

Item #., Attachment 1: Title 5 Section 55522.5 English as a Second Language Placement and Assessment (15-day text)

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1. Section 55522.5 is added to article 3 of subchapter 6 of chapter 6 of division 6 of title 5 of the California Code of Regulations:

§ 55522.5. ENGLISH AS A SECOND LANGUAGE PLACEMENT AND ASSESSMENT

(a) Scope and intent.

(1) Instruction in credit English as a Second Language (ESL) is distinct from remediation in English.

(2) Students enrolled in ESL coursework are foreign language learners who require additional language training in English, require support to successfully complete degree and transfer requirements in English, or require both.

(3) ESL students with a goal of transfer to a four-year institution or an associate degree should enter and complete a transfer-level English composition course or an ESL course equivalent to transfer-level English within a three-year timeframe of declaring a transfer- or degree-seeking goal.

(4) Credit ESL placement methods should minimize disproportionate impacts on students.

(b) Placement Methods

(1) Districts shall place students who are English language learners using evidence-based multiple measures from the placement methods for ESL identified below:

(A) Any Chancellor's Office ESL placement method published by the Chancellor's Office to implement Education Code section 78213.

(B) An evidence-based district placement method collected from local research using high school performance data, including self-reported high school performance data.

(C) A district placement method based upon guided placement, including self-placement.

(D) Methods based on articulation agreements between the district and partners as defined in **section** 55003.

(2) Students who have acquired a United States high school diploma or the equivalent shall be placed according to **section** 55522.

(3) Placement methods authorized by this section shall be designed to maximize the probability that transfer- or degree-seeking students enrolled in credit ESL will enter and complete a transfer-level English composition or an equivalent ESL course within a three-year timeframe.

(4) Districts adopting a district placement method under subparagraph (b)(1)(B) or (b)(1)(C) shall, by July 1, 2020, provide an adoption plan on a form prescribed by the Chancellor, explaining the placement method, **the evidence to be collected, and why the district believes it will be effective.** ~~and the evidence the district has demonstrating that it will be effective.~~ Within two years of the adoption of a district placement method, the district shall report to the Chancellor on the method's efficacy. The Chancellor may order the district to relinquish the district placement method and adopt a placement method published by the Chancellor's Office under any of the following circumstances:

(A) the district's failure to report within two years of adoption;

(B) the district's failure to demonstrate that the local placement method meets or exceeds the credit ESL throughput rate(s) of a placement method, **once published,** by the Chancellor's Office.

(5) Districts must inform students placed into credit ESL coursework prior to fall 2020 of their right to access the newly adopted placement processes that comply with this section and students who have completed a United States high school diploma or the equivalent shall be placed according to **section** 55522. Districts shall disclose their plans to implement retroactive placement recommendations as part of the adoption plan described in subparagraph (b)(4).

(6) Any placement for the fall semester or quarter of 2020 must comply with this section and California Education Code section 78213.

(c) Assessment

The Chancellor shall establish and update, at least annually, a list of the approved assessment tests and instruments for use in placing students in credit ESL courses and guidelines for their use by community college districts. When using an ESL assessment test for placement into credit ESL coursework, it must be used with one or more other measures to comprise multiple measures.

(1) Districts and colleges are required to use the Chancellor's guidelines for the validation of all assessment tests used for placement to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, the district or college shall determine whether any assessment test, method, or procedure has a disproportionate impact on particular groups of students, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district or college shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(2) The Chancellor may identify other measures of a student's college readiness that community college districts may use for student placement into the college's curriculum.

(d) Each community college district utilizing approved assessment tests or instruments shall adopt procedures that are clearly communicated to students, regarding the college's sample test preparation, how the student test results will be used to inform placement decisions, and the district's limits on the student's ability to re-test.

(e) Community college districts shall not, except as provided in subdivision (g), do any of the following:

(1) use an assessment test for placement which has not been approved by the Chancellor pursuant to this section, except that the Chancellor may permit limited field-testing, under specified conditions, of new or alternative assessment tests;

(2) use any assessment test in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(3) use any assessment test process to exclude any person from admission to a college, except that a college may determine the admission of special part-time or full-time students under Education Code section 76002 based on an assessment which involves multiple measures and complies with other requirements of this subchapter;

(4) use any assessment test, method, or procedure to exclude students from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to sections 55002 and 55003; or

(5) use any Student Success and Support Program practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by subchapter 5 (commencing with section 59300) of chapter 10.

(f) Colleges or districts that receive funding from the Student Equity and Achievement Program shall do the following pursuant to Education Code section 78213:

(1) Inform students of their rights, pursuant to Education Code section 78213, to access transfer-level coursework in English or in credit academic ESL and of the multiple measures placement policies or other college placement processes including the availability of challenge processes;

(2) Include information about the student's course placement options in the college catalog, in orientation and advisement materials, on the college's website, and in any written communication by counseling services;

(3) Annually report to the Chancellor's Office, in a manner and form described by the Chancellor's Office;

(A) The college's placement results. Colleges shall include the number of students assessed and the number of students placed into transfer-level English composition or ESL equivalent, transfer-level English composition or ESL equivalent with concurrent support or transfer-level or credit ESL coursework, disaggregated by race and ethnicity; and

(4) Publicly post the college's placement results. Colleges shall include the number of students assessed and the number of students placed into transfer-level English composition or ESL equivalent, transfer-level English composition or ESL equivalent with concurrent support, or transfer-level or credit ESL coursework, disaggregated by race and ethnicity.

(g) The Chancellor shall provide districts with notice and an opportunity to cure actions found to be out of compliance with this section. The Chancellor may use any means authorized by law to obtain compliance in the event of a failure or refusal to cure.

(h)The Chancellor's Office shall collect and analyze all placement methods and their impact on throughput rates for ESL students with a goal of transfer to a four-year institution or an associate degree, and produce a report for the Board of Governors by January 30, 2023. This report will inform a re-evaluation of credit ESL placement methods by the Chancellor's Office, and whether this section should be amended.