes, such as standardized tests and on-time grade progression.

A survey of school districts indicates that more than 90 percent of responding districts report using more demanding reclassification criteria than are suggested by the State Board of Education (SBE) guidelines.

Districts using more stringent reclassification criteria have lower reclassification rates. However, using stricter criteria is also associated with slightly better outcomes (in terms of ongoing language proficiency, for example) for RFEP students. Stricter criteria are also associated with a greater likelihood of on-time grade progress among students reclassified in the 8th grade.

In May 2014, PPIC issued *Pathways to Fluency: Examining the Link between Language Reclassification Policies and Student Success*, which examined reclassification policies and the academic performance of ELs and former ELs in the two largest California school districts, San Diego Unified and Los Angeles Unified. This research was focused on students identified as ELs in second grade, who remained ELs through the end of 5th grade, and students who were reclassified by the end of 5th grade. This research found that students reclassified in elementary school have very strong academic outcomes

throughout middle and high school. Researchers found no evidence that removal of language supports for these reclassified English Learners (ELs) hurt their academic progress relative to that of native English speakers.

In both reports, researchers acknowledge that many elements of EL instruction, funding and testing will be changing, that the criteria for EL reclassification will necessarily change in the coming years, and that new reclassification criterion will need to be crafted carefully and based upon research and analysis.

5. **Net effect?** This bill adds Reclassified Fluent English Proficient (RFEPs) to the definition of unduplicated pupils and provides that the student may only be counted once for funding purposes. According to a Senate Appropriations Committee analysis of similar legislation last session, in 2013-14 there were 65,298 pupils statewide that were in the first two years of RFEP, and were not low-income. These students would have generated approximately \$34.1 million to \$41.1 million in supplemental grant funding, depending on their grade span distribution. If 50 percent of those students were eligible to receive concentration grant funding, the bill would result in an additional \$50 million to districts.
6. **Related and Prior legislation.**

#### *RELATED LEGISLATION*

SB 409 (De Leon) modifies the unmet reporting requirements established by SB 1108 (Padilla, Chapter 434, Statutes of 2012) to establish a new due date of January 1, 2017, and to additionally require the review and analysis of the reclassification activities used by a sampling of districts to meet the eight state priorities in their local control accountability plans (LCAPS) in relation to the education of English learners. The bill also requires the California Department of Education (CDE) to report on how implementation of the eight state priorities in the districts' LCAPs supports the transition of English learners to classrooms and curricula that require English proficiency.

#### *PRIOR LEGISLATION*

AB 1892 (Bocanegra, 2014) was essentially identical to this bill when it was heard and passed by this Committee by a vote of 7-0 on June 18, 2014. AB 1892 was subsequently amended in the Appropriations Committee to delete the funding component but retain the accountability and reporting requirements. AB 1892 was never acted upon on the Senate Floor.

SB 344 (Padilla, 2013) proposed new requirements related to the Local Control Accountability Plans (LCAPs) that local educational agencies (LEAs) are required to adopt beginning July 1, 2014. Among other things, SB 344 added reclassified ELs to the subgroups of pupils whose academic achievement must be measured by the Academic Performance Index (API) for accountability purposes. SB 344 was vetoed by the Governor, whose veto message read, in pertinent part:

***This bill interferes with the work of the State Board of Education as it implements, through an open and transparent process, the Local***

***Control Funding Formula. Moreover, it contains provisions contrary to the July budget agreement.***

**SUPPORT**

Los Angeles Unified School District  
The Education Trust West

**OPPOSITION**

None received.

**-- END --**