
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 969
Author: Williams
Version: April 23, 2015
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: June 17, 2015
Fiscal: Yes

Subject: Community college districts: removal, suspension, or expulsion

SUMMARY

This bill makes an exception to the prohibition against removal, suspension or expulsion of a student unless the conduct resulting in the disciplinary action is related to college activity or attendance if the conduct threatens the safety of students or the public and authorizes a community college district to require a student seeking admission to disclose his/her expulsion or current suspension from a community college for prescribed offenses including violation of a district's policies concerning sexual assault, domestic violence, dating violence and stalking.

BACKGROUND

Existing law provides for the suspension or expulsion of community college students with "good cause." (Education Code § 76030-76038)

Existing law prohibits the removal suspension or expulsion of a community college student unless the conduct resulting in the disciplinary action is related to college activity or college attendance. (EC § 76034)

Existing law authorizes a community college district to require a student seeking admission to disclose his/her prior expulsion from another community college district and authorizes the governing board of a community college district to deny enrollment, permit enrollment, or permit conditional enrollment to a student who has been expelled, or is being considered for expulsion, from another district for specified offenses within the preceding 5 years. (Education Code § 76038)

Existing law requires that, in order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions must adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1092(f)) involving a student, both on and off campus. (Education Code § 67386)

ANALYSIS

This bill:

- 1) Makes an exception to the prohibition against removal, suspension or expulsion of a student unless the conduct resulting in the disciplinary action is related to college activity or attendance if the conduct threatens the safety of students or the public.
- 2) Expands the authority of a district to determine whether an individual poses a continuing danger to the physical safety of the students and employees of the district and to deny, permit, or permit conditionally, the enrollment of a student seeking admission. Specifically it:
 - a) Authorizes the community college district to consider and to require the student to disclose whether he/she was expelled by another district within the last five years, or is undergoing expulsion review, for violation of a district's policies, adopted pursuant to specified state law, on sexual assault, domestic violence, dating violence, and stalking.
 - b) Authorizes a community college district to require a student seeking admission to disclose to the district if he/she is currently suspended from a community college for any of the following offenses:
 - i) Committed or attempted to commit murder.
 - ii) Caused, attempted to cause serious, or threatened to cause physical injury to another person, including assault or battery as defined in Section 240 or 242 of the Penal Code, except in self-defense.
 - iii) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed sexual battery as defined in Section 243.4 of the Penal Code.
 - iv) Committed or attempted to commit kidnapping, or seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away another person by any means with the intent to hold or detain that person for ransom or reward.
 - v) Committed or attempted to commit robbery or extortion.
 - vi) Committed stalking as defined in Section 646.9 of the Penal Code.
 - vii) Unlawfully possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.
 - viii) Violation of a district's policies on sexual assault, domestic violence, dating violence, and stalking, adopted pursuant to specified state law.
- 3) Authorizes a district to consider failure to disclose previous expulsion or current suspension for a violation of district policies on sexual assault, domestic violence,

and dating violence in determining whether to grant admission, and authorizes a written record of the fact to be maintained by the district with the applicant's file.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, at a roundtable discussion at UC Santa Barbara in November 2014, local community college representatives raised concerns about their inability to discipline students for sexual assault violations occurring off campus as current law prohibits community colleges from taking disciplinary action against a student unless the conduct occurs on campus or at campus related events. This is particularly challenging at the community colleges since, for the most part, these campuses are non-residential. In addition, concerns were raised that students dismissed from a college for a sexual assault offense simply transferred to a different campus. The representatives expressed the need to have clear legal authority in place to ensure their students' and communities' safety and well-being.

This bill proposes to clarify a community college district's jurisdiction for student code of conduct violations that occur off-campus and to require students to disclose whether they were dismissed from another institution for sexual assault, in order to ensure the physical safety of the students and employees of the district, and the public.

- 2) ***Author's amendment.*** This Committee recently heard and passed SB 186 (Jackson) which proposed an expansion and clarification of the authority of community college districts to discipline students for sexual assault or sexual battery whether that behavior occurred on or off campus. Section 1 of this bill proposes a more expanded authority to discipline students for behavior which occurs off campus. According to the author, in order to eliminate any conflict, it is his intent to eliminate Section 1 from this bill. **Staff recommends** the bill be amended to delete section 1 consistent with the author's intent.
- 3) ***Suspension versus expulsion.*** This bill has two effects. Current law authorizes a district to consider whether a student seeking admission was expelled or is undergoing expulsion proceedings at another district for specified offenses. This bill expands that list of offenses to include a violation of the districts adopted policies on sexual assault, domestic violence, and dating violence.

Second, this bill expands the authority of a district to deny, permit, or permit conditionally the enrollment of a student by authorizing the district to consider whether the student was "suspended" for any of these same offenses, including violation of a district's sexual assault policies. Should behavior which results in suspension from a district be assigned the same consequences as behavior which results in expulsion?

According to the author, it is the intent to 1) explicitly clarify that discipline related to violations of sexual assault policies are subject to disclosure and consideration when seeking admission to another district, and 2) to ensure that districts are provided the tools necessary to protect students, employees, and the public in cases of the most

egregious violations of sexual assault policies. **Staff recommends** the bill be amended to delete the bill's application to students who are "currently suspended."

- 4) **Similar legislation.** SB 186 (Jackson) expands the definition of "good cause" for purposes of removal, suspension or expulsion from a community college to include sexual assault or sexual battery and, for this conduct exclusively, makes an exception to the prohibition against removal, suspension, or expulsion unless the conduct is related to college activity or attendance and clarifies that this activity must occur while enrolled as a student. SB 186 was heard and passed by this Committee in March 2015, by a vote of 7-0 and is currently awaiting action in the Assembly Higher Education Committee.

SUPPORT

Kamala D. Harris, Attorney General
North Orange Community College District

OPPOSITION

None received.

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