

CLIENT NEWS BRIEF

New State Guidance Pending on English Learners in Special Education

Assembly Bill (AB) 2785 was signed by the Governor on September 24, 2016. AB 2785 requires the California Department of Education (CDE) to develop a manual providing guidance to local educational agencies (LEA) on identifying, assessing, supporting and reclassifying English learners who may qualify for special education services, and also, pupils with disabilities who may be classified as English learners. Other states offer similar guidance.

Last year, the U.S. Department of Justice (DOJ) alleged that California failed to adequately address reports dating back to the 2007-2008 school year indicating that more than 20,000 students in the state's English learner population of 1.4 million had not received proper instruction. In a recent federal settlement with the DOJ, the CDE and State Board of Education (SBE) agreed to implement new training and monitoring procedures to ensure language education is provided for all students designated as English learners. (See [2016 Client News Brief No. 67.](#))

With over 700,000 pupils with disabilities in California public schools, some of whom are English learners, the passage of AB 2785 follows decades of concern regarding the over- and under-identification of English learners in special education. Existing special education law requires LEAs to "search and serve" individuals with exceptional needs, from birth through 21 years of age. As special education relates to the English learner population, research has uncovered longstanding issues, such as difficulty distinguishing between language needs and disabilities, poor reclassification practices and insufficient referral and intervention strategies.

AB 2785 seeks to ameliorate these problems through the provision of state-issued guidance. The development of the manual would include the review of other available and relevant manuals and resources and consultation with experts and practitioners in special education and/or English learner education. The manual is to contain evidence-based and promising practices, and address topics such as how to accurately identify English learners who may have disabilities, how to accurately classify pupils with disabilities as English learners, early interventions, referral and reclassification processes, assessments, the development of Individualized Education Programs (IEPs) for English learners and the exit of English learners from special education.

AB 2785 requires the CDE to develop the manual on or before July 1, 2018, for voluntary use by LEAs, charter schools and state special schools. With the availability of this guidance, combined with the obligations outlined in the recent federal settlement with the DOJ, English learners will hopefully have their educational needs better served and districts will have more clarity regarding their obligations to these students.

Separately, the United States Department of Education released what it billed as significant guidance on September 23, 2016 intended to help states and LEAs meet their obligations to English learners under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds

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Act of 2015. Among other things, the guidance, which can be found [here](#), addresses a new requirement to separately report the progress English learners with disabilities are making toward English proficiency.

For more information on AB 2785 or on requirements for serving special needs students who are English learners, please contact the authors of this Client News Brief or an attorney at one of our [10 offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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