

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 203a

**52nd Legislature, 1st Session, 2015**

**Tracking Number:** .198279.2

**Short Title:** Certain Students Tested in Native Language

**Sponsor(s):** Senator John M. Sapien

**Analyst:** Travis Dulany

**Date:** March 17, 2015

---

**AS AMENDED**

**With regard to a student who has been determined to be limited English proficient and who must be allowed to take the standards-based assessment in his or her primary language, the Senate Public Affairs Committee amendments:**

- **delete the condition that the student must have attended school in the United States for less than three consecutive years; and**
- **specify that the student shall be allowed to take the standards-based assessment in the student's primary language "if one is available."**

**Original Bill Summary:**

SB 203 amends the *Assessment and Accountability Act* to require that:

- a student be allowed to take the standards-based assessments in the student's primary language if he or she:
  - is determined to be limited English proficient; and
  - has attended school in the United States for less than three consecutive years; and
- if the standards-based assessments are administered on a computer, a student shall be allowed to take a paper version of those assessments under one or more of the following conditions:
  - the student is unable to use a computer because of a disability documented in the student's individualized education program;
  - the student has little or no prior experience or familiarity with technology;
  - the public school has previously documented that it does not meet the technology requirements to provide a computer-based assessment, and the public school's technology readiness survey is on file with the Public Education Department (PED); and
  - the student is not allowed by religious or other beliefs to use technology, and a statement to that affect from the student's parent is on file with the school counselor or the principal.

**Fiscal Impact:**

SB 203 does not contain an appropriation.

**Fiscal Issues:**

According to the PED bill analysis, “translation of accountability assessments into languages other than English and Spanish would have significant cost, at around \$6.0 million per language arts assessment per language...and \$1.00 per word for translation of other assessments.”

**Substantive Issues:**

***English-Language Proficiency***

As part of the World-Class Instructional Design and Assessment consortium (WIDA), New Mexico administers the ACCESS (Assessing Comprehension and Communication in English State-to-State) for English language learners (ELLs) test to measure English-language proficiency at six different levels. According to the *New Mexico Bilingual Multicultural Education and Title III Technical Assistance Manual* for school year 2013-2014, a composite score of 5.0 or higher on the ACCESS for ELLs is the criterion necessary for an ELL to be reclassified as full-English proficient.

Data published in the *Bilingual Multicultural Education Annual Report for School Year 2013-2014* indicate the results of the ACCESS for ELLs test for the previous three years, as illustrated in the table below.

<b><i>Statewide Range for English-Language Proficiency on WIDA ACCESS for ELLs</i></b>							
<b>School Year</b>	<b># of ELLs Tested</b>	<b>Number and Percentage of ELLs Scoring at Each Level of English Language Proficiency</b>					
		<b>Entering (1)</b>	<b>Beginning (2)</b>	<b>Developing (3)</b>	<b>Expanding (4)</b>	<b>Bridging (5)</b>	<b>Reaching (6)</b>
2011-2012	53,120	6,572 (12%)	6,651 (13%)	17,862 (34%)	15,126 (29%)	5,966 (11%)	943 (2%)
2012-2013	52,792	6,362 (12%)	6,694 (13%)	16,736 (32%)	14,988 (28%)	6,859 (13%)	1,154 (2%)
2013-2014	50,128	6,015 (12%)	6,293 (13%)	16,080 (32%)	14,116 (28%)	6,437 (13%)	1,187 (2%)

Source: PED

***Translation***

In November 2013, the Partnership for Assessment of Readiness for College and Careers (PARCC)<sup>1</sup> released a policy paper regarding translation of certain tests (see **Attachment 1**).

According to PARCC, the consortium will develop translations of:

<sup>1</sup> The PARCC test is scheduled to replace the New Mexico Standards-based Assessment in school year 2014-2015 for the subject areas of mathematics and English language arts/literacy.

- the general test administration directions for the mid-year, performance-based, and end-of-year assessments in English language arts/literacy and mathematics;
- the reports of student results to parents and guardians; and
- mid-year, performance-based, and end-of-year mathematics assessments in Spanish and other languages as necessary, but use of translated mathematics assessments will be a state decision. Additional costs associated with translating and administering mathematics assessments in languages other than English will be shared by the states that use them.

PARCC emphasizes, however, that the consortium will not develop translated versions of its English language arts/literacy assessments. According to the consortium, “While several PARCC states have expressed interest in having the English language arts/literacy assessments translated into Spanish, the [participating] PARCC states determined, with input from national experts and advisors, that this would change the construct of the assessment and should not be conducted” (see “**Background**,” below).

According to PED, standards-based assessment translations are only available in Spanish, as has been the case since 2005, and the department offers accommodations such as word-to-word translators, but does not translate the assessments into languages other than Spanish.

### *Computer-based Assessments*

PARCC’s guidance on accessibility features and accommodations for students seeking to take the paper-based PARCC assessment closely mirror the provisions of Subsection G in SB 203. This guidance from PARCC highlights four conditions that may result in a school choosing to administer a paper-based assessment (see **Attachment 2**).

For spring 2015, according to PED, the department “allowed districts to request for up to 20 percent of their students to take the assessment on paper.” Students with disabilities and English language learners are not included in this 20 percent, according to PED, as flexibility for these students to take the paper-based version of the PARCC test is already in place.

### **Background:**

#### *Translation and Adaptation of Standards-based Assessments*

Guidance on the topic points toward two kinds of native-language assessments:

1. translated tests, “in which written test content originally in English is rendered into a written non-English language”; and
2. adaptation, which “involves more substantial changes, such as the replacement of a number of items with others that are more appropriate for either the culture or the language of the new test.”<sup>2</sup>

Additionally, this guidance explains why it may be necessary for students to be able to take standards-based assessments in their native languages, namely:

- results of tests not translated or adapted into students’ native languages may not reflect accurately the qualities and competencies intended to be measured; and

---

<sup>2</sup> Bowles and Stansfield, *A Practical Guide to Standards-Based Assessment in the Native Language*. January 2008.

- students’ limited proficiency in English should not be a barrier to assessing their skills and abilities in other academic content areas.

It may be important to note that not all subject areas are created equal when it comes to translation and adaptation. Guidance on this issue notes that concepts such as mathematics, science, and social studies can be translated without affecting the construct of the test; however, “when tests of reading and writing are translated, the construct of the test is altered (i.e., the test is no longer a test of reading in English Language Arts but rather a test of reading or grammar in the target language).” In the case of a reading or writing test, according to this guidance, adaptation is necessary, and often new items must be created for the non-English version of the test.

### ***No Child Left Behind Act of 2001***

Provisions in the federal *No Child Left Behind Act of 2001*<sup>3</sup> require that academic assessments shall provide for “the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, *assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas*, until such students have yielded English language proficiency...” (emphasis added).

### **Committee Referrals:**

SEC/SPAC

### **Related Bills:**

SB 66 *School Grade Promotion & Retention*  
 SB 217 *Individual Choice on Some School Tests*  
 CS/SB 390 *Align School Code with Assessment Practices*  
 SJM 9 *Standardized Test Contract Reporting*  
 HB 15 *Limit School Days for Statewide Tests*  
 HB 41aa *School Grade Promotion & Retention*  
 HB 129 *Clarify School Test Individual Choice*  
 HB 165 *Remove AYP References in School Code*  
 HB 177 *Common Core Implementation Standards*  
 HB 298 *In-state Educational Companies & Services*  
 HJM 3aa *Standardized Test Contract Fund Reports*

---

<sup>3</sup> In November 2014, New Mexico was approved for a one-year extension for flexibility of certain provisions of the *No Child Left Behind Act of 2001*; however, the section referred to in this analysis is not one of those provisions.



## **PARCC Assessment Translation Policy & Next Steps**

***November 2013***

As part of their commitment to participate in the Partnership for Assessment of Readiness for College and Careers (PARCC), PARCC states agreed to develop and implement common policies and procedures, including common participation policies and accommodations policies for students with disabilities and English learners, with the purpose of establishing equitable access and comparability of results across students, districts, and states.

In July 2013, PARCC released the first edition of the *Accessibility Features and Accommodations Manual*, which details the accessibility features and accommodations available for students taking the PARCC Mid-Year, Performance-Based, and End-of-Year assessments. In September 2013, the PARCC Governing Board approved a policy on the translation of the PARCC assessments into languages other than English.

### **PARCC POLICY ON TRANSLATIONS INTO LANGUAGES OTHER THAN ENGLISH**

While comparability is a high priority, PARCC states currently have disparate policies, laws, and regulations with respect to administering assessments in languages other than English. State laws and/or regulations in some states require (or at least allow) for translations, while they are prohibited in others. Accordingly, a consortium-wide policy that either requires or prohibits translations of PARCC assessments into languages other than English will not meet the needs of all PARCC states.

To support the needs of member states, the PARCC Governing Board adopted the following policy statement:

- 1. PARCC will develop translations of the general test administration directions for the Mid-Year, Performance-Based, and End-of-Year Assessments in English Language Arts/Literacy and Mathematics.**
- 2. PARCC will develop translations of the reports of student results to parents and guardians.**
- 3. PARCC will develop translations of its Mid-Year, Performance-Based, and End-of-Year Mathematics Assessments in Spanish and other languages as necessary, but use of the translated mathematics assessments will be a state decision. The additional costs associated with translating and administering mathematics assessments in languages other than English will be shared by the states that use them.**

It should be noted that PARCC will not develop translated versions of its English language arts/literacy assessments. While several PARCC states have expressed interest in having the English language arts/literacy assessments translated into Spanish, the PARCC states determined, with input from national experts and advisors, that this would change the construct of the assessment and should not be conducted.

### **BACKGROUND ON POLICY DEVELOPMENT**

The policy was developed by PARCC's Ad Hoc Assessment Translation Working Group (membership list attached) and reviewed by the PARCC K-12 State Leads, which includes assessment directors and other senior state education agency staff from the PARCC states. National experts on the PARCC English Learner Technical Working Group also provided input on the topic of translations, including analysis of the current research and implementation guidance for the accommodation.

In addition, in order to gauge needs across PARCC states, the translation working group conducted a PARCC state policy scan. Of the thirteen states that completed the survey, eight states expressed a need for translation of the mathematics assessments into Spanish.

On September 25, 2013, the PARCC Governing Board unanimously approved the assessment translation policy.

### **IMPLEMENTING THE PARCC TRANSLATION POLICY**

PARCC states are currently in the process of developing a Request for Proposals (RFP) for the PARCC Operational Assessments. This RFP is designed to procure services related to the development, administration, scoring, ongoing research, standard setting, and reporting of PARCC assessments, including the Mid-Year, Performance-Based, and End-of-Year assessments.

In the RFP, potential PARCC vendors will be asked to describe their experience, expertise, and process for translating state assessments into languages other than English and provide a cost proposal for translating PARCC's computer- and paper-based (1) general administration directions; (2) reporting shells; and (3) assessments in mathematics for grades 3-8 and high school end-of-course assessments. States interested in assessments in languages other than English can use this budget for planning purposes as they identify their individual state needs.

PARCC states will also discuss options for reporting assessment results that fairly distinguish states that administer translated assessment from those that do not. These options will be shared with the Governing Board along with other reporting plans at the spring 2014 Governing Board Meeting.

### **AD HOC ASSESSMENT TRANSLATION WORKING GROUP**

**Trinell Bowman**, *Program Manager, Division of Curriculum, Assessment, and Accountability*, Maryland State Department of Education

**Stephanie Boyd**, *PARCC Coordinator*, Colorado Department of Education

**Chane Eplin**, *Bureau Chief, Bureau of Student Achievement through Language Acquisition*, Florida Department of Education

**Andrew Hinkle**, *Educational Consultant, Office for Exceptional Children*, Ohio Department of Education

**Heather Villabos-Pavia**, *English Language Proficiency Assessment Consultant*, Colorado Department of Education

**Lynn Vásquez**, *PARCC Assessment Director, Assessment & Accountability Bureau*, New Mexico Public Education Department

**Dan Wiener**, *Administrator of Inclusive Assessment*, Massachusetts Department of Elementary and Secondary Education

**Leila Williams**, *Associate Superintendent, Assessment and Accountability*, Arizona Department of Education

**ACCESSIBILITY, ACCOMMODATIONS, AND FAIRNESS TECHNICAL WORKING GROUP – ENGLISH LEARNERS**

Diane August, *Managing Research Scientist*, American Institutes for Research

H. Gary Cook, *Associate Research Scientist*, University of Wisconsin-Madison

Kenji Hakuta, *Co-Chair, Understanding Language*, Stanford University

Alba Ortiz, *Director, Office of Bilingual Education*, University of Texas at Austin

Charlene Rivera, *Research Professor and Executive Director*, The George Washington University Center for Equity & Excellence in Education



## **Appendix A: Accessibility Features and Accommodations for Students Taking the Paper-Based PARCC Assessments**

### **Students who may participate in a Paper-Based PARCC Assessment**

Although PARCC assessments are computer-based using an online testing platform, there may be specific instances which require a student to take a paper-based assessment instead. The following conditions may result in a school choosing to administer a paper-based assessment:

- Condition #1: A student is unable to use a computer due to the impact of his or her disability. The student's inability to participate in computer-based assessments should be documented in an Individualized Education Program (IEP) or 504 plan.
  - Examples may include:
    - A student with a disability who cannot participate in the online assessment due to a health-related disability, neurological disorder, or other complex disability, and/or cannot meet the demands of a computer-based test administration;
    - A student with an emotional, behavioral, or other disability who is unable to maintain sufficient concentration to participate in a computer-based test administration, even with test accommodations;
    - A student with a disability who requires assistive technology that is not compatible with the testing platform.
- Condition #2: A student who recently entered the school and has had very little or no prior experience or familiarity with technology.
- Condition #3: The school has previously documented that it does not meet the technology requirements to provide the online assessment. The school must have the technology readiness survey on file.
- Condition #4: A student who is unable to access an online assessment due to religion/beliefs.

**Refer to the PARCC Accessibility Features and Accommodations Manual for information concerning test administration considerations, accessibility features and accommodations.**