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# California State Senate

## EDUCATION



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## AGENDA

Wednesday, June 1, 2022  
9 a.m. -- 1021 O Street, Room 2100

### MEASURES HEARD IN FILE ORDER

- |   |     |         |              |  |
|---|-----|---------|--------------|--|
| * | 1.  | AB 102  | Holden       | Pupil attendance at community colleges: College and Career Access Pathways partnerships: county offices of education.          |
|   | 2.  | AB 288  | Calderon     | California Ban on Scholarship Displacement Act of 2021.  |
|   | 3.  | AB 295  | Jones-Sawyer | Public postsecondary education: pilot program for free cost of attendance: working group.                                      |
| * | 4.  | AB 321  | Valladares   | Childcare services: enrollment priority.   |
|   | 5.  | AB 452  | Friedman     | Pupil safety: parental notification: firearm safety laws.  |
|   | 6.  | AB 524  | Rodriguez    | Postsecondary education: Campus-Recognized Sorority and Fraternity Transparency Act.   |
|   | 7.  | AB 1505 | Rodriguez    | Community colleges: full-time faculty obligation.  |
|   | 8.  | AB 552  | Quirk-Silva  | Integrated School-Based Behavioral Health Partnership Program.   |
|   | 9.  | AB 595  | Medina       | Public postsecondary education: University of California and California State University: student eligibility policy.(Urgency) |
|   | 10. | AB 1652 | Medina       | County boards of education: school district governing boards: members: charter school employees.                               |
|   | 11. | AJR 26  | Medina       | Student loan debt repayment.   |
| * | 12. | AB 740  | McCarty      | Foster youth: suspension and expulsion.  |
| * | 13. | AB 1232 | McCarty      | Community colleges: nonresident tuition fees: English as a second language courses.  |
|   | 14. | AB 1491 | McCarty      | Adult education: consortia: carryover of allocated funds.  |
| * | 15. | AB 748  | Carrillo     | Pupil mental health: mental health assistance posters.   |
|   | 16. | AB 902  | O'Donnell    | School facilities: alternative design-build contracts.   |
|   | 17. | AB 1187 | Irwin        | Community colleges: tutoring.  |
| * | 18. | AB 1467 | Cervantes    | Student safety: sexual assault procedures and protocols: sexual assault counselors.  |
| * | 19. | AB 1671 | Patterson    | California Ban on Scholarship Displacement for Foster Youth Act of 2022.   |
| * | 20. | AB 1876 | Seyarto      | Substitute teachers: emergency career substitute teaching permit: employment verification.                                     |
| * | 21. | AB 1893 | Cunningham   | Teacher credentialing: emergency teaching permits.   |

\*Proposed Consent

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 102  
**Author:** Holden  
**Version:** May 18, 2022  
**Urgency:** No  
**Consultant:** Ian Johnson

**Hearing Date:** June 1, 2022

**Fiscal:** Yes

**Subject:** Pupil attendance at community colleges: College and Career Access Pathways partnerships: county offices of education.

## SUMMARY

This bill allows county offices of education (COEs) and adult education programs to enter into College and Career Access Pathways (CCAP) partnerships with community college districts and removes the sunset date for the CCAP program.

## BACKGROUND

Existing law:

- 1) Authorizes a student to undertake courses at a California Community College (CCC) if the governing board of a school district, upon recommendation of the principal of the student's high school and with parental consent, determines a student would benefit from advanced or vocational work. The student may attend the CCC during any session or term as a special part-time or full-time student and take one or more courses of instruction offered at the CCC. Provides methods for parents to petition for students to attend community college courses and methods for appeals in case of a denial. Includes criteria for allocating attendance and funding for high school students who attend courses at the community college.
- 2) Stipulates that summer courses may be offered if a student has met specified conditions and if the principal has not recommended summer session attendance to more than 5% of the student's grade population in the previous year. All physical education courses must adhere to the 5% threshold and the following courses are exempt until January 1, 2027:
  - a) Courses which are part of a College and Career Access pathway and meet specified criteria; or
  - b) Courses which are lower division, college-level courses that are either a college-level course that are part of the Intersegmental General Education Transfer Curriculum or applies towards the general education requirements of the CSU; or,
  - c) Courses which are a college-level occupational course, as defined.

- 3) Authorizes, until January 1, 2027, the governing board of a CCC district to enter into a CCAP partnership with the governing board of a school district or the governing body of a charter school for the purpose of offering or expanding dual enrollment opportunities for pupils who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.
- 4) Requires that the CCAP partnership agreement be approved by the respective governing boards of the CCC district and the school district or governing body of the charter school. The governing boards or body shall:
  - a) Consult with and consider the input of the appropriate local workforce development board in order to determine to what extent the career technical education pathways are aligned with regional and statewide employment needs; and,
  - b) Present, take comments from the public on, and approve or disapprove of the CCAP partnership agreement at an open public meeting of the governing board of the district or governing body of the charter school.
- 5) Requires the CCC Chancellor's Office to report to the Department of Finance (DOF) and Legislature annually on the amount of full-time equivalent students (FTES) claimed by each CCC district for high school pupils enrolled in non-credit, non-degree applicable, and degree applicable courses; and provides that, for purposes of receiving state apportionments, CCC districts may only include high school students within the CCC district's report on FTES if the students are enrolled in courses that are open to the general public, as specified. Additionally, current law requires the governing board of a CCC district to assign a low enrollment priority to special part-time or full-time students in order to ensure that these students do not displace regularly admitted community college students.
- 6) Requires the Chancellor of the CCC, on or before January 1, 2021, to prepare a summary report that includes an evaluation of the CCAP partnerships, an assessment of the growth of special admits system wide and by campus, and recommendations for improving the CCAP partnerships, as specified. Requires the report to be transmitted to the Legislature, the DOF, and the Superintendent of Public Instruction (SPI). Requires Chancellor of the CCC to annually collect specified data from the CCC and school districts participating in a CCAP partnership. Requires the data to include:
  - a) The total number of high school pupils by school site enrolled in each CCAP partnership, disaggregated by gender and ethnicity;
  - b) The total number of CCC courses taken by CCAP partnership participants disaggregated by category, type, and school site;

- c) The total number and percentage of courses successfully completed by CCAP partnership participants disaggregated by course category, type, and school site;
- d) The total number of FTEs generated by the CCAP partnership community college district participants; and,
- e) The total number of full-time equivalent students served online by the CCAP partnership college district participants.

## ANALYSIS

This bill:

- 1) Removes the CCAP sunset date of January 1, 2027.
- 2) Authorizes the governing board of a CCC district to enter into a CCAP partnership with the governing board of a COE for the purpose of offering or expanding dual enrollment opportunities for pupils who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.
- 3) Defines "high school" to include a community school, continuation high school, juvenile court school, or adult education program offering courses for high school diplomas or high school equivalency certificates.
- 4) Requires the governing board of a COE when entering into a CCAP partnership to do the following:
  - a) Consult with, and consider the input of the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs; and,
  - b) Present, take comments from the public on, and approve or disapprove the CCAP partnership agreement at an open public meeting of the COE governing board.
- 5) Requires the CCAP partnership agreement to identify a point of contact for the participating CCC and the participating COE.
- 6) States that a CCC district may enter into an agreement with a COE outside its service area as long as there exists an established agreement permitting the CCAP partnership between the local CCC and the CCC district seeking the CCAP partnership.
- 7) Requires that both the CCC district and the COE comply with local collective bargaining agreements and all state and federal reporting requirements

regarding the qualifications of teachers and faculty who teach a CCAP partnership course.

- 8) Requires that the CCAP partnership agreement include whether the CCC district or COE will be the employer of record for purposes of assignment monitoring and reporting to the COE, and which will assume reporting responsibility pursuant to federal teacher quality mandates.
- 9) Requires that any remedial course taught by CCC faculty on a high school campus be offered to high school pupils who do not meet grade 10 or 11 level standards as determined by the COE. These courses will be the result of a collaborative effort between high school and CCC faculty to deliver innovative remediation courses for the purpose of ensuring the student is prepared for college-level work upon graduation.
- 10) Prohibits the duplication of state funding for instructional activity provided to a student participating in a CCAP agreement.
- 11) Requires that a high school student, identified as a special part-time or full-time student at the CCC, who attends a CCAP agreement course is credited or reimbursed as specified, if the participating COE has not received funding for the same instructional activity.
- 12) Requires the Chancellor of the CCC to annually collect data from the CCCs and COEs participating in a CCAP partnership. Requires the data to include:
  - a) The total number of high school pupils by school site enrolled in each CCAP partnership, disaggregated by gender and ethnicity;
  - b) The total number of CCC courses taken by CCAP partnership participants disaggregated by category, type, and school site;
  - c) The total number and percentage of courses successfully completed by CCAP partnership participants disaggregated by course category, type, and school site;
  - d) The total number of full-time equivalent students generated by the CCAP partnership community college district participants; and,
  - e) The total number of full-time equivalent students served online by the CCAP partnership college district participants.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "Research has demonstrated that dual enrollment students are more likely to enter college, persist to completion, and graduate. The positive effects of dual enrollment on college degree attainment are more pronounced for low-income students than their more affluent peers. AB 102 ensures that dual enrollment continues to be available to California students, including youth involved in the juvenile justice system, as an

approach to close the persistent achievement and equity gap. AB 102 shows a commitment to expanding and improving CCAP. This program yields public savings by reducing the time it takes to earn a college degree and improving the efficiency and effectiveness of higher education.”

- 2) **Concurrent enrollment.** Concurrent enrollment provides pupils the opportunity to enroll in college courses and earn college credit while still enrolled in high school. Generally, a pupil is allowed to concurrently enroll in a community college as a "special-admit" while still attending high school, if the pupil's school district determines that the pupil would benefit from "advanced scholastic or vocational work." Special-admit students have typically been advanced pupils wanting to take more challenging coursework or pupils who come from high schools where Advanced Placement or honors courses are not widely available. Additionally, programs such as middle college high schools and early college high schools use concurrent enrollment to offer instructional programs for at-risk pupils that focus on college preparatory curricula. These programs are developed through partnerships between a school district and a community college.
- 3) **College Access and Career Pathways (CCAP) program.** The CCAP program allows for partnerships between school and community college districts such that high school students dual-enroll in up to 15 community college units per term; students may enroll in no more than four courses per term. The goals of CCAP are to develop seamless pathways from high school to community college for career technical or general education transfer, improve high school graduation rates, or help high school students achieve college and career readiness. Courses must be part of an academic program defined in a CCAP agreement and meet criteria for both a high school diploma and an Associate of Arts or other credentials.

Unlike other concurrent enrollment options, CCAP offers dual enrollment as a pathway, rather than a series of disconnected individual courses, and provides greater flexibility in the delivery of courses at the high school campus.

- 4) **Other concurrent enrollment options.** Beyond the CCAP, community college districts have several statutorily authorized means by which apportionments can be claimed for minors enrolled by the district. These include:
  - a) **Special part-time full-time students.** School district governing boards can recommend students who would benefit from advanced scholastic or vocational work for attendance at a community college upon recommendation of the principal. The number of students who can be recommended for summer session enrollments is capped at five percent of the students in each grade. Community colleges can claim state funding for these students only if the course is open and advertised to the general public. Under this authority, students are limited to enrolling in a maximum of 11 units per semester and must be assigned low enrollment priority by the college to avoid displacement of adults.

- b) *Early College High Schools (ECHS) and Middle College High Schools (MCHS)*. ECHS are designed for young people who are underrepresented in postsecondary education, including students who have not had access to the academic preparation needed to meet college readiness standards, students for whom the cost of college is prohibitive, students of color, first generation college-goers, and English language learners. MCHS is a collaborative program that enables high-potential, "at-risk" students to obtain a high school education while concurrently receiving direct access to college courses and services. High school students attend classes at a community college and earn credit toward a high school diploma while having the opportunity to concurrently take college courses and to receive more intensive counseling and administrative attention. These programs are subject to the same conditions that exist for special admit students, with the exception that MCHS students are exempt from the low enrollment priority provisions for classes necessary for completion of their programs.
- c) *College Promise Partnership Act*. SB 650 (Lowenthal, Chapter 633, Statutes of 2011) authorized a partnership between the Long Beach community college and school district to provide a seamless bridge to college for students who were not already college bound and to reduce the time needed for advanced students to complete programs. These students are exempted from the requirements applicable to special admit students that they must be recommended by the school principal. The community college is eligible to receive state funding for these students but is prohibited from receiving apportionment for instructional activity for which the school district received apportionment. Formerly set to sunset on January 1, 2018, this partnership was extended indefinitely by AB 1533 (O'Donnell, Chapter 762, Statutes of 2017).
- 5) **CCAP Legislative Report**. In April, the CCC Chancellor's Office released its legislative report on the CCAP program. Dual enrollment is growing overall and in terms of student participation; however, the number of community colleges participating in CCAP remains limited. The Chancellor's Office estimates that 37.5% of students participating in dual enrollment as all special admits were in CCAP partnerships.

The report includes several recommendations, including eliminating the sunset date for CCAP partnerships, as this bill proposes. The Chancellor's Office believes that eliminating the sunset date will allow CCAP partnerships to continue and mature, as well as remove any worry that new partnerships will have to start from scratch in a few years.

## SUPPORT

American Federation of State, County and Municipal Employees  
Cabrillo Community College District  
California Charter Schools Association  
California Community Colleges Chancellor's Office  
California Edge Coalition

Campaign for College Opportunity  
Cerritos College  
League of Women Voters of California  
Long Beach Community College District  
Riverside County Office of Education  
San Jose-Evergreen Community College District  
Santa Monica College  
The Education Trust - West

**OPPOSITION**

None received

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 288 **Hearing Date:** June 1, 2021  
**Author:** Calderon and Bonta  
**Version:** May 17, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** California Ban on Scholarship Displacement Act of 2021.

## SUMMARY

This bill establishes the California Ban on Scholarship Displacement Act of 2021 and prohibits an institution of higher education from reducing offers of institutional gift aid of a student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act as a result of private scholarship awards designated for the student unless their gift aid exceeds the student's annual cost of attendance.

## BACKGROUND

Existing law:

*Federal law.* Provides federal financial aid, known as the Pell Grant, to students who demonstrate financial need. The Pell Grant award can be used for tuition and fees, books, and supplies, transportation, and living expenses for the equivalent of up to six years of full-time enrollment. The maximum Pell Grant award for the 2020–21 Award Year is \$6,345, an increase of \$150 from the \$6,195 maximum Pell Grant award for the 2019–20 Award Year. (United States Code, Title 20 § 1070, et seq.).

State law.

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of CA (UC), the California State University (CSU), and the California Community Colleges (CCC); and, defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in California and are accredited by an agency recognized by the United States Department of Education (Education Code (EDC) § 66010, et seq.).
- 2) Defines "institutional financial aid" as all institutional grant aid, including institutional student need-based and merit-based aid (EDC § 66021.1).
- 3) Defines "cost of attendance" as the mandatory systemwide fees, books and supplies, room and board, transportation, and miscellaneous personal expenses for an undergraduate California resident student, as used in determining financial aid eligibility (EDC § 66028.1).

- 4) Requires the UC Regents and the CSU Trustees to annually provide the Legislature, by February 1 of each year, detailed information regarding expenditures of revenues derived from student fees and uses of institutional financial aid, and provide information regarding the systemwide average total COA per student (EDC § 66028.6).
- 5) Establishes the California Student Aid Commission for the purpose of administering specified student financial aid programs (EDC § 69510, et seq.).

## ANALYSIS

This bill establishes the California Ban on Scholarship Displacement Act of 2021. Specifically, it:

- 1) Prohibits, commencing with the 2023-24 academic year, an institution of higher education from reducing the institutional financial gift aid offer of a student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act as a result of private scholarship awards designated for the student, unless the student's gift aid exceeds the student's annual cost of attendance.
- 2) Authorizes an institution to reduce the institutional gift aid offer of a student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act by no more than the amount of the student's gift aid that is in excess of the student's annual cost of attendance.
- 3) Prohibits an institution from considering receipt or anticipated receipt of private scholarships when considering a student for qualification for institutional financial aid.
- 4) Encourages an institution to implement efforts to avoid scholarship displacement through consultation with scholarship providers and students to avoid situations where institutional gift aid and private scholarships can only be used for specific purposes.
- 5) Stipulates that the Act shall not be interpreted or implemented in a manner inconsistent with state or federal law; that the provisions of the Act article are severable; and, if any provision of the Act and its application is held invalid due to a conflict with federal requirements, that invalidity shall not affect other provisions of the Act that can go into effect without the invalid portions of the Act.
- 6) Defines various terms for purposes of the bill.
- 7) States various findings and declarations regarding the practice of reducing institutional financial aid offers due to private scholarships designated to students.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “prohibiting the practice of scholarship displacement is essential to consider in any equity-focused college affordability equation, especially in light of the COVID-19 pandemic, as public and private resources become even more limited for our students. By enacting the California Ban on Scholarship Displacement Act, students who receive private scholarships can make full use of their financial aid awards to cover the real cost of college, once additional expenses are fully calculated.”

The author further states, “As California students struggle with how to achieve their dream of earning a college degree, we must not punish students who are fortunate enough to receive a private scholarship. This is a common practice known as scholarship displacement. During this economic recession, it’s even more urgent that we help low-income students who may have no other means to pay for the complete cost of colleges.”

- 2) **Packaging Multiple Offers of Aid.** A student who qualifies for more than one financial aid program, their campus financial aid office will “package” together aid to help meet the student’s financial needs and cover their cost of attendance. A student’s total financial aid package must not exceed the student’s cost of attendance. When packaging aid, institutions first prioritize awarding gift aid before moving on to awarding loans and work-study. If a student’s aid package exceeds the student’s cost of attendance then adjustments are made to eliminate the over award. Similarly, this bill does not prohibit reductions of institutional gift aid if a student’s overall gift aid exceeds the student’s annual cost of attendance, presumably to avoid the over awarding of total gift aid to one student.
- 3) **Institutional Aid.** To help cover college costs, students can access financial aid from federal, state, and university, and private sources. Financial aid programs can consist of loan and gift aid programs. Grants, scholarships, and tuition waivers are considered gift aid, which simply means awards do not have to be repaid (as opposed to loan programs that students pay back). The term institutional gift aid as used in this bill refers to gift aid offered by a college, excluding loans. As noted in the Assembly Higher Education analysis, decisions about allocating institutional aid funds reflect a number of different factors, including the types of resources colleges have at their disposal as well as their commitment to providing educational opportunities to low-and middle-income students. Additionally, institutional aid programs play a unique role in supporting individual colleges’ enrollment and completion goals in that colleges have the flexibility to distribute their own grant funds; however, these funds are often tied with differential reliance on tuition revenues which can make the amount available volatile from one year to the next.

This bill seeks to address how colleges and universities (private and public) determine a student’s offer of institutional gift aid (non-loan programs) when private scholarships are designated for that student. The provisions of this bill are limited to institutional aid offers made to low-income students specifically those who are Pell grant or Dream act application eligible.

- 4) **Disbursement of Institutional Aid by California’s Public University Systems.** All three segments of CA’s public higher education system administer institutional

gift aid programs. UC provides institutional gift aid to needy students through its UC Grant to cover both tuition costs and the cost of living. CSU provides institutional gift aid through its State University Grant (SUG) to needy students to cover only tuition costs. CCC provides institutional gift aid (tuition waiver) through its California College Promise Grant (formerly known as the Board of Governor's fee waiver) to needy students to cover only tuition costs.

As noted in the Assembly Appropriations analysis, "UC has implemented efforts to avoid scholarship displacement at its nine campuses through memoranda of understanding with private scholarship groups to avoid situations where a student receives private scholarships that can only be used for specific purposes already provided for with institutional aid. Both CSU and CCC award institutional aid primarily for tuition costs. Both indicate scholarship displacement is likely to occur when a student receives institutional aid and a private scholarship that are designated for tuition costs. In this situation, a college or university will provide the institutional aid for tuition to another needy student who did receive a private scholarship for tuition costs."

This measure calls on an institution to implement efforts to avoid scholarship displacement through consultation with scholarship providers and students to avoid situations where institutional financial and private scholarships can only be used for specific purposes. *If both private scholarships and institutional gift aid, however, are designated for the same purpose, this bill could result in institutional gift aid paying for costs that might be otherwise covered by a private source.*

- 5) **Related legislation.** AB 1671 (Patterson, 2022) similar to this bill, establishes the California Ban on Scholarship Displacement. However, AB 1671 applies only to institutional aid offers made to foster youth. AB 1671 is scheduled to be heard on June 1, the same day as this bill.

## **SUPPORT**

California Community Colleges Chancellor's Office  
 California Edge Coalition  
 California Faculty Association  
 California Federation of Teachers Afl-cio  
 California State Student Association  
 Jose Cisneros, Treasurer, City and County of San Francisco  
 Mt. San Antonio College  
 National Association of Social Workers, California Chapter  
 North Orange County Community College District  
 Northern California College Promise Coalition  
 Office of Lieutenant Governor Eleni Kounalakis  
 Public Advocates INC.  
 Scholarship America  
 Southern California College Access Network

## **OPPOSITION**

None received.

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 295 **Hearing Date:** June 1, 2022  
**Author:** Jones-Sawyer  
**Version:** May 23, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgallia Ramirez

**Subject:** Public postsecondary education: pilot program for free cost of education: working group

## SUMMARY

This bill requires the California Student Aid Commission (Commission) to convene, until July 1, 2025, a working group to research and develop recommendations for the creation of a pilot program that would cover the cost of postsecondary education at a public postsecondary institution.

## BACKGROUND

Existing federal law:

- 1) Defines "cost of attendance" as:
  - a) Tuition and fees normally assessed, including costs for required equipment, materials, or supplies.
  - b) An allowance for books, supplies, transportation, and miscellaneous personal expenses including a computer.
  - c) An allowance, as determined by the institution, for room and board costs, as specified.
  - d) For students enrolled less than half-time, tuition and fees and an allowance for specified costs.
  - e) Allowances for students who are engaged in work-study are incarcerated, have dependents, or are disabled. (United States Code, Title 20 § 1087II)

Provides federal financial aid, known as the Pell Grant, to students who demonstrate financial need. The Pell Grant award can be used for tuition and fees, books, and supplies, transportation, and living expenses for the equivalent of up to six years of full-time enrollment. The maximum Pell Grant for 2020-21 is \$6,345 (United States Code, Title 20, § 1070).

Existing State law:

- 1) Stipulates that public higher education in the state consists of, the California Community Colleges (CCC), the California State University (CSU), and each

campus, branch, and function thereof; and, the University of California (UC), and each campus, branch, and function thereof. (Education Code (EC) § 66010).

- 2) Establishes the Cal Grant program, administered by the Commission, to provide grants to financially needy students to attend a college or university. The Cal Grant programs include both the entitlement and the competitive Cal Grant awards. The program consists of the Cal Grant A, Cal Grant B, and Cal Grant C programs, and eligibility is based upon financial need, grade point average (GPA), California residency, and other criteria. Maximum award amounts for CSU and UC are established in the annual Budget Act and have traditionally covered all systemwide tuition and fees. Supplemental Cal Grant awards programs are available to students with dependent child(ren) and former and current foster youth attending CSU, UC, or a CCC to assist with non-tuition costs such as living expenses. (EC § 69430 – 69433 and EC § 69465, 69470, and 6945.5).
- 3) Establishes the Middle Class Scholarship (MCS) Program to offset a portion of tuition costs at the UC and the CSU for students with annual household incomes of less than \$191,000 (2021-2022). Starting in the 2022-23 academic MCS awards may be used to cover the total cost of attendance at UC and CSU (EC § 70020, et seq.).
- 4) Establishes the Community Colleges Student Success Completion Grant, which supplements the Cal Grant B access award by up to \$1,298 annually for students enrolled in 12, 13, or 14 units per semester, and up to \$4,000 annually for students taking 15 or more units per semester (EC § 88930.).

## ANALYSIS

This bill:

- 1) Requires the Commission to convene, until July 1, 2025, a working group consisting of representatives from the California Department of Education (CDE), CCC Board of Governors, CSU Trustees, UC Regents, faculty, staff and students from the CCC, CSU, and UC to research and develop recommendations for the creation of a pilot program that would cover the cost of postsecondary education in the state by replacing the system of charging tuition, fees, and additional expenses for enrollment at a public postsecondary institution.
- 2) Provides that each entity participating in the workgroup internally selects its representative.
- 3) Requires the working group to do all of the following:
  - a) Consider feedback and insight from nonprofit stakeholders groups with extensive knowledge of college affordability models and approaches and allow participation from these groups in non-member roles.
  - b) Consider creating a pilot program that:

- i) Allows students who are residents of the state and who qualify for admission to a public postsecondary institution to enroll in that institution without paying the cost of education.
- ii) Prioritizes the needs of students with the greatest financial need.
- c) Identify one or more public postsecondary institutions for participation in the pilot program.
- d) Determine the length of the pilot program.
- e) Determine a funding source that would be available for the duration of the pilot program.
- f) Identify how the pilot program would complement existing financial aid programs, such as the Cal Grant Program.
- g) Submit a report, by July 1, 2025, to the Legislature that outlines recommendations for the proposed pilot program.
- h) Sunsets the bill's provisions on January 1, 2026.

#### STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Legislation is necessary to resolve this problem as currently the higher institution boards retain the authority to determine tuition rates.

"As of recent, Governors Brown and Newsom have tied state funding increases to ensure CSU and UC maintain tuition rates.

"Without the budget-driven process of tying state funding to maintaining tuition rates, there are no promises the CSU and UC will maintain current tuition rates.

"Without enacting a tuition-free postsecondary system, there are no guarantees future budgets will allocate adequate financial assistance to all eligible students nor are there guarantees future governors will tie state funding increases to a maintenance of current tuition rates.

"We as a state must shift away from the annual, variable budget-driven development of tuition by implementing a long-term, certain tuition policy to assuage California students' financial burdens."

- 2) **Price of college is more than tuition.** College costs include the tuition and fees that pay for a student's education. In addition, students incur attendance costs for books, supplies, transportation, and living expenses. These indirect costs can be some of the greatest barriers to affordability. Research by The Institute for College Access & Success (TICAS) reveals a student's ability to pay the full cost of attendance is an important factor in his or her success. As such, a student who cannot afford to fully cover access costs such as textbooks, transportation, food,



and housing may make choices that undermine their ability to complete their education. For example, they may need to work more hours at the expense of studying. In order to help students budget, colleges calculate the cost of attendance to estimate the price of college, which helps determine financial aid award amounts; this includes tuition, books and supplies, room and board, transportation, and miscellaneous personal expenses for an undergraduate California resident student. Costs change depending on a number of factors including campus location, student's housing situation (living with parents and living on or off campus), and personal expenses. The following shows the cost of attendance at a few select campuses within CA's public higher education system.

Cost of attendance:

- CSU Chico 2022-23
  - Living with Parents \$19,790.
  - Living in campus housing \$26,728.
  - Living off campus \$24,754.
- UC Berkeley 2022-23
  - Living with relatives \$30,872.
  - Living in campus housing \$43,554
  - Living off campus \$38,846.
- Pasadena City College (2021-2022)
  - Living at home \$15,811.
  - Living away from home \$24,469.

3) **Demand for financial aid reform.** California's financial aid system is primarily tuition focused, resulting in a system that provides grants or waivers to cover tuition costs for many low-income students attending CCC, CSU, and UC. However, programs that cover other college costs like housing, food, and textbooks are limited. Accordingly, students must rely on other sources to pay for remaining expenses such as institutional aid, self-help, federal grants or loans, and/or private scholarships or loans. In recent years, a number of related reports and workgroups have sought to rethink California's financial aid system to increase college affordability that would better serve students, particularly those from low-income households. Below is a list of recommendations and findings from recent reports.

- a) *Cal Grant Workgroup report (2020)* – The Cal Grant workgroup was formed by the Commission at the request of certain members of the Legislature. The workgroup consisted of representatives of higher education segments, students, staff from the Executive and Legislative branches, and key nonprofit and advocacy organizations. The group was charged with creating a plan and cost estimates to expand Cal Grant eligibility and better support students' costs. The result of the workgroup was published in a report in 2020, "Cal Grant Modernization: A vision for the future." The report highlights several issues with the existing programs and recommendations for reforms. As it relates to the cost of attendance, the report found that the current Cal Grant program is focused largely on covering tuition and fees; however, at the California public institutions of higher education, tuition comprises less than half of the total cost of

attendance. The report recommends that state aid be used to provide tuition guarantees for eligible low-and middle income Cal Grant students at four-year institutions, coordinate with four-year institutions to target institutional aid towards highest need students to provide access awards, and use state aid to provide access awards for highest need community college students. AB 1746 (Medina, 2022) is the designating vehicle for implementing many of the recommendations.

- b) *Charting the Course for Redesigning Financial Aid in California (2019)* – The report released by TICAS in 2019 produced recommendations on how to strengthen college affordability through meaningful and equitable financial aid reform that prioritizes those who have been most under-resourced and underserved. It outlines specific recommendations for policymakers to create an achievable debt-free pathway to a college degree or certificate for California residents. These recommendations are as follows: 1) Improve accuracy of colleges' cost estimates; 2) Set reasonable financial expectations for families and students; 3) Ensure reasonable non-financial eligibility terms for students; 4) Remove unnecessary and outdated barriers to financial aid and; 5) Communicate effectively with students and families. The group sought input from financial aid experts and stakeholders.
- c) *Creating a Debt Free College Program (2017)* –The 2016-2017 Budget Act directed the Legislative Analyst Office (LAO) to report to the Legislature with options for creating a new state financial aid program intended to eliminate the need for students to take on college debt. The reporting language envisioned a program under which the state covers all remaining college costs (tuition and living expenses) after taking into account federal grants, expected parent contribution, and an expected student contribution from work earnings. The LAO report cautions that moving the overall focus in California from covering direct education costs to also covering living costs would be a significant development—both because of the significant price tag and the associated policy and implementation issues. Most notably, unlike tuition charges, the Legislature has little control over students' living expenses and these expenses vary depending on students' particular circumstances and preferences. The report advises the Legislature to carefully examine all types of underlying investments and potential consequences.

This bill establishes a new working group to develop recommendations for a pilot program and submit those recommendations to the Legislature. The bill requires that the working group convene until July 1, 2025.

- 4) **Amendments.** This measure directs the proposed workgroup to focus its effort on the cost of postsecondary education; specifically, to cover those costs by replacing the system of charging students tuition, fees, and additional expenses for enrollment at a public postsecondary institution. Staff understands it is the intent of the author that the workgroup examines, in addition to fees and tuition, other costs associated with college attendance. However, as drafted, that directive in the bill remains unclear as cost of postsecondary education is

undefined and provisions referencing expenses for enrollment charged may not include indirect college costs. ***For these reasons staff recommends that the bill be amended as follows:***

66014.1 (a) (1) The Student Aid Commission shall convene, until July 1, 2025, a working group consisting of representatives from the department, the Board of Governors of the California Community Colleges, the Trustees of the California State University, the Regents of the University of California, and faculty, staff, and students from the California Community Colleges, the California State University, and the University of California to research and develop recommendations for the creation of a pilot program that would cover the cost of postsecondary education in the State of California by replacing the system of charging students tuition, fees, and addressing additional expenses associated with ~~for~~ attendance enrollment at a public postsecondary institution.

- 5) **Prior legislation.** AB 1970 (Jones-Sawyer, 2020) substantially similar to this measure, was held in the Assembly Higher Education Committee.

AB 1456 (Jones-Sawyer, 2014) would have required the Commission and the LAO to conduct a study of the effects of enacting legislation to establish a "Pay it Forward, Pay it Back Pilot Program". AB 1456 was held in Senate Rules Committee.

HR 49 (Jones-Sawyer, 2014) would have encouraged the LAO as the lead, and the CSAC to conduct a study, as specified, on the effects of enacting a "Pay it Forward, Pay it Back Pilot Program" as an alternative to existing student financial aid programs. HR 49 was held in Senate Rules Committee.

## SUPPORT

California Faculty Association

## OPPOSITION

None received.

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- i) Within this category, eligible children with the lowest income shall be enrolled first.
    - ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.
    - iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.
  - d) Forth priority, after all otherwise eligible children have been enrolled, is for children from families whose income is no more than 15 percent above the eligibility income threshold. Within this priority category, priority shall be given to four-year-old children before three-year-old children.
  - e) The fifth priority after all otherwise eligible children have been enrolled, is for a child with exceptional needs whose family's income is above the income eligibility threshold. Within this priority category, priority shall be given to four-year-old children before three-year-old children.
  - f) Authorizes after all otherwise eligible children have been enrolled in the first through fifth priority categories, a California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school to enroll any four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table. (Education Code § 8210)
- 2) Establishes the following priorities for enrollment in *full-day* state preschool programs:
  - a) First priority is for three- or four-year-old neglected or abused children who are recipients of child protective services.
  - b) Second priority is for eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.
    - i) Within this category, eligible children with the lowest income shall be enrolled first.
    - ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.
    - iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.

- c) Third priority is for eligible three-year-old children.
  - i) Within this category, eligible children with the lowest income shall be enrolled first.
  - ii) If two or more families have the same income ranking according to the most recent schedule of income ceiling eligibility table, a child with exceptional needs shall be enrolled first.
  - iii) If there are no families with a child with exceptional needs, the child that has been on the waiting list for the longest time shall be admitted first.
- d) Authorizes, after all otherwise eligible children have been enrolled in the first through fourth priority categories, the contractor to enroll the children in the following order:
  - i) The contractor may enroll three- and four-year-old children from families that meet eligibility criteria. Within this priority, contractors shall enroll families in income ranking order, lowest to highest, and within income ranking order, enroll four-year-old children before three-year-old children.
  - ii) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, the contractor may enroll any four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services. These families shall, to the extent possible, be enrolled in income ranking order, lowest to highest. (EC § 8211)
- 3) Establishes priority for federal and state subsidized child development services as follows:
  - a) First priority is for neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency.
  - b) Second priority is to be given equally to eligible families, regardless of the number of parents in the home, who are income eligible.
    - i) Within this priority, families with the lowest gross monthly income in relation to family size shall be admitted first.
    - ii) If two or more families are in the same priority in relation to income, the family that has a child with exceptional needs shall be admitted first.

- iii) If there is no family of the same priority with a child with exceptional needs, the same priority family that has been on the waiting list for the longest time shall be admitted first. (WIC § 10271)

## ANALYSIS

This bill adds children with a primary home language other than English to priority enrollment in state preschool and federal or state subsidized general child care programs. Specifically, this bill:

### *Part- and full-day state preschool programs*

- 1) Adds children from a family in which the primary home language is other than English within priority enrollment, after the existing priority for children who are abused or neglected, low-income four-year olds, and children with exceptional needs (and before children who have been on the waiting list).

### *Child care and development programs*

- 2) Adds children from a family in which the primary home language is other than English within priority enrollment, after the existing priority for children who are abused or neglected, low-income children, and children with exceptional needs (and before children who have been on the waiting list).

### *Other*

- 3) States legislative findings and declarations relative to prioritizing access to state preschool and childcare and developmental services for children who reside in homes in which the primary language is a language other than English.

## STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "Over half of California's children under the age of six speak a language other than or in addition to English at home. These children, who are commonly referred to as dual-language learners (DLLs), will be designated as English learners' (ELs) if they enter kindergarten or later grades without being fully proficient in English.

"Due to the COVID-19 pandemic related school shutdowns, DLLs and ELs have suffered academically, more so than every other category of student, with the exception of homeless youth. The LA Unified School district reported that the percentage of ELs failing their classes had increased 10%. Sacramento Unified School District reported that of the students that stopped reporting to classes, over 44% were ELs.

"Fortunately, students who transition out of the EL designation by achieving English proficiency are significantly more likely to succeed in the classroom than ELs in general. A Public Policy Institute of California report found that throughout grades 2-11, former ELs who became proficient in English scored significantly higher on statewide tests than ELs did in general, and even higher than native

English speakers did in some grade levels. A recent University of Chicago study confirms that ELs who achieved English proficiency by eighth grade actually performed as well and in some cases better on tests than their native English-speaking peers do. The sooner ELs learn English, the more likely they are to perform well in school.”

- 2) *Academic outcomes.* Several national and California-based studies have found that English-learners lag behind their native English-speaking peers academically, and those that do not achieve English-proficiency early fare the worst academically. According to these reports, DLLs who begin gaining proficiency in English before kindergarten are better prepared for entering K-12 education. [https://www.ppic.org/publication/californias-english-learner-students/#:~:text=Introduction,as%20EL%20is%20greater%20still;](https://www.ppic.org/publication/californias-english-learner-students/#:~:text=Introduction,as%20EL%20is%20greater%20still;https://www2.ed.gov/datastory/el-outcomes/index.html#introText)  
<https://www2.ed.gov/datastory/el-outcomes/index.html#introText>
- 3) *What do we know about young children who are dual language learners?* The California Department of Education (CDE) collects and publishes K-12 student demographic information that includes the identification of students who are English learners. Recently enacted legislation, AB 1363 (L. Rivas, Chapter 498, Statutes of 2021), requires the SPI to develop procedures for providers to identify and report data on DLLs enrolled in the state preschool program.

The Health Policy Brief “Families with Young Children in California: Findings from the California Health Interview Survey, 2011-2014, by Geography and Home Language” (May 2017) issued by the University of California at Los Angeles’ Center for Health Policy Research, uses data from the California Health Interview Survey for the years 2011-2014, to present findings on families with children ages birth to five years. Findings include that about 40 percent of households spoke English and another language, and 20.3 percent did not speak English in the home. Children in these two groups are considered dual language learners, accounting for almost 60 percent of the children in California age birth to five years.

[https://healthpolicy.ucla.edu/publications/Documents/PDF/2017/Child\\_PB\\_FINAL\\_5-31-17.pdf](https://healthpolicy.ucla.edu/publications/Documents/PDF/2017/Child_PB_FINAL_5-31-17.pdf)

- 4) *Professional development resources.* The California Department of Education offers the Dual Language Learners Professional Development Program for state-funded early learning and care programs, with DLL-specific training activities available from specified professional development providers. [Dual Language Learners Professional Development - Child Development \(CA Dept of Education\)](#)
- 5) *Master Plan for Early Learning and Care.* The Master Plan for Early Learning and Care, released in December 2020 by the California Health and Human Services Agency, recommended providing DLLs with high-quality language experiences in both English and their home language as a foundation for future academic success, noting that bilingualism has associated benefits such as strengthened cognitive and memory processes, improved communication abilities, social and cultural benefits, and advantages in employment. <https://cdn-west-prod-chhs-01.dsh.ca.gov/chhs/uploads/2020/12/01104743/Master-Plan-for-Early-Learning-and-Care-Making-California-For-All-Kids-FINAL.pdf>



- 6) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill would impose the following costs:
- a) CDE estimates one-time costs of \$188,000 (General Fund) in the first year, and \$188,000 in the second year, to write regulations and provide guidance to the field. These costs include one position for responding to questions from the field, developing and conducting ongoing training, and providing technical assistance necessary to reconcile this bill's provisions with the implementation of AB 1363 (Luz Rivas), Chapter 498, Statutes of 2021, which requires providers to identify and report data on dual language learners enrolled in the state preschool program.
  - b) CDE also notes potential costs, unknown at this time, for updating the Child Development Management Information System.
  - c) Negligible costs to the Department of Social Services.

**SUPPORT**

California Catholic Conference  
California School Employees Association

**OPPOSITION**

None received

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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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<b>Bill No:</b>	AB 452	<b>Hearing Date:</b>	June 1, 2022
<b>Author:</b>	Friedman		
<b>Version:</b>	May 17, 2022		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Lynn Lorber		

**Subject:** Pupil safety: parental notification: firearm safety laws

**NOTE:** This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

### SUMMARY

This bill requires local educational agencies (LEAs) to provide notification to parents of each student about California's child access prevention laws and laws relating to the safe storage of firearms, and requires the California Department of Education (CDE) to develop content for this notification in consultation with the Department of Justice (DOJ).

### BACKGROUND

Existing law:

- 1) Requires LEAs, at the beginning of the first semester or quarter of the regular school term, to send several specified notifications to parents or guardians. (Education Code § 48980)
- 2) Provides that a person is guilty of criminal storage of a firearm if the person keeps a loaded firearm within a premises with knowledge that a child is likely to gain access to the firearm. (Penal Code § 25100)
- 3) Makes it a crime to keep a handgun within a premises with knowledge that a child or person prohibited from possessing a firearm is likely to gain access if the child or prohibited person obtains access to the handgun and carries it off premises. (Penal Code § 25200)
- 4) Requires licensed firearms dealers to conspicuously post within the licensed premises specified safety warnings and information, including child access laws. (Penal Code § 26835)

### ANALYSIS

This bill requires local educational agencies (LEAs) to provide notification to parents of each student about California's child access prevention laws and laws relating to the safe storage of firearms, and requires the CDE to develop content for this notification in consultation with the DOJ. Specifically, this bill:

*Notification to parents*

- 1) Requires LEAs to inform the parents or guardians of each enrolled student about California's child access prevention laws and laws relating to the safe storage of firearms specified in the Penal Code.
- 2) Requires the notice to be provided at the beginning of each semester or quarter of the regular school term.
- 3) Requires the notice to be made by mail or electronically upon request, or by any other way usually used to communicate with parents in writing, and authorizes the notice to be provided as a single notice for multiple students living in the same household.

*Content of notification*

- 4) Requires CDE, in consultation with DOJ, to develop concise content for the notice by July 1, 2023.
- 5) Requires CDE, in consultation with DOJ, to update the content as necessary to reflect any changes in law by July 1, 2024, and each July 1 thereafter.
- 6) Requires CDE to share the content in both of the following manners:
  - a) With all LEAs for distribution to parents.
  - b) Upon request, with any private school for distribution or potential distribution by the private school.

*Immunity from civil liability*

- 7) Provides that LEAs, private schools, and CDE are immune from civil liability for any damages allegedly caused by, arising out of, or relating to the content described in this bill.

*Miscellaneous*

- 8) Provides the following definitions:
  - a) "Local educational agency" means a school district, county office of education, or charter school.
  - b) "Private school" means a person, firm, association, partnership, or corporation offering or conducting private school instruction in the state.
  - c) "Private school instruction" means instruction at the elementary or high school level for one or more pupils who are 6 to 18 years of age, inclusive. Private school instruction includes, but is not limited to, instruction by conventional or traditional private schools, private school satellite programs, private online or

virtual schools, and certified nonpublic nonsectarian schools.

- 9) States legislative findings and declarations relative to children's access to firearms stored in their family's homes and the need to educate gun owners to protect children from death and injury.

## STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "Gun violence is an urgent, complex, and multifaceted problem. It requires evidence-based, multifaceted solutions. Gun violence prevention measures for our schools should focus on educating kids and parents about the dangers of firearms and importance of safe storage. 75% of school shootings are facilitated by kids having access to unsecured and/or unsupervised guns at home; 87% of kids know where their parents' guns are kept, and 60% have handled them. Over 80% of teens who commit suicide with a gun used one that belonged to someone in their home. Guns are the third leading cause of death for kids in America. Every day, two children and teens either die from suicide or survive a suicide attempt. Every day, 8 children and teens are shot in instances of family fire — a shooting involving an improperly stored or misused gun found in the home resulting in injury or death."
- 2) *Effects of child access prevention laws.* According to several studies, including "The Effects of Child-Access Prevention Laws," released by RAND in April 2020, child access prevention laws may decrease suicide, unintentional injuries and deaths, and violent crime. This report further noted "Since 2003, only one individual-level study provided information on the association between firearm storage practices and unintentional injuries. Grossman et al. (2005) found that cases of unintentional firearm-related injury or death were less likely to occur in households where guns were stored unloaded or locked or where guns and ammunition were stored separately."  
<https://www.rand.org/research/gun-policy/analysis/child-access-prevention.html>
- 3) *Informing parents.* In November of 2019, the Superintendent of Public Instruction released a letter to county and district superintendents and charter school administrators titled "Safe Storage of Firearms and School Safety and Security," and included the following statements: "District and school administrators must help educate parents and guardians about California's child access prevention laws... This is an urgent request to inform your school community about the law regarding safe storage of firearms. Sample templates (in English and Spanish) for memoranda to parents and guardians informing them of the laws in California regarding safe storage of firearms are available on the CDE Violence Prevention webpage. You may use these documents, or create your own, to help educate parents, guardians, and families of their legal responsibilities." This letter also includes a link to "Rules for Kids" on the DOJ's Firearm Safety website.  
<https://www.cde.ca.gov/nr/el/le/yr19ltr1120.asp>

The Los Angeles Unified School District Board of Education adopted a "Safe Gun Storage Measure in June of 2019, requiring that a letter be sent home to parents and guardians in English and Spanish, to inform them about laws pertaining to safe gun storage. The measure also requires parents to sign a letter each year

acknowledging their understanding of their firearm storage responsibilities and requires schools to maintain these documents on file in a central location for three years. This letter was sent to parents on September 9, 2019.

<https://achieve.lausd.net/cms/lib/CA01000043/Centricity/Domain/318/Safe%20Gun%20Storage%20-%20Letter%20to%20Parents%20English-Spanish.pdf>

- 4) *Firearms used in school shootings.* A 2004 report by the United States Secret Service and United States Department of Education found that over two-thirds of school shooters acquired the gun (or guns) used in their attacks from their own home or that of a relative (68 percent). [The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the US \(PDF\) \(ed.gov\)](#)
- 5) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill would impose the following costs:
  - a) Absorbable one-time General Fund (GF) costs for CDE to provide a sample notification. Minor ongoing GF costs to CDE and the Department of Justice to update the notification.
  - b) Ongoing Proposition 98 GF costs for schools to provide the new parental notification. If schools provide the notification as a printed one-page document, costs would be about \$.10 per notification. If schools use online messaging systems, as many do, costs would be lower. Statewide costs would depend on the number of schools providing the notification as a printed document versus online. For example, if 25% of the state's 6.2 million students received the notification as a printed one-page document, costs would total \$155,000 statewide annually.

In the past, the Commission on State Mandates (CSM) determined parental notifications to be a reimbursable state mandate. The CSM determined the notifications required by Education Code section 48980 to be a reimbursable state-mandated local program. In 2004, the commission determined claimable costs to be \$.0697 per page (with annual inflation adjustments), multiplied by a maximum number of claimable pages, multiplied by the number of notifications distributed. Accordingly, school districts may apply for state reimbursement for costs associated with providing required notifications. Schools also may opt to participate in the K-12 Mandates Block Grant program, which provides a set amount annually for performing all mandated K-12 activities, including parental notifications.

- 6) *Related legislation.* SB 906 (Portantino) (1) requires LEAs to annually provide information to parents or guardians about California's child access prevention laws and laws relating to the safe storage of firearms; (2) requires school officials to report to law enforcement any threat or perceived threat of an incident of mass casualties; and (3) requires law enforcement or the school police to conduct an investigation and threat assessment, including a review of DOJ's firearm registry and a search of the school and/or students' property by law enforcement or school police. SB 906 is pending in the Assembly.

- 7) *Prior legislation.* Early versions of AB 276 (Friedman, 2020) were substantially similar to this bill. The contents of AB 276 were subsequently amended to relate to a different topic.

**SUPPORT**

Brady Campaign (sponsors)  
Brady Campaign California (sponsors)  
City of Burbank  
City of Solana Beach  
Everytown for Gun Safety Action Fund  
Moms Demand Action for Gun Sense in America  
National Association of Social Workers, California Chapter  
Students Demand Action for Gun Sense in America  
Women for American Values and Ethics (WAVE) Action Fund

**OPPOSITION**

None received

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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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<b>Bill No:</b>	AB 524	<b>Hearing Date:</b>	June 1, 2022
<b>Author:</b>	Rodriguez		
<b>Version:</b>	May 23, 2021		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Olgalilia Ramirez		

**Subject:** Postsecondary education: Campus-Recognized Sorority and Fraternity Transparency Act

### SUMMARY

This bill requires, beginning October 1, 2023, an institution of higher education to collect and post on its campus website and annually email to all enrolled students a report containing certain information about its campus-recognized sororities and fraternities.

### BACKGROUND

Existing federal law requires, under Title IX and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), colleges and universities, as a condition of federal student aid program participation, to:

- 1) Publish annual campus security reports, maintain crime logs, and provide timely warnings of crimes that present a public safety risk, and maintain ongoing crime statistics.
- 2) Establish certain rights for victims of sexual assault, including notification to victims of legal rights, availability of counseling, the results of disciplinary proceedings, safety options for victims, and offering prevention and awareness programs. (United States Code, Title 20 §1681-1688, and §1092(f))

Existing state law:

- 1) Requires the governing board of each community college district, the Trustees of the California State University (CSU), the Regents of the University of California (UC), and the governing boards of independent postsecondary education institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of all occurrences reported to the campus of, and arrests for, crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication. (Education Code (EC) § 67380)
- 2) Requires any report made by a victim or an employee regarding specified violent crimes, sexual assault, or a hate crime which is received by a campus security authority and has been made by the victim for purposes of notifying the institution or law enforcement, to be disclosed immediately, or as soon as practicably possible, to the local law enforcement agency with which the institution has a

written agreement clarifying operational responsibilities for investigations. (EC § 67380)

- 4) Requires the governing board of each community college district, the Trustees of the CSU, the Board of Directors of the Hastings College of the Law, and the Regents of the UC to each adopt and implement at each campus or other facilities, a written procedure or protocol to ensure, to the fullest extent possible, that students, faculty and staff who are victims of sexual assault committed on grounds maintained by the institution or affiliated student organizations receive treatment and information. (EC § 67385)
- 5) Requests the Trustees of the CSU, the Regents of the UC, and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior and, if the institution expends funds to support activities related to campus climate, as defined, to adopt and publish the above-described policies. (EC Section 66302)

## ANALYSIS

This bill:

### *Campus Recognition Requirements*

- 1) Requires each institution of higher education to include in the institution's requirements for campus recognition of each campus-recognized sorority or fraternity, both of the following requirements:
  - a) A requirement that the campus-recognized sorority or fraternity submit to the institution, for the specified academic year, by July 1, 2023, and annually thereafter, all of the following:
    - i) The number of active members in the organization.
    - ii) The number of new members added to the organization
    - iii) The grade point average (GPA) of the membership and new members of the campus-recognized sorority or fraternity.
    - iv) The number of community service hours completed as an organization.
    - v) The total amount of money earned through fundraising by the organization.
    - vi) Its current recognition status as determined by the institution.
    - vii) Its current conduct status as determined by the institution.
    - viii) The addresses of all chapter houses affiliated with the organization.



- ix) The location, date, and time of any sanctioned event.
  - x) Any additional information the institution may require.
  - b) A requirement that campus-recognized sorority or fraternity that does not comply with reporting requirements be suspended from campus recognition.
- 2) Provides that a sorority or fraternity that satisfies both of the following is encouraged to comply with the reporting requirements in the bill:
- a) The sorority or fraternity has more than 50 percent of its members enrolled at the institution.
  - b) The sorority or fraternity is not recognized as an affiliated sorority or fraternity of the institution by the official authorizing body of that institution.

#### *Accessibility of the Report*

- 3) Requires, beginning October 1, 2023, the institutions to compile and maintain, as specified, the information reported pursuant to the bill into a publicly accessible annual report published on each campus Greek Life internet homepage or its equivalent in a prominent location and that:
- a) The report be sent through a campus-wide email to all enrolled students, as specified.
  - b) The report include a list of available mental health resources.
  - c) The report include the residence addresses of all campus-recognized sorority and fraternity chapter houses.

#### *Reporting of Disciplinary Action*

- 4) Requires an institution of higher education to include in the annual report the following for each campus recognized sorority and fraternity and participating sorority or fraternity for the academic year immediately preceding the reporting deadline:
- a) The number of citations, or disciplinary actions taken, relating to misconduct at a chapter house or sanctioned event.
  - b) The addresses of chapter houses and sanctioned events and names of sororities and fraternities where misconduct occurred.
- 5) Exempts institutions that do not have campus-recognized sororities or fraternities from the requirements outlined in the analysis in 4) above.

#### *Adherence to Privacy Laws*

- 6) Notwithstanding the requirements in the bill, and requires that the report complies with all applicable state and federal privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act.

### *Definitions*

- 7) Defines various terms for the purposes of the bill including all of the following:
  - a) "Campus-recognized sorority or fraternity" to mean a sorority or fraternity that has officially met the formal chartering and recognition requirements at the institution where it operates. The definition does not include a collegiate honor society.
  - b) "Chapter house" to mean any residence located on or off-campus that is owned by the institution of higher education but occupied by a campus-recognized sorority or fraternity, or any residence located on or off-campus that is owned and occupied by the campus-recognized sorority or fraternity.
  - c) "Institution of higher education" or "institution" to mean a campus of the California Community Colleges, the CSU, or the UC, a private postsecondary educational institution, or an independent institution of higher education.
  - d) "Misconduct" to mean any conduct in violation of institutional policies reportable under section 1092 (f)(1)F(II) and (IX) of Title 20 of the USC, as it read January 1, 2022, or hazing as defined in subdivision (b) of Section 245.6 of the Penal Code.
  - e) "Participating sorority or fraternity" means a sorority or fraternity that has more than 50 percent of its members enrolled at an institution of higher education and is not recognized as an affiliated sorority or fraternity.
  - d) "Sanctioned event" to mean any event in which one of the following occurs:
    - i) The institution deems the event to be sanctioned by a fraternity or sorority according to their campus policies and practices.
    - ii) The name of a campus-recognized sorority or fraternity or participating sorority or fraternity is used to market or publicize or is displayed at the event.
    - iii) A campus-recognized or participating sorority or fraternity's physical or digital media or other means of distribution is used to invite attendees or publicize the event.
    - iv) Official funds of a campus-recognized or participating sorority or fraternity are used for the purchase and reimbursement of specified costs associated with the event.

- v) A campus-recognized or participating sorority or fraternity or a benefactor officially affiliated with the sorority or fraternity, receives any portion of funds raised from attendance fees, ticket sales, or other forms of admission fees associated with the event.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Current law does not disaggregate information on individual organizations, including the violations, citations, or other misconduct. Throughout the country and state, a growing number of universities and colleges have voluntarily take on a scorecard system. These standardized reports allow students and their families to compare student organizations across their universities or colleges for membership honors and misconduct.

"As California colleges and universities continue to grapple with developing policies and procedures to protect students, data suggests more can be done to curb behavior related to assaults, sexual assaults, hazing and general misconduct. In the National Study of Hazing: Examining and Transforming Campus Hazing Cultures, the study found that 55 percent of students involved in clubs, teams and organizations experienced hazing. Misconduct jeopardize the health and safety of students and disrupt the learning environments in higher education institutions. Too many lives have been impacted by sexual violence and hazing at California colleges and universities. For example, a news outlet reported that one in five women are sexually assaulted in four years at school – and evidence suggests campus sexual violence is underreported. While progress has been made in curbing sexual violence and excessive drinking, there is still a culture on campuses and within some organizations, which must change. With more transparency, students and families can make informed decisions about the social and professional organizations they choose to invest time, resources, and personal safety into joining."

- 2) **Reporting disciplinary action.** This bill requires, for the proposed annual report, the inclusion of citations and disciplinary actions taken against each sorority or fraternity for misconduct that occurred at specific locations and information about that location. Specifically, citations and disciplinary actions for hazing or sex offenses and liquor law violations, drug-related violations, and weapons possession reportable under the federal Clery Act. The Clery Act requires colleges and universities that receive federal funding to disseminate a public annual security report to all current faculty, staff, and students. It includes statistics concerning reported crimes that occurred on campus, and in certain off-campus buildings. This bill would require a new report that would have several pieces of information which overlap with campus Clery reports. The proposed report, however, would solely feature the membership of sororities and fraternities and the conduct of its members at sanctioned events whether those events occur on or off-campus.
- 3) **Disclosure of non-criminal activity and student privacy.** In addition to the information mentioned above, fraternities and sororities would be required to provide other data as a condition for campus recognition. This includes, in part,

community service hours completed by the organization, the average GPA of its membership, and the address of each chapter house. Student privacy laws generally prohibit the improper disclosure of personally identifiable information derived from education records. Although the bill notwithstanding its provisions in recognition of these laws, should this bill move forward today, the author may wish to continue working with institutions to ensure that the requirements in the bill do not conflict with state and federal privacy laws.

- 4) **Sanctioned events.** Concerns have been raised around the expanded definition of sanctioned events defined in this measure and the feasibility for colleges to track any event deemed as sanctioned for multiple organizations on campus. For example, the identification of events that are promoted using the organization's digital media to invite attendees. The bill's provisions, however, hold organizations and not the college responsible for submission of the location, date, and time of any sanctioned event for reporting purposes. Arguably, self-reported data is not reliable however, failure of the organization to comply with these provisions could result in its suspension.

#### **SUPPORT**

Students Against Sexual Assault

#### **OPPOSITION**

None received.

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## ANALYSIS

This bill requires the CCC BOG to adopt regulations that require the fall of 2023 full-time faculty obligation from each CCD to be set to the actual full-time faculty number reported for fall of 2022 and annually adjusted pursuant to regulations.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Investments in full-time faculty are not being maximized because the current Faculty Obligation Number (FON) is based on 30-year-old numbers from 1988 when the FON was established in AB 1725 (Vasconcellos). Currently, all 72 community college districts are over their FON, in some cases by hundreds of faculty. Presently, when funds are allocated in the budget specifically for new full-time faculty hiring it results in an increase to a district's FON; however, those funds are often not used for hiring full-time faculty at districts that are well above their FON.

"Rebenching the FON to the present full-time faculty values reported by the districts is a cost neutral way to ensure that future investments in new full-time faculty hiring actually result in more full-time faculty hiring and movement toward the 75/25 full-time/part-time goal of the original FON bill – which no district current meets."

- 2) **Full-time Faculty Obligation Number.** In recognition of the value of full-time faculty on educational outcomes, state law includes a legislative goal that at least 75% of the hours of credit instruction within the CCC system should be taught by full-time faculty. Existing regulations require specified steps to be taken by CCDs to achieve the 75% standard, typically if state funding increases. By November 20 of each year, the BOG must determine whether adequate cost-of-living adjustment funds, growth funds, and funds for other core programs have been provided in the State Budget to allow full or partial implementation of the increase in full-time faculty hiring obligations. If the BOG determines there sufficient funds, the BOG uses a formula that includes enrollment levels to determine how many full-time faculty each district must add. This process is referred to as the Full-Time Faculty Obligation Number or FON. It represents the number of full-time faculty members each community college district must hire.

According to the California Community College Chancellor's Office's (CCCCO) Annual District FON Compliance report for 2021, systemwide 59.3% of faculty are full-time (i.e. Full-Time Equivalent Faculty (FTEF)), with only two CCC districts falling below their FON obligation (by a total of 2.5 faculty). Notably, districts are meeting their obligation number but the systemwide average of 59.3% falls below the state's goal of the 75% standard. This bill seeks to re-bench the base number of the FON to reflect actual staffing levels regardless if those staff levels are at or above a district's current obligation. Annual adjustments can be made according to existing regulations.

- 3) **Can FON adjust downward if enrollment declines?** The FON can adjust each year and it can adjust downward if enrollment declines. As specified in

regulations, for CCDs that experience a reduction in base credit Full-Time Equivalent Students (FTES), the Chancellor is required to make a proportionate reduction to their base number of full-time faculty (Title 5 Sections 51025 (g) and Title 5 51025 (c)(1)). Although the base FON can decline with FTES declines, the implementation of such changes at the CCD level may take time. This bill does *not* change current rules for adjusting the formula.

- 4) **Related CCC Workgroup Activity.** In 2015, CCC Chancellor Brice Harris commissioned a small workgroup of faculty and administrators to explore the 50 percent Law (Education Code Section 84362) and the Faculty Obligation Number (FON, Title 5 Sections 51025 and 53311) and, if possible, develop a reform proposal. The workgroup considered a number of relevant issues, including the changing environment since these laws were enacted in 1961 and 1988, respectively. The discussion focused on the greater need for instructional support services inside and outside the classroom, increased emphasis on accountability, and greater dependence on instructional technology. The group also explored ways in which the system might make steady progress toward the goal of 75 percent of instructional hours being provided by full-time faculty. The workgroup developed proposals for revising the 50 percent Law and the FON, together. However, these discussions constituted only the first step in the process. The workgroup agreed that a further set of meetings to review statistical data and establish the recommended changes were required in order for these proposals to move forward.

Late in 2017, Chancellor Eloy Ortiz Oakley requested the workgroup to reconvene and consider revisions to its original proposal in order to align it with the California Community Colleges' Vision for Success document accepted by the BOG in July 2017; and, in early 2019, Chancellor Oakley requested the workgroup to consider revisions to the original proposal in light of the enactment of the Student Centered Funding Formula. The workgroup concluded its work and the recommendations had been scheduled for discussion by Consultation Council on April 18, 2019. Staff understands that the recommendations failed to gain sufficient support with the system to move forward to the BOG for consideration.

- 5) **Related Budget Activity.** The Legislature has acted to allocate funds for full-time faculty at CCCs in recent years. The 2018 Budget Act provided \$50 million in ongoing funding specifically for hiring new full-time faculty, and the 2021 Budget Act added an additional investment of \$100 million ongoing.
- 6) **Fiscal Impact.** According to the Assembly Appropriations analysis, the bill could have the following fiscal impact:
- No new costs in the first year, followed by potential cost pressures in the millions to some colleges that are significantly about their current faculty obligation and could lose some flexibility to reduce full-time faculty in the future.
  - The CCC Chancellor's Office has noted that some colleges could face budget pressures under this bill after a COVID-19 pandemic emergency order is lifted. The Chancellor's Office has issued an emergency order, now in place

through the 2021-22 fiscal year, during the pandemic to allow colleges to receive stable enrollment funding even if they have experienced enrollment declines. This emergency order has frozen the FON in place even if enrollment has declined. The Chancellor's Office notes that once the emergency order expires, some colleges could face lower enrollment funding but a higher FON based on this bill. The FON formula does account for enrollment levels, however, so colleges facing enrollment declines would have a lower FON.

- 7) **Arguments in Support.** According to the Academic Senate for California Community Colleges (ASCCC), "Full-time faculty are the backbone of the California Community Colleges system. Faculty's duties involve much more than teaching classes: faculty develop curriculum, advise and work with students outside of class time, serve on committees for college governance and other matters, and perform numerous other functions as well as participating in professional development to stay current in their disciplines and teaching methods. In order to meet these various obligations, faculty need the financial security and time commitment of full-time positions..." The ASCCC further asserts that in order to promote student success and academic excellence, it has long supported updating the FON to achieve the goal of 75% of instruction being provided by full-time faculty.
- 8) **Arguments in Opposition.** According to a letter submitted by North Orange County Community College District, "Unfortunately, by arbitrarily changing the minimum number of full-time faculty, AB 1505 (Rodriguez) would limit our District's ability to achieve our student success and operational goals. If implemented, the costs of AB 1505 (Rodriguez) would force us to make hard choices ranging from maintaining salary obligations for our current employees, funding critical programs supporting the basic needs of our students to fully supporting the career and technical education or academic pathways we know that both our students and community need."
- 9) **Prior Legislation.**

SB 777 (Rubio, 2019) would have modified provisions relating to the percent of credit instruction taught by full-time faculty at the California Community Colleges (CCC) by requiring in statute districts below the 75 percent threshold to annually reduce by 5 percent the deficit between their existing full-time faculty percentage and the 75 percent goal, rather than applying a portion of their "program improvement" funds toward reaching that 75 percent goal. SB 777 was held in the Assembly Higher Education Committee.

ACR 32 (Medina, Resolution Chapter 142, 2017) encouraged the CCC Chancellor's office, in consultation with affected stakeholders, to develop proposals for legislative consideration to address the longstanding challenges to achieving the goal of 75 percent of credit classroom instruction taught by full-time faculty and compensation equity for part-time faculty.

SB 373 (Pan, 2015) would have established the Community College Excellence in Education Act and set a cap on the number of part-time faculty for each



community college district based on the 2014-15 fiscal year, thereby limiting new hires to only full-time faculty until the district reached a 75% threshold of full-time faculty. SB 373 was held in the Senate Appropriations Committee.

AB 1343 (Mendoza, 2007), would have required the CCC and the California State University to achieve 75% full-time equivalent faculty by 2014-15, to achieve certain standards in pro-rata salary and benefits, and provided preferential treatment for part-time faculty in the hiring process for new full-time faculty positions. AB 1343 was held in the Assembly Appropriations Committee.

AB 1725 (Vasconcellos, Chapter 973, Statutes of 1988) required CCCs with less than 75% of their hours of credit instruction taught by full-time instructors are to apply a portion of their program-improvement allocation funds toward reaching the 75% goal.

## **SUPPORT**

California Community College Independents  
California Federation of Teachers Afl-cio  
California Labor Federation, Afl-cio  
Faculty Association of California Community Colleges

## **OPPOSITION**

Antelope Valley College  
Association of California Community College Administrators  
Association of Community and Continuing Education  
Butte College  
Chaffey College  
Citrus Community College District  
Coast Community College District  
College of The Sequoias  
College of The Siskiyous  
Community College League of California  
Copper Mountain Community College District  
Feather River Community College District  
Imperial Valley College  
Lassen College  
Marin Community College District  
Mendocino Community College District  
Merced Community College District  
Miracosta Community College District  
Modesto Junior College  
Monterey Peninsula College  
Mt. San Antonio College  
Mt. San Jacinto Community College District  
Napa Valley College  
North Orange County Community College District  
Ohlone College

Palo Verde Community College District  
Pasadena Area Community College District  
Rancho Santiago Community College District  
Rio Hondo College  
Riverside Community College District  
San Diego Mesa College  
San Jose-evergreen Community College District  
San Luis Obispo County Community College District / Cuesta College  
Santa Barbara City College  
Shasta-tehama-trinity Joint Community College District  
Sierra Community College District  
Solano Community College  
South Orange County Community College District  
Ventura County Community College District  
West Hills Community College District  
Yosemite Community College District  
Yuba Community College District

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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<b>Bill No:</b>	AB 552	<b>Hearing Date:</b>	June 1, 2022
<b>Author:</b>	Quirk-Silva		
<b>Version:</b>	January 27, 2022		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Kordell Hampton		

**Subject:** Integrated School-Based Behavioral Health Partnership Program.

**Note:** This bill has been referred to the Committees on Education and Health. A "do pass" motion should include a referral to the Committee on Health.

## SUMMARY

This bill authorizes a county behavioral health agency (CBHA) and the governing board or governing body of a local educational agency (LEA) to enter into an Integrated School-Based Behavioral Health Partnership Program (Partnership Program), to provide prevention and early intervention, and access to, behavioral health and substance use disorder services for pupils at schoolsites.

## BACKGROUND

Existing law:

Education Code (EC)

- 1) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)
- 2) Specifies that school districts are not precluded from utilizing community-based service providers, including volunteers, individuals completing counseling-related internship programs, and state licensed individuals and agencies to assist in providing pupil personnel services, provided that such individuals and agencies are supervised in their school-based activities by an individual holding a pupil personnel services authorization. (California Code of Regulations, Title 5, Section 80049.1(c))
- 3) Requires the Superintendent of Public Instruction to post, and annually update, on the California Department of Education's website a list of statewide resources, including community-based organizations, that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying. The website must also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community. (EC § 234.5)
- 4) Requires school districts to send a notification to parents or guardians at the beginning of the first semester or quarter of the regular school term, with specified

information including parent rights and responsibilities among other things. (EC § 48980)

- 5) Authorizes parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the child shall be exempt from any physical examination, but whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist. (EC § 49451)

#### Family Code (FAM)

- 6) Authorizes minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the attending professional person believes the minor is mature enough to participate intelligently in the outpatient services or residential shelter services and would present a danger of serious physical or mental harm to self or to others or alleged to be a victim of incest or child abuse. (FAM § 6924(b))
- 7) Requires the mental health treatment or counseling of a minor to include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian. (FAM § 6924(d))
- 8) Clarifies the minor's parents or guardian are not liable for payment for mental health treatment or counseling services, and any residential shelter services, provided pursuant to this section unless the parent or guardian participates (FAM § 6924 (e))

#### Health and Safety Code (HSC)

- 9) Authorizes minor who is 12 years of age or older may consent to outpatient mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services. (HSC § 124260 (b))
- 10) Clarifies minor cannot receive convulsive treatment or psychosurgery, as defined in Welfare and Institutions Code (WIC), or psychotropic drugs without the consent of the minor's parent or guardian. (HSC § 124260 (e))

#### ANALYSIS

This bill authorizes a CBHA and the governing board or governing body of a LEA to enter into a Partnership Program, as established by this bill, to provide prevention and early intervention, and access to, behavioral health and substance use disorder services for pupils at schoolsites. Specifically, this bill:

*General Provisions*

- 1) Establishes the Partnership Program to provide prevention and early intervention for, and access to, behavioral health services for pupils with serious emotional disturbances or substance use disorders, or who are at risk of developing a serious behavioral health condition.
- 2) Authorizes a CBHA and the governing board or governing body of an LEA to develop a memorandum of understanding (MOU) outlining the requirements for the Partnership Program, as established by this bill, to conduct a needs assessment on the need for school-based mental health and substance use disorder services.
- 3) Requires LEAs, upon entering into an MOU with a CBHA, to provide school-based locations, including space at schools, appropriate for the delivery of behavioral health services.
- 4) Specifies CBHA and participating entities must collaborate with an LEA to establish hours of service at mutually agreed upon school-based locations or a process for ensuring timely interventions when needed, or both.
- 5) Requires the Partnership Program to identify if mental health services and/or substance use disorder services, will be delivered at the school-based location and/or telehealth.
- 6) Requires if a Partnership Program determines that only mental health services or only substance use disorder services shall be provided at the school-based location, the Partnership Program to develop a plan for each pupil who has been identified as needing those services that are not offered at the school-based location along with an appropriate referral.
- 7) Clarifies behavioral health services may be provided at locations that are not at the school-based location for purposes of accommodating the individual needs of a pupil.
- 8) Clarifies Medi-Cal covered behavioral health services may continue to be delivered at the school-based location beyond the delivery of brief initial interventions upon consulting with a pupil's parent or guardian.
- 9) Requires an LEA, CBHA, and partnering entities to jointly develop a referral process to support school personnel in making appropriate referrals to the designated behavioral health professional.
- 10) Authorizes the designated behavioral health professional to provide brief initial interventions when necessary for all-referred pupils, regardless of their health

coverage, to ensure timely access to behavioral health interventions at the earliest onset of a behavioral health condition.

- 11) Specifies the array of behavioral health services provided by the Partnership Program shall be a subset of Medi-Cal covered mental health or substance use disorder services, and shall include prevention, intervention, and, if necessary, brief initial interventions, within a multitiered system of support or other similar framework employed by the LEA.
- 12) Clarifies that the Partnership Program shall not be construed to modify, expand, or restrict applicable patient privacy and parental rights.
- 13) Clarifies that a Partnership Program does not replace current county requirements related to crisis intervention protocols and crisis intervention services.
- 14) Requires a CBHA and an LEA to establish a process or timely interventions that identify nonurgent, urgent, and crisis-related circumstances and guidelines for when county crisis intervention is needed instead of timely interventions related to urgent or nonurgent needs.
- 15) Clarifies the Partnership Program shall not create a siloed delivery system and develop processes to leverage community-based services and other resources, and a process to identify local resources related to crisis intervention protocols and services.

#### *County Behavioral Health Agency*

- 16) Requires a CBHA to designate and provide, through its own staff or through its network of contracted participating entities, one or more behavioral health professionals that meet the licensing and supervision to serve pupils with serious emotional disturbances or substance use disorders, or who are at risk of developing a serious behavioral health condition.
- 17) Clarifies that, to secure Medicaid federal matching funds for school-based services, a CBHA must require any behavioral health professional who provides mental health or substance use disorder services pursuant to a Partnership Program to contract with the health agency to provide those services and to hold an active license or credential as specified.

#### *Reporting to the Department of Health Care Services (DHCS) and the Mental Health Services Oversight and Accountability Commission (MHSOAC)*

- 18) Requires a Partnership Program to annually report to DHCS and the MHSOAC, all of the following:
  - a) A brief description of the Partnership Program, including the service delivery model.
  - b) The financial contribution made by the county behavioral health agency and LEA participating in the Partnership Program.

- c) The definition the Partnership Program uses to identify pupils "at risk of developing a serious behavioral health condition," as specified.
  - d) The number of school-based locations involved in the Partnership Program and the percentage of pupils who are Medi-Cal beneficiaries at each school-based location.
  - e) The number of pupils served in the last year including demographic data of the pupils' race, ethnicity, gender, and language.
  - f) The number of pupils who receive school-based services beyond the brief initial intervention as specified.
- 19) Requires, three years after the establishment of a Partnership Program and every three years thereafter, MHSOAC in collaboration with DHCS to report to the Legislature on the Integrated School-Based Behavioral Health Partnership Program as specified.

#### *Pupils with Private Insurers*

- 20) Requires an LEA and a CBHA to develop a process to collect information on the health insurance carrier for each pupil, with the permission of the pupil's parent or guardian, to allow the county behavioral health agency or the participating entity to seek reimbursement for behavioral health services provided to the pupil and informing each participating entity which pupils are privately insured.
- 21) Includes provisions related to how insured pupils will be served if the parent does not provide information about the insurer, appointments with and referrals to network providers, and reimbursements and payments.

#### *Pupils with Exceptional Needs*

- 22) Authorizes a Partnership Program to provide services to pupils with exceptional needs, including, but not limited to, services required by the pupil's individualized education program, and delineate responsibilities for any services provided to pupils with exceptional needs that are included in a pupil's individualized education program, that are consistent with state and federal law related to pupils with exceptional needs as specified.

#### *Definitions*

- 23) Defines, for the purposes of this bill, the following:
- a) "At risk of developing a serious behavioral health condition" as defined by the applicable county behavioral health agency and LEA pursuant to the Partnership Program established.
  - b) "Brief initial intervention" as Medi-Cal covered behavioral health services that are a subset of essential health benefits, as defined in state and federal law.

- c) "Intervention" and "intensive intervention services" as select Medi-Cal specialty mental health services and substance use disorder services that would be appropriately provided at a school-based location or through telehealth, including assessments, plan developments, therapy, substance use counseling, rehabilitation, collateral services, medication support services, therapeutic behavioral services, case management, recovery services, and intensive care coordination.
- d) "Local education agency" (LEA) as a school district, county office of education, or charter school.
- e) "Participating entity" as a community-based organization or other entity, including an LEA that has contracted with a county behavioral health agency to provide services and participate in the Partnership Program.
- f) "Partnership Program" as an integrated school-based behavioral health Partnership Program established by a county behavioral health agency and the governing board or governing board or governing body of an LEA, which may also include other participating entities.
- g) "Privately insured pupil" as a pupil with comprehensive health coverage that is not run by the state or federal government.

#### *Findings and Declarations*

- 24) Finds and declares that the COVID-19 pandemic has affected the mental health of children and adolescents causing an increase in depression, anxiety, and risky substance use and how Schools have been identified as a crucial place to provide behavioral health services and improve access to services for pupils.

#### **STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author "As California grappled with the COVID-19 pandemic, we had and continue to experience an unprecedented rise in behavioral health needs among children and youth. According to the Centers for Disease Control and Prevention, the proportion of children's mental health-related emergency department (ED) visits among all pediatric ED visits increased and remained elevated during the pandemic. Compared with 2019, the proportion of mental health-related visits for children aged 5–11 and 12–17 years increased approximately 24% and 31%, respectively throughout the pandemic. Even as students have been back to school for about a year, isolation, anxiety over the uncertainty of the immediate and long-term future, increase in suicide thoughts and attempts, and concerns with family have and will continue to take a toll with children and youth."

"AB 552 would establish the Integrated School-Based Behavioral Health Partnership Program to provide early intervention for, and access to, behavioral services for *all* students. This collaboration will give schools the additional support



in order to provide behavioral health and mental health as well as substance use disorder services to their students.”

- 2) ***Increasing occurrences of pupil mental health issues.*** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 months.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients' ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) ***SB 75 (Committee on Budget and Fiscal Review; Chapter 51, 2019).*** As a result of increasing mental health occurrences, the legislature passed SB 75. This bill required the Department of Education, the Department of Health Care Services, and the Department of Developmental Services to jointly convene one or more workgroups to provide input to the following:

- Improving transition of three-year-old children with disabilities from regional centers to local educational agencies, to help ensure continuity of services for young children and families.
- Improving coordination and expansion of access to available federal funds through the LEA Medi-Cal Billing Option Program, the School-based Administrative Activities Program, and medically necessary federal Early and Periodic Screening, Diagnostic, and Treatment benefits.

The report on improving coordination and expansion of access to Medi-Cal systems summarizes the context, process, and resulting recommendations of the workgroup. The workgroup identified five overarching recommendations to improve the coordination and expansion of access to available federal reimbursement for LEAs through Medi-Cal Billing Option Program and the School-Based Medi-Cal Administrative Activities Program. Specifically, it includes program requirements (e.g., changes to interagency coordination practices) and support services (e.g., training and technical assistance) needed to improve the coordination and expansion of LEA access to Medicaid funds for student health services.

- 4) ***Funding for School-Based Mental Health Services in California.***

*LEA Billing Option Program (BOP)*. This program was established in 1993 and is administered by the DHCS, in collaboration with the CDE. The LEA BOP reimburses LEAs (school districts, county offices of education, charter schools, community colleges, and university campuses) for health-related services provided by qualified health service practitioners to Medi-Cal enrolled students. Recent changes to Medicaid, including the "free care rule" and the opportunity for schools to be reimbursed for services provided to all Medi-Cal eligible students, rather than only those with disabilities, provide a significant opportunity to draw down additional federal funds for school-based health and mental health services.

*School-Based Medi-Cal Administrative Activities (SMAA)*. The SMAA program provides federal reimbursements to LEAs for the federal share of certain costs for administering the Medi-Cal program. Those activities include outreach and referral, facilitating the Medi-Cal application, arranging non-emergency/non-medical transportation, program planning and policy development, and Medi-Cal administrative activities claims coordination. The Centers for Medicare & Medicaid Services administers the SMAA program at the federal level, and DHCS administers the SMAA program in California.

*Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)*. EPSDT is the health benefit in Medicaid for children and youth under age 21. Under federal Medicaid law, EPSDT services include screening, vision, dental, hearing, and other Medicaid health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services.

- 5) ***Family Educational Rights and Privacy Act (FERPA)***. FERPA protects the privacy of students' personal records held by educational agencies or institutions that receive federal funds under programs administered by the U.S. Secretary of Education. Almost all public schools and public school districts receive some form of federal education funding and must comply with FERPA. Organizations and individuals that contract with or consult for an educational agency also may be subject to FERPA if certain conditions are met. FERPA controls disclosure of recorded information maintained in a pupil's education record. FERPA generally limits access to all student records, and for example, only school staff with a legitimate educational interest in the information should be able to access it. FERPA also requires schools to include in their annual notices to parents a statement indicating whether the school has a policy of disclosing information from the education file to school officials, and, if so, which parties are considered school officials and what the school considers to be a legitimate educational interest.
- 6) ***Committee amendments***. *The amendments will be accepted when the bill is in the Senate Health Committee.*
  - *"The local educational agency shall notify parents and guardians, pursuant to Section 48980, of the prevention and early intervention for, and access to, behavioral health services offered for pupils pursuant to this article. The notification shall, consistent with Section 124260 of the Health and Safety Code, include a form on which a parent or guardian may indicate that they do not consent to their child receiving those services and to, consistent with Section 124260 of the Health and Safety Code, opt out their child, if the child*

*is under 12 years of age, from receiving prevention and early intervention for, and access to, behavioral health services offered pursuant to this article by submitting the completed form to the local educational agency.”*

- 7) **Argument in support.** According to the Los Angeles Trust for Children’s Health “AB 552 would authorize county behavioral health agencies and their community-based organization partners to serve all children including privately insured students, if necessary. For students in need of behavioral health treatment that are privately insured, this bill would set forth procedures for county school-based providers to first attempt to connect the student with their insurance-based provider. If the insurance-based provider is unable to serve the student in need within state mandated timeframes, the county will provide initial services to privately insured students to mitigate the worsening of a behavioral health condition. The COVID-19 pandemic has created a significant barrier for the provision of behavioral health services on school campuses.”

“The result is an unprecedented rise in behavioral health needs among children and youth. As students have returned to schools, the need for school-based services is more important than ever. For these reasons, The L.A. Trust respectfully urges you and all members of the Senate Education Committee to support AB 552.”

- 8) **Related Legislation. SB 75 (Committee on Budget and Fiscal Review)** Chapter 51, Statutes of 2019, establishes the Mental Health Student Services Act as a mental health partnership competitive grant program for establishing mental health partnerships between a county’s mental health or behavioral health departments and school districts, charter schools, and the county office of education within the county, as provided. Also requires the CDE to jointly convene with the DHCS, a workgroup that include representatives from local educational agencies, appropriate county agencies, and legislative staff to develop recommendations on improving coordination and expansion of access to available federal funds through the LEA BOP, SMAA, and medically necessary federal EPSDT benefits.

**AB 748 (Carrillo)** of this Session On or before the start of the 2023–24 school year, this bill requires each schoolsite in a school district, county office of education (COE), or charter school serving pupils in any of grades 6 to 12 to create a poster that identifies approaches and shares resources regarding pupil mental health. This bill also requires the California Department of Education (CDE) to develop a model poster.

**AB 2315 (Quirk Silva)** Chapter 759, Statutes of 2018, requires the CDE, in consultation with the DHCS and appropriate stakeholders with experience in telehealth, to develop guidelines on or before July 1, 2020, for the use of telehealth technology to provide mental health and behavioral health services to pupils on public school campuses, including charter schools.

**AB 2022 (Chu)** Chapter 484, Statutes of 2018, requires each school of a school district or county office of education, and each charter school, to notify students and parents or guardians of pupils, at least twice per school year, about how to

initiate access to available student mental health services on campus or in the community.

**SUPPORT**

County Behavioral Health Directors of California (Co-Sponsor)  
America Academy of Pediatrics, California – Chapter 2  
American Academy of Pediatrics, California Chapter 2  
Association of Regional Center Agencies  
CA Association of Alcohol and Drug Executives, INC  
CA Council of Community Behavioral Health Agencies  
California Alliance of Child and Family Services  
California Charter Schools Association  
California State Association of Psychiatrists (CASP)  
County of San Diego  
County Welfare Directors Association of California (CWDA)  
Los Angeles Trust For Children's Health  
Seneca Family of Agencies  
Sycamores  
United Parents  
United Parents  
Women's Foundation of California, Dr. Beatriz Maria Solis Policy institute (SPI)

**OPPOSITION**

None on file.

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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 595 **Hearing Date:** June 1, 2022  
**Author:** Medina  
**Version:** March 24, 2021  
**Urgency:** Yes **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** Public postsecondary education: University of California and California State University: student eligibility policy

### SUMMARY

This bill, an urgency measure, requires the Trustees of the California State University (CSU) and requests the Regents of the University of California (UC) to engage in the specified process before making any change in undergraduate student eligibility policy that adds new eligibility requirements.

### BACKGROUND

Existing law:

- 1) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to ensure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services. (California Constitution Article IX, Section 9(a)).
- 2) Establishes the Donahoe Higher Education Act, setting forth the mission of the UC and CSU. (Education Code § 66010, et seq.).
- 3) States the Legislature's intent in determining the standards and criteria for undergraduate and graduate admission to the UC and the CSU, the governing boards develop processes that strive to be fair and are easily understandable and consider the use of criteria that allow students to enroll who are otherwise fully eligible and admissible but who have course deficiencies due to circumstances beyond their control and consult broadly with California's diverse ethnic and cultural communities. (EC § 66205 (a))
- 4) States that the Legislature's intent for the UC and CSU to seek to enroll a student body that meets high academic standards and reflects the cultural, racial, geographic, economic, and social diversity of California. (EC § 66205 (b)).
- 5) Grants CSU Trustees regulatory authority over the CSU. (EC § 89030, et seq.)

### ANALYSIS

This bill:

- 1) Requires the CSU Trustees and requests the UC Regents, before making any change in undergraduate student eligibility policy that adds new eligibility requirements, to do all of the following:
  - a) Engage in public discussions and coordinate with the other education segments that will be impacted by the policy to understand the impacts of the policy, as specified.
  - b) Commission an independent study by a third-party research organization that:
    - i) Assesses whether the change in student eligibility policy under consideration would have a disparate impact on the eligibility rates of California public secondary school graduates who are members of underrepresented groups.
    - ii) Examines the impact on eligibility and admission rates of all high school graduates, disaggregated by race ethnicity, income, and region.
    - iii) Examines the capacity of and recourses needed by the educational segments affected to make the necessary changes and investments to deliver on the policy change.
    - iv) Is made available to the public.
  - c) Present the policy and the specified independent study to the appropriate committees of the Legislature no less than 60 days before the scheduled vote on the policy change.
- 2) Requires the CSU Trustees and requests the UC Regents, upon approving a change in student eligibility policy that adds new eligibility requirements that impact students across their segment, to do all of the following:
  - a) Convene an implementation committee that:
    - i) Develops a multiyear plan for that segment to work in partnership with the public elementary and secondary school system, the California Community Colleges, and the governing body of the other segment to implement the change.
    - ii) Meets publicly.
    - iii) Provides annual progress reports to the Governor, the Legislature, and the governing bodies of the two segments, as specified.
    - iv) Commissions an analysis of the policy after it has been adopted and fully implemented in order to understand the ongoing impact

of the policy on eligibility and admission rates of all high school graduates disaggregated by race, ethnicity, income, and region.

- b) Consider selecting the following for membership of the implementation committee, with careful consideration to ensuring that at least one-third of the committee is composed of individuals from either a Title I school or a rural region, or both:
- i) A faculty representative from any relevant postsecondary segment;
  - ii) A teacher from a public elementary or high school;
  - iii) A school district administrator or an administrator of a public elementary or high school;
  - iv) A school district superintendent;
  - v) A member of a school district governing board or a county board of education;
  - vi) A high school pupil;
  - vii) A college student;
  - viii) A representative of a nonpartisan research organization; and,
  - ix) Two representatives from an external stakeholder organization with expertise in issues relating to racial equity in elementary and secondary education or higher education.
- 3) Requires the CSU Trustees and requests the UC Regents, if a policy change in student eligibility requirements is approved between January 1, 2021, and the operative date of this measure, to commission an independent study by a third-party research organization to assess its actual impact, as specified.
- 4) Requires each segment to use existing resources to implement the measure's provisions.
- 5) Specifies that "new eligibility requirement" does not include an existing eligibility requirement that has been revised to be more or less stringent.
- 6) Defines for the purpose of this bill, "segments" to mean the CSU and the UC.
- 7) Makes the bill an urgency measure in order to ensure that students who are currently preparing themselves academically will be eligible for the UC or the CSU and properly informed of proposed changes to student eligibility policies.

#### STAFF COMMENTS

- 1) **Need for the bill.** The CSU is considering the addition of a new admission policy. The proposal would add one year of quantitative reasoning coursework to the "a-g" subject admission requirements, raising the requirements from 15 years of comprehensive college preparatory coursework to 16 years for the entering first-time freshman class of 2027.

According to the author, "Current law lacks oversight of university admissions eligibility changes. While the UC and CSU should have the academic freedom

and authority to make changes to these requirements, these institutions should be required to conduct necessary oversight to ensure that the potential impact of these changes is evaluated. AB 595 will ensure that admissions eligibility policy and changes decisions are more transparent, have proper oversight and impact assessments, and have coordinated implementation plans with public elementary and secondary education systems.

“There should be a transparent oversight process for the CSU and UC to follow if these institutions seek to make changes to system eligibility requirements. AB 595 increases oversight of this process. Legislation is necessary to put pressure on the CSU conduct thorough investigation of potential admissions eligibility policies prior to adoption. Transparent oversight is needed to ensure that policy changes do not increase inequities and adversely impact underrepresented students.”

- 2) **Course requirements for undergraduate admission.** Since the early 2000s, the UC and the CSU have established common high school course requirements for undergraduate admissions to ensure that potential university students are prepared to engage and be successful in university-level coursework. Students who follow the articulated sequence of courses in each of the subject areas listed below, and who meet other specified criteria, are eligible to apply and be considered for admission. The following list is commonly referred to as the "a-g" subject area requirements:
- a) 2 years of history/social science.
  - b) 4 years of college preparatory English composition and literature.
  - c) 3 years of college preparatory mathematics.
  - d) 2 years of college-preparatory science.
  - e) 2 years of the same language other than English.
  - f) 1 year of visual and performing arts.
  - g) 1 year of college preparatory elective.
- 3) **Consideration of new quantitative reasoning requirement.** Recently, CSU considered a proposal to add a new course requirement to meet minimal eligibility standards for CSU admission by requiring the completion of an additional year of quantitative reasoning. As proposed, the quantitative reasoning requirement could be fulfilled by taking an additional course from subject area “c-mathematics,” “d-science” or a quantitative reasoning course from the “g-college preparatory elective.” The proposal further required course completion prior to a student’s senior year of high school commencing with the entering freshman class of 2027. Prior to this effort, changes to the “a-g” criteria have been made twice (March 1988 and September 1999) within a 30-year span.



The CSU proposal to adopt the new course requirement was scheduled to go before the Board of Trustees in January 2020. However, concerns were raised by numerous advocacy groups around the necessity of an eligibility change, disparate access to higher-level coursework in K-12, and overall impact on students, particularly those from historically underrepresented groups. Subsequently, the vote was postponed. Instead, the Trustees adopted a seven-year phased-implementation plan, which includes the establishment of a steering committee, and completion of an independent analysis along with annual reporting. The study is anticipated to be released in fall 2022. During this time CSU has been supporting PK-12 districts in developing and adopting 12<sup>th</sup> grade courses in quantitative reasoning. The State Board of Education will soon be voting to approve the proposed mathematics framework in July. According to CSU, the updated mathematics framework includes a new set of quantitative learning expectations that align with many of the tenets within the CSU's original proposal. CSU has yet to adopt changes to its eligibility policy regarding quantitative reasoning. This bill would impose a statutory requirement on CSU (requests UC) for stakeholder engagement, development of an implementation plan, and third party analysis prior to the addition of a new eligibility requirement for CSU admissions.

- 4) **Concerns from CSU.** The UC and the CSU each have other criteria for undergraduate admission, including meeting grade point average (GPA) and/or standardized test score benchmarks that coincide with completion of the a-g course pattern. This bill creates a statutory process for which the CSU and UC governing boards are to consider new eligibility factors under their respective policies, as well as a process for monitoring implementation after adoption. However, CSU Chancellor's office has expressed concerns around a policy that could cause CSU to pause their current evaluation process to undergo a third-party study. For example, in response to disruption in schools caused by the COVID-19 pandemic, CSU and UC made changes to their respective undergraduate admission requirements. Specifically, the CSU temporarily suspended the use of the college admission test (ACT and SAT) in determining admission eligibility for all CSU campuses. Additionally, the CSU's existing Admission Advisory Council has recommended the permanent discontinuation of the use of standardized test scores in CSU undergraduate admissions. The council began its review in spring of 2021 and the Board of Trustees approved the change in March 2022. CSU contends if the bill would have been in place CSU could have been forced to reinstate the ACT/SAT while undergoing the study.
- 5) **Amendments.** In order to address concerns around the bill's provisions applying to changes made before its enactment and to ensure changes of eligibility criteria that are imposed or mandated by the state are excluded from the proposed process ***the author wishes, staff agrees, that the bill be amended as follows:***
- *Strike provisions that impose retroactive requirements for changes made prior to the operative in paragraphs b(2), b(2)(A) and b(2)(B).*
  - *Strike provisions that require segments to use existing resources to implement the bill's provisions found in paragraph (c).*

- *Change the definition of “new eligibility requirement,” in paragraph (d)(1) to specify that the term excludes a requirement mandated under or resulting from existing law, an existing university admission eligibility requirement that has been removed or revised, and requirements applying to enrollment categories designated in subdivisions (a)(1), (a)(2), (a)(3), and (a)(4) of Section 66202.*

**Staff further recommends the following technical amendments to address drafting errors in the bill:**

- “66205.4. (a) Before adopting making a any change in undergraduate student eligibility policy that adds new eligibility requirements that impact students across its segment, the Trustees of the California State University shall, and the Regents of the University of California are requested to, do all both of the following:”
- 6) **Prior Legislation.** AB 1930 (Medina, 2020) Similar to this bill, AB 1930 would have required the CSU Trustees, and requests the UC Regents, before making any change in student eligibility policy that adds eligibility requirements that affect students across the perspective segment, to engage in a multi-step process prior to enacting said policy. AB 1930 was held on suspense in Senate Appropriations.

**SUPPORT**

Campaign for College Opportunity  
League of Women Voters of California  
The Education Trust - West

**OPPOSITION**

None received.

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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 1652 **Hearing Date:** June 1, 2022  
**Author:** Medina  
**Version:** March 28, 2022  
**Urgency:** No **Fiscal:** No  
**Consultant:** Lynn Lorber

**Subject:** County boards of education: school district governing boards: members: charter school employees

**NOTE:** This bill has been referred to the Committees on Education and Elections and Constitutional Amendments. A "do pass" motion should include referral to the Committee on Elections and Constitutional Amendments.

### SUMMARY

This bill prohibits any executive director of a charter school or resource center, or any charter school employee, from being eligible to be a member of the county board of education or governing board of the authorizing school district.

### BACKGROUND

Existing law:

#### *Members of the county board of education*

- 1) Provides that any registered voter is eligible to be a member of the county board of education, with exceptions. (Education Code § 1006)
- 2) Prohibits the following people from being eligible to be a member of the county board of education:
  - a) The county superintendent of schools.
  - b) Any member of the superintendent's staff.
  - c) Any employee of a school district that is within the jurisdiction of the county board of education. (EC § 1006)

#### *Members of the governing board of a school district*

- 3) Provides that any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district without further qualifications. (EC § 35107)

- 4) Prohibits an employee of a school district from being sworn into office as an elected or appointed member of that school district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office. (EC § 35107)
- 5) Requires a member of the governing board of a school district to abstain from voting on personnel matters that uniquely affect a relative of the member but authorizes such person to vote on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. For purposes of this section, "relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (EC § 35107)

## ANALYSIS

This bill prohibits any executive director of a charter school or resource center, or any charter school employee, from being eligible to be a member of the county board of education or governing board of the authorizing school district. Specifically, this bill:

### *Members of the county board of education*

- 1) Adds the following to those who are ineligible to be a member of the county board of education:
  - a) Any executive director of a charter school or resource center in the county where the executive director's employing school or resource center is authorized.
  - b) Any charter school employee in the county where the charter school employee's employing school or resource center is authorized.

### *Members of the governing board of a school district*

- 2) Prohibits an executive director of a charter school or resource center, or employees of a charter school, from being sworn into office as an elected or appointed member of the school district's governing board if the charter school or resource center was authorized by the school district, unless and until they resign as an executive director or employee.

### *Current board members who are executive directors or employees of charter schools*

- 3) Provides that #1 and #2 apply to a member of a county board of education or governing board of a school district who was elected or appointed (or reelected or reappointed) after January 1, 2023 (thereby allowing current board members to continue to serve their current term).

- 4) Prohibits a member of a county board of education or school district governing board who is an executive or employee of a charter school from voting on issues related to their employing charter school.

### STAFF COMMENTS

- 1) *Need for the bill.* According to the author, “Currently charter school executives and employees are able to serve on the county boards of education while other public school employees adhere to the existing law. Existing law also provides an unfair advantage to charter schools to have representation on the county school boards of their jurisdiction which can lead to biased decision making. Under Government Code section 1099, a public officer including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not concurrently hold *two* public offices that are incompatible. According to Attorney General’s opinion on November 2, 2021, an executive director or other charter school employee—like employees of a traditional public school—may not serve as a member of the county board of education in the county where their employing school is located. AB 1652 would codify the existing opinion from the Attorney General, that an executive director or other charter school employee may not serve as a member of the county board of education in the county where their employing school is located.”
- 2) *Parity.* Existing law prohibits school employees from serving on county boards of education and school district governing boards (in the county or school district where employed). Existing law also prohibits county superintendents and their staff from serving on county boards of education. This bill applies the same prohibitions to executives and employees of charter schools and resource centers that are authorized by a school district governing board within the county or by the governing board of the school district.
- 3) *How does this affect current board members?* This bill applies only to a member of a county board of education or governing board of a school district who was elected or appointed (or reelected or reappointed) after January 1, 2023, thereby allowing current board members to continue to serve their current term.

However, this bill prohibits current board members who are executives or employees of a charter school or resource center from voting on items related to their employing charter school.

- 4) *Attorney General opinion.* This bill codifies a November 2021 opinion made by the Attorney General as to whether an executive director or other employee of a charter school may serve as a member of the county board of education in the county where their employing school is located.

On November 2, 2021, the Office of the Attorney responded to the request for an opinion to the question, “May an executive director or other employee of a charter school serve as a member of the county board of education in the county where their employing school is located?” This opinion states “No. An executive director or other charter school employee—like employees of a traditional public school—may not serve as a member of the county board of education in the

county where their employing school is located.”

According to the Attorney General’s opinion, a charter school employee who served as a member of the county board of education in the same county as their school would face a potential clash of duties or loyalties in several ways. As a county board of education member, they might be called upon to revoke or renew their school’s charter; to make litigation decisions regarding the school’s charter; to oversee the school and ensure its compliance with reporting requirements; to investigate the school; or to act as a member of an appellate body with respect to the charter approval and continuation process. “The potential for conflict is manifest [emphasis added].” Further, the Attorney General opined, “Charter schools are part of our state governance structure; they receive state funding and participate in the essential public function of providing mandatory free education. Thus, with respect to service on government boards with jurisdiction over their employing schools, charter school employees are analogous to traditional public school district employees.” Opinion No. 20-102 (ca.gov)

- 5) *Prior legislation.* SB 126 (Leyva, Chapter 3, Statutes of 2019) requires a charter school and an entity managing a charter school to comply with the same conflict of interest requirements as school districts.

AB 1662 (Fong, Chapter 499, Statutes of 2012) permits an employee of a school district that is not within the jurisdiction of the county board of education to be eligible to be a member of a county board of education.

AB 1212 (Thompson, 1999) would have allowed a school district employee within that particular county to be eligible to be a member of a county board of education. AB 1212 was vetoed by Governor Davis, whose veto message read:

***This bill would violate the common law rule against the holding of incompatible offices. The purpose of this rule is to disallow a person from holding two or more offices in which he or she is in a position in one office to review and approve his or her actions in the other office, and to disallow the holding of offices wherein his or her duties and loyalties are incompatible. County boards of education have jurisdiction over several areas which would present such a conflict, such as fiscal oversight, budgeting, and student discipline and transfer. Moreover, I note that current law prohibits school district employees from being elected or appointed members of their school district governing boards. For this reason, I cannot support this measure.***

## SUPPORT

American Federation of State, County, and Municipal Employees

## OPPOSITION

None received

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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AJR 26 **Hearing Date:** June 1, 2022  
**Author:** Medina  
**Version:** April 21, 2022  
**Urgency:** **Fiscal:** No  
**Consultant:** Olgallia Ramirez

**Subject:** Student loan debt repayment.

### SUMMARY

This measure urges the United States Secretary of Education to establish and submit to the United States Congress for approval a monthly student loan payment plan for all student loans, as specified.

### BACKGROUND

Existing federal law provides for student loans through the William D. Ford Federal Direct Loan Program, administered by the Federal Student Aid Office within the United States Department of Education (USDE). These include:

- 1) **Direct Subsidized Loans:** These are need-based loans that cover the difference between a student's resources and the cost of attending a college or university; the amount of loan is dependent on the level of need, dependent status, and year in college. The federal government pays the interest while the student is attending the college or university and subsidizes the interest throughout the life of the loan.
- 2) **Direct Unsubsidized Loans:** Not based on financial need, these loans generally cover the difference between other financial aid received and the total cost of attending college. Loans are made to eligible undergraduate, graduate, and professional students. The student is responsible for paying the interest during all periods. The federal government sets the interest rates and fees.
- 3) **Parent Loans for Undergraduate Students (PLUS):** These loans are available to creditworthy parents of dependent students. These are not need-based and are federally guaranteed. In addition, these types of loans have been expanded for graduate or professional degree students. The borrower is responsible for paying the interest on PLUS loans during all periods, starting from the date the loan is first disbursed.
- 4) **Direct Consolidation Loans:** These loans allow for consolidation of multiple federal education loans into one loan with a fixed interest rate at no cost.

### ANALYSIS

This measure:

- 1) Resolves that the Senate and the Assembly, jointly, urges the United States Secretary of Education to establish and submit to the United States Congress for approval a monthly student loan payment plan for all students, based on the monthly personal savings rate as published by the federal Bureau of Economic Analysis.
- 2) States a number of findings regarding student loan debt in the United States including all of the following:
  - a) Student loan debt in the United States has increased more than 100% in the last 10 years.
  - b) The Federal Reserve estimates that in 2021, 4 in 10 people who went to college incurred some form of debt for their education, and as of September 2021, the total amount of student loan debt in the nation rose to above \$1.75 trillion.
  - c) The United States Department of Education reports that as of September 2021, roughly 1 in 10 borrowers with federal student loans were in default.
  - d) More than 3.5 million Californians owe a total of \$140.1 billion in federal student loan debt, averaging \$21,125 per person.
  - e) The average monthly student loan payment in the United States is an estimated \$460 and according to the United States Census Bureau in 2020, the median monthly earnings of all workers over the age of 15 was \$3,461.25.
  - f) The increasing cost of higher education has created an unprecedented financial burden, representing a strain on the borrower who must postpone traditional life milestones such as buying a home, getting married, starting a family, and saving for retirement.
  - g) In 2019, the Assembly announced a new Select Committee on Student Debt, making California the first state in the nation to create a legislative committee focused on the problems facing millions of borrowers struggling under historic student debt.
  - h) In March 2020, the federal Coronavirus Aid, Relief, and Economic Security Act put into place a pause on federal student loan payments and interest, which has since been extended through May 1, 2022.
  - i) The United States Office of Federal Student Aid provides borrowers an array of options when determining to pay off their student loans including a monthly payment equal to 10 percent of the borrower's discretionary income.



- 1) **Need for the bill.** According to the author, "as tuition rates and the cost of living have exponentially risen, student loan debt in the United States has increased by more than 100 percent over the last 10 years. The cost of higher education has created an unprecedented financial burden, representing a strain on the borrower who must postpone traditional life milestones like buying a home, getting married, starting a family, and saving for retirement. It is, therefore, essential that we recognize the strain that student loan debt places on all Americans and develop a new plan for repayment. AJR 26 urges the federal government to reconsider the student loan repayment plan for all student loans based on the monthly personal savings rate."
  
- 2) **Types of student loans.** In the Report on the Economic Well-being of U.S. Households in 2020, published in May 2021, by the Board of Governors of the Federal Reserve System, 30% of adults, representing around four in 10 people who went to college, indicated they incurred some debt for their education. The report confirmed a known trend in educational borrowing in that: "adults under the age of 30 who attend college are more likely to have taken out student loans than older adults". The Federal Reserve announced in December of 2021 that the total amount of national student loan debt had risen to \$1.748 billion, this figure includes private and federal student loans.

Private loans are defined as nonfederal loans provided by a private vendor such as a bank, credit union, state agency, or a school. Private student loans have their own unique set of terms and conditions which are set by the vendor; however, generally private loans require payments while the borrower is in school, have high variable or fixed interest rates, are not subsidized (students pay interest on the lifetime of the loan), and these loans often require a cosigner with an established credit history.

Federal student loans are provided through the William D. Ford Federal Direct Loan program and are administered by the Federal Student Aid Office with the United States Department of Education. There are several types of direct loans available to students and their families under the federal programs (outlined in the background section of the analysis).

This measure seeks to address repayment of federal student loans.

- 3) **Student loan debt of public and nonprofit college graduates.** According to The Institute for College Access and Success (TICAS) and its Project on Student Debt, 62 percent of college seniors who graduated from public and private nonprofit colleges in 2019 had student loan debt, with an average nationally of \$28,950 per borrower. TICAS reports that the share of graduates with debt declined very slightly (less than 1%) from the 2018 average of 29,200. TICAS also reports that the average debt in California is \$21,485 at public and private non-profit colleges and that about 47 percent of students graduate with debt, ranking California fourth lowest nationally. For-profit colleges are not included in the state averages because few of these colleges report relevant debt data. The report notes that, although student loan debt is slowing, the public health crisis has already reshaped the higher education landscape in important ways and has

placed profound financial pressures on states, colleges, and students that could already be making college less affordable and increasing reliance on student debt.

- 4) **Existing loan repayment programs.** The USDE provides a number of student loan repayment plan options. Some of those plans include, but are not limited to the following:
  - 1) The Standard Repayment Plan – All borrowers are eligible and under this plan, the payments are fixed for an amount that ensures the loans are paid off within 10 years. While this plan may save the borrower money over time due to interest, the monthly payments are higher than those of other plans.
  - 2) The Extended Repayment Plan – This plan is for direct loan borrowers who have more than \$30,000 in debt. Under this plan, the borrower will pay a fixed or graduated monthly payment that will pay off the loans within 25 years.
  - 3) The Revised Pay As You Earn Repayment Plan – This plan is for direct loan borrowers with an eligible loan. Under this plan, the borrower will pay 10% of their discretionary income (different calculation from disposable income) and the payments are recalculated each year based on the borrower's income and family size. If the borrower has not paid off the balance of their loan within 20 years for undergraduates or 25 years for graduates, the loan will be forgiven.
- 5) **Proposed repayment plan.** This resolution urges the United States Secretary of Education to create a new payment plan option that is based on the monthly personal savings rate as published by the federal Bureau of Economic Analysis. The rate is based on a percentage of disposable income, which means the percentage of people's incomes left after they pay taxes and spend money. In other words, it is the percentage of people's disposable income that they save instead of spend. For March 2022, the federal Bureau of Economic Analysis set the rate at 6.2%. The rate can change from month to month in February and January 2022 it was 6.8 and 6.7% respectively, but in December 2021 the rate was set at 8.4%. As such, the monthly payment made by the borrower could change from month to month depending on the federal rate. *The Committee may wish to consider whether calling for a loan repayment plan that is based on a variable rate is the appropriate solution for loan borrowers.*
- 6) **Amendments.** In order to clarify that the measure applies to federal student loans and in an effort to ensure that the request from the Legislature does not tie borrower payments to monthly changes in the rate, ***staff recommends the bill be amended as follows:***

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature urges the United States Secretary of Education to establish and submit to the United States Congress for approval a monthly student loan payment plan for **all federal** student loans, based on the **monthly** personal

savings rate as published by the federal Bureau of Economic Analysis; and be it further.”

**SUPPORT**

None received.

**OPPOSITION**

None received.

**-- END --**

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 740 **Hearing Date:** June 1, 2022  
**Author:** McCarty  
**Version:** May 17, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Kordell Hampton

**Subject:** Foster youth: suspension and expulsion.

**Note:** This bill has been referred to the Committees on Education, Judiciary, and Human Services. A "do pass" motion should include a referral to the Committee on Judiciary.

## SUMMARY

This bill requires a Local Education Agency (LEA) to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs.

## BACKGROUND

Existing law:

### *Education of Pupils in Foster Care and Pupils Who Are Homeless*

- 1) Requires each local educational agency to designate a staff person as the educational liaison for foster children (Education Code § 48853.5 (c))
- 2) Requires an educational liaison shall notify a foster child's attorney and appropriate representative of the county child welfare agency of pending expulsion proceedings if the decision to recommend expulsion is a discretionary act; pending proceedings to extend a suspension until an expulsion decision is rendered if the decision to recommend expulsion is a discretionary act; and if the foster child is an individual with exceptional needs, pending manifestation determinations if the local educational agency has proposed a change in placement due to an act for which the decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools. (EC § 48853.5 (d))
- 3) Requires an LEA to, prior to making a recommendation to move a foster child from their school of origin, to provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how it serves the foster child's best interests. (EC § 48843.5)

*Suspension or Expulsion*

- 4) Requires a school employee to notify the pupil's parent or guardian when a pupil is assigned to a supervised suspension classroom, and if the assignment is for longer than one class period, the employee must notify the parent or guardian in writing. (EC § 48911.1)
- 5) Specifies a pupil shall not be suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed specified acts in subdivision (a) – (r). (EC § 48900)
- 6) Requires the principal or superintendent of schools to recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds unless it is determined that the expulsion should not be recommended under the circumstances or that an alternative means enumerated in subdivision (a) – (r). (EC § 48915)
- 7) Authorizes the principal of a school or the district superintendent to suspend a pupil from a school for any of the reasons identified above for no more than five consecutive days, and requires that suspension be preceded by an informal conference where the pupil must be informed of the reasons for the disciplinary action, including other means of correction that were attempted before the suspension, and the evidence against them, and must be given the opportunity to present their own version and evidence in their defense. Also requires a school employee to make a reasonable effort to contact the pupil's parent or guardian in person or by telephone, and if the pupil is suspended from school, requires that the parent or guardian be notified in writing. (EC § 48911)
- 8) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction enumerated in subdivision (a) – (h). may include, but are not limited to, the following: (EC § 48900.5)

## ANALYSIS

This bill requires a LEA to send a notification to the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code when an involuntary transfer to a continuation school, suspension, or expulsion proceeding occurs. Specifically, this bill:

- 1) Requires a school district to provide written notice to a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code of a decision to transfer the foster child to a continuation school, stating the facts and reasons for the decision, informing them of the opportunity to request a meeting with the district prior to a student being transferred, and indicating whether the decision is subject to periodic review and the periodic review procedure.
- 2) Requires that the foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be informed of the specific facts and reasons for the

proposed transfer, and have the opportunity to inspect all documents relied upon, question any evidence and witnesses presented, and present evidence on the pupil's behalf.

- 3) Requires that an involuntary transfer to a continuation school not extend beyond the end of the semester following the acts leading to the involuntary transfer occurred unless the school district adopts a procedure for yearly review of the involuntary transfer at the request of the foster child's attorney or county social worker.
- 4) Specifies that a foster child's educational rights holder, attorney, and county social worker and a Indian child's tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.
- 5) Requires that a foster child's attorney, county social worker, and educational rights holder, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified of the pupil's right to a conference if a foster child is suspended without the opportunity for an informal conference, as specified.
- 6) Requires that a school employee make a reasonable effort to contact a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code in person, by email, or by telephone at the time of the suspension of the foster child, and if the foster child is suspended from school, requires the school to notify the foster child's attorney and county social worker in writing.
- 7) Requires the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code to respond without delay to a request from school officials to attend a conference regarding the foster child's behavior.
- 8) Prohibits penalties on the pupil if the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code fail to attend a conference with school officials, and specifies that reinstatement of the suspended pupil not be contingent upon attendance of the attorney or social worker at the conference.
- 9) Requires that a foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code be notified by a school employee in person, by email, or by telephone if a foster child is assigned to a supervised suspension classroom and that if the suspension is for longer than one class period, the notification must be in writing.
- 10) Requires an LEA to invite the foster child's attorney, county social worker, and educational rights, or tribal social worker, if that child is an Indian child as specified in Welfare and Institutions Code participate in the individualized education program

(IEP) team meeting that makes a manifestation determination, as specified if a LEA is proposing a change of placement for a foster child with exceptional needs.

- 11) Requires, rather than authorizes, a school district to provide notice of an expulsion hearing to a foster child's attorney and a representative of the county child welfare agency at least 10 days before an expulsion hearing, and instead requires such notification to the attorney and county social worker at least 10 days before the hearing.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author "Students in foster care receive lower grades, are less likely to graduate high school or attend college, have higher rates of chronic absenteeism, and are suspended more often than their non-foster peers. In California, students in foster care are suspended at four times the statewide average rate. In Sacramento County, one in every five students in foster care was suspended at least once in the 2018-19 academic year. When broken down by student demographic, this disparity is even starker: the suspension for Black foster students is more than six times the statewide average. Research shows a strong connection between high suspension rates, poor academic achievement, and high school dropout rates. The disproportionate suspension of students in foster care fuels a cycle of negative outcomes for these vulnerable students. Foster youth faced additional challenges during the COVID-19 pandemic including lack of access to technology and support needed for distance learning. Studies predict that the pandemic will widen the significant achievement gap between foster kids and their peers even further.

"When a child is placed into the California foster care system they are assigned a court appointed attorney to advocate on their behalf. Current law requires that a foster student's attorney be notified of any pending discretionary expulsion proceedings. However, there is no such requirement for other disciplinary proceedings such as mandatory expulsions, involuntary school transfers, or suspensions – all of which can have serious negative impacts on students. Guardians of students in foster care often lack the time, training, or background to advocate for the educational rights of students in their care. Furthermore, foster youth may cycle through multiple placements, which disrupts their education and makes advocacy within a school even less likely. In 2014, 75% of foster students in the U.S. experienced at least one unscheduled school change

"AB 740 protects the educational rights of students in foster care by requiring their state-appointed attorney to be notified of disciplinary proceedings in order to ensure the student has a qualified person advocating on their behalf."

- 2) ***California Department of Education (CDE).*** In recent years there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student's behavior and to improve academic outcomes:

- a) **Minimize Suspension for Attendance Issues:** It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.
- b) **Instead of Suspension, Support:** A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil's misbehavior.

The state has also established a Multi-Tiered System of Supports (MTSS), which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

- c) **Suspension as a Last Resort:** Suspension shall be imposed only when other means of correction fail to bring about proper conduct and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic supports, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.
- 3) **Equity concerns in subjective discipline.** Research and data confirm that Black students, other students of color, students with disabilities, and LGBTQ students are disproportionately suspended for low-level subjective offenses, such as defiance/disruption. Suspensions also cause California students to lose significant instruction time. A recent study revealed that students lost over 150,000 days of school due to defiance/disruption suspensions in 2016-17. These concerns are supported by data from CDE. For example, in 2011-12, African American pupils accounted for 6.8 percent of enrollment, but 18.5 percent of suspensions for willful defiance. Most recently, in 2017-18, African American pupils accounted for 5.6 percent of enrollment, but 15.6 percent of suspensions for willful defiance. Conversely, in 2011-12, white pupils accounted for 25.8 percent of enrollment, but just 19.6 percent of suspensions for willful defiance. Most recently, in 2017-18, white pupils accounted for 23.2 percent of enrollment, but just 20.2 percent of suspensions for willful defiance. These disproportionate figures underscore the concerns surrounding willful defiance suspensions and that neither time, the prohibition on K-3 suspensions, or Local Control Funding Formula (LCFF) priorities have fully addressed these issues.
  - 4) **Argument in support.** According to the Children Advocacy Institute "Education is essential to living a life of economic stability and self-sufficiency. A quality education system has long been understood as essential to every child's prosperity. That is why the State guarantees free education to every child. The opposite is also true. When a child is denied educational opportunities, that child is



being set-up for life-long failure, even the much-discussed "school-to-prison" pipeline.

A child who is being parented by their legal parents, especially children of parents of means, have ready-made, emotionally motivated, and, often, competent advocates for them when it comes to suspensions and expulsions. Foster parents or guardians (often relatives of the parents) may lack the time, background, or expertise to advocate for the academic rights of the children in their care. Furthermore, students may cycle through multiple placements or be placed in group homes, which makes advocacy at school even less likely. [...] Every child in foster care is already assigned a court appointed attorney to advocate on their behalf. Ensuring that a foster child's attorney is notified of school discipline proceedings is a simple, the least-we-should-be-doing kind of step to safeguard the educational rights of these children; our children."

- 5) **Related Legislation. SB 419 (Skinner)** Chapter 279, Statutes of 2019, extends the prohibition against suspending a pupil enrolled in kindergarten or any of grades 1 to 3 for disrupting school activities or otherwise willfully defied the valid authority of school staff to include grades 4 to 8 permanently, and grades 9 to 12 until January 1, 2025, and applies these prohibitions to charter schools.

**AB 420 (Dickerson)** Chapter 660, Statutes of 2014, eliminates the option to suspend or recommend for expulsion a pupil who disrupted school activities or otherwise willfully defied the authority of school officials and instead authorizes schools to suspend a pupil in grades 6-12 who has substantially disrupted school activities or substantially prevented instruction from occurring.

**SB 1111 (Lara)** Chapter 837, Statutes of 2014, requires parental consent for referrals to a county community school by a school attendance review board (SARB), school district, or probation department, except for situations where a student is expelled or pursuant to a court order. This bill also establishes the right of a student to reenroll in his/her former school or another school upon completion of the term of involuntary transfer to a county community school.

**AB 1729 (Ammiano)** Chapter 425, Statutes of 2012, recasts provisions relative to the suspension of a pupil upon a first offense, and authorizes the use and documentation of other means of correction.

**AB 1909 (Ammiano)** Chapter 849, Statutes of 2012, requires schools to notify a foster youth's attorney and representative of the county child welfare agency of pending expulsion or other disciplinary proceedings.

## SUPPORT

Alliance For Children's Rights  
 Black Minds Matter  
 California Alliance of Child and Family Services  
 California Federation of Teachers  
 Center For Public Interest Law/Children's Advocacy Institute/ University of San Diego  
 Children's Law Center of California

Los Angeles County Office of Educations  
National Association of Social Workers, California Chapter

**OPPOSITION**

None on file

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 1232 **Hearing Date:** June 1, 2022  
**Author:** McCarty  
**Version:** January 4, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Olgalilia Ramirez

**Subject:** Community colleges: nonresident tuition fees: English as a second language courses

## SUMMARY

This bill adds an exemption for payment of nonresident tuition fee at a California Community College (CCC) to certain nonresident students who enroll in a credit English as a second language (ESL) course.

## BACKGROUND

Federal law:

- 1) The Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980, authorizes the admission and resettlement of refugees, which comprise a category of humanitarian admissions and are persons unwilling or unable to return to their home countries "because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." After one year of refugee status in the United States, refugees are required to apply to adjust to lawful permanent resident (LPR) status. The INA also defines "immigrant" and specifies that noncitizen individuals physically present in the United States, regardless of status, may apply for asylum.

State law:

- 1) Makes the following definitions:
  - a) "Resident" is a student who has residence in California for more than one year immediately preceding the residence determination date (Education Code (EC) Section 68017).
  - b) "Resident classification" means classification as a resident at the University of California (UC), the California State University (CSU), or the CCC (EC Section 68022).
  - c) "Residence determination date" is a date established by the university or community college district governing boards for each semester or quarter to determine a student's residence (EC Section 68023).
- 2) Requires each student to be classified as a resident or nonresident (EC Section 68040).

- 3) Requires the segment governing boards to adopt regulations for determining a student's residence classification, which are to include provisions requiring the financial independence of a student classified as a nonresident and seeking reclassification as a resident as a factor to be considered in the determination of residency, and establishes financial independence criteria (EC Section 68044).
- 4) Requires a student classified as a nonresident to pay nonresident tuition in addition to other tuition and fees required by the institution (EC Section 68050).
- 5) Exempts an Armed Forces member—stationed in the state on active duty for more than one year immediately prior to being discharged—from nonresident tuition at CSU and the CCC for the length of time he or she lives in the state after being discharged up to the minimum time necessary to become a resident (EC Section 68075.5(a)).
- 6) Exempts specified California nonresidents from paying nonresident tuition at UC, CSU, and CCC, also known as the AB 540 nonresident tuition waiver (Firebaugh), Chapter 814, Statutes of 2001, if they meet all of the following:
  - a) Satisfaction of the requirements of either:
    - i) A total attendance of, or attainment of credits earned while in California equivalent to, three or more years of full-time attendance or attainment of credits; or,
    - ii) Three or more years of full-time high school coursework in California, and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of California elementary and secondary schools.
  - b) Satisfaction of any of the following:
    - i) Graduation from a California high school or attainment of the equivalent thereof;
    - ii) Attainment of an associate degree from a campus of the CCC; or,
    - iii) Fulfillment of the minimum transfer requirements established for the UC or the CSU for students transferring from a campus of the CCC.
  - c) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year; and,
  - d) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize the student's immigration status, or will file an application as soon as the student is eligible to do so. (EC Section 68130.5).

- 7) Exempts students who are victims of trafficking, domestic violence, and other serious crimes who have been granted a "T" or "U" visa under specified federal law from paying nonresident tuition to the same extent as refugees (EC Section 68122).
- 8) Exempts a student of the CCC who has a special immigrant visa (SIV) as specified, or is a refugee admitted to the United States as specified, and who, upon entering the United States, settled in California, from paying the nonresident tuition fee required as specified for the length of time he or she lives in this state up to the minimum time necessary to become a resident. (EC Section 68075.6)

## ANALYSIS

- 1) This bill adds an exemption for payment of nonresident tuition fee at a CCC to certain nonresident students who enroll in a credit English as a second language course and who is any of the following:
  - a) A recent immigrant as defined in federal law.
  - b) A recent refugee as defined in federal law.
  - c) A person who has been granted asylum by the United States as defined by federal law.
  - d) An individual who, upon entering the United States, settled in California and who has resided in California for less than one year.
- 2) Limits the exemption for nonresident tuition fees to credit ESL courses only.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "AB 1232 removes barriers for recent arrivals in the United States to gain critical English language skills by making credit-bearing ESL courses more affordable. Access to effective English as a second Language programs can facilitate social and economic mobility for non-native speakers and their families, and is an important first step for many newly arrived immigrants"

The author further asserts, "This bill would establish a narrowly constrained nonresident tuition exemption for immigrant, refugee, and asylees who wish to enroll in a credit-bearing ESL course within one year of their arrival in the United States. This is a unique need of newly arrived immigrants and this bill would make sure they have early and affordable access to ESL course that best meet their needs."

- 2) **Nonresident vs resident tuition.** Persons deemed as nonresidents of California for purposes of paying tuition at a California public institution at CCC are charged a significantly higher tuition rate than the amount charged for resident tuition. In the current year, at CCCs, California residents pay \$46 per unit while

nonresidents pay \$346 per unit. This bill provides a narrow exemption from having to pay the higher fee for a credit-bearing ESL course.

- 3) **Non-credit vs Credit ESL Course.** Many CCCs offer both non-credit, and credit-bearing ESL courses. Non-credit courses are offered to CCC students at no cost and are typically open entry/open exit and final grades are not recorded on student transcripts. Credit-bearing ESL courses are offered to CCC students for the cost of tuition. Credit-bearing courses are part of a sequence of ESL courses that lead to transfer-level English classes and are the appropriate path for students who seek to earn a degree or transfer to a degree-granting institution. According to a 2019 Public Policy Institute of California report, credit-bearing, or “sequence” courses in ESL typically focus on reading (54%) and writing (80%) skills, or integrate the two. Relatively few of these courses teach listening, speaking, and/or grammar. Still, most students (53%) who enroll in sequence courses in their community college career also enroll in noncredit courses that offer these additional skills. Depending on their specific needs, educational background, skills, and job aspirations, recent immigrant students might find that a credit-bearing course would provide a better opportunity to achieve their English language goals than a noncredit course or vice versa. However, the disparity in cost between credit and noncredit ESL may pose a financial barrier for newly arrived refugees and asylum seekers. This bill seeks to expand access to ESL courses offered for credit.
- 4) **Refugees.** This bill makes refugees eligible for the proposed exemption. As noted in the Assembly analysis, the admissions process for refugees is separate from and different from the process for immigrants. Each year, the President submits a report to Congress, which contains the Administration's proposed worldwide refugee ceiling and allocations among regions of the world for the upcoming federal fiscal year (FFY). Following congressional consultations, the President issues a determination setting refugee numbers for that year. Recent annual totals are: FFYs 2013 through 2015 (70,000 annually); FFY 2016 (85,000); FFY 2017 (50,000); FFY 2018 (45,000); FFY 2019 (30,000); FFY 2020 (18,000); FFY 2021 (62,500); and FFY 2022 (125,000). Upon entry, refugees are eligible for transitional assistance activities, including cash and medical assistance for up to eight months and various social services to help refugees become socially and economically self-sufficient.

## SUPPORT

Association of Community and Continuing Education  
California Federation of Teachers Afl-cio  
California School Employees Association  
Los Rios Community College District  
Mt. San Antonio College  
North Orange County Community College District  
San Jose-evergreen Community College District  
Student Senate for California Community Colleges

## OPPOSITION

None received.

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- 2) Adds to the reasons a consortium may reduce funds allocated to a consortia member in a year when the Superintendent of Public Instruction (SPI) and the Chancellor of the California Community Colleges (Chancellor) provides less funding to the consortium than in the previous year, the following: if a member of the consortia has in excess unspent funds above the agreed upon percentage of the current fiscal year's allocation as determined by the members of the consortium.
- 3) Requires that in a fiscal year in which the SPI and the Chancellor allocate less funds to the consortium than previously allocated, the following:
  - a) A consortia member is not permitted to have a carryover of more than 20 percent for more than two fiscal years, and;
  - b) By July 1, 2023 members of the consortium are permitted to vote on whether to reduce the member of the consortium's allocation, if the member has a carryover of 20 percent or more, and permits each member of the consortia to have one vote.
- 4) Requires each consortium member by September 1 of each fiscal year to certify its expenditures for the previous fiscal year.
- 5) Except as provided above (in 2 and 3), by July 1, 2023, requires the following with respect to consortium members:
  - a) No more than 20 percent of a member's annual allocation may be carried over into the next fiscal year unless a written plan for the expenditure of the funds, which is aligned with the consortium's adult education plan, is approved by the members of the consortium by October 31, and permits the vote to be in accordance with the governance process of the consortium;
  - b) Requires a member's plan to exceed 20 percent carryover from the previous fiscal year to be submitted to the consortium by September 30 and the plan only be effective if the consortium members approve the plan; and
  - c) Permits a consortium to deem a member ineffective and enables the consortium to reduce the member's annual allocation by the carryover amount above 20 percent if a consortium member has a carryover above 20 percent and a consortium member does not have an expenditure plan approved by the membership of the consortium.
  - d) Specifies that in a fiscal year during which a state or local emergency declaration is made, a member whose carryover exceeds 20 percent shall be provided an additional year following the end of the emergency declaration to comply with its plan for expenditure.
- 6) Requires each consortium, by September 30 of each fiscal year, to certify its expenditures for the previous fiscal year.

- 7) Stipulates that, by July 1, 2023, no consortium may have an annual carryover of more than 20 percent of its annual allocation and requires that a consortium that does have a carryover of more than 20 percent of its annual allocation to have its allocations reduced in the next fiscal year by the amount they exceed 20 percent.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Each year, the Legislature provides funding to adult education programs with the expectation that this funding is going to serve adult education students in that budget year. Instead, we find that some adult education providers carryover as much as 100% of their yearly allocation, while other programs run out of funding and struggle to meet the need within their communities. AB 1491 establishes clear criteria, accountability, and a cap on funding carryover (with appropriate exceptions) to ensure that the limited dollars allocated for adult education are used in a timely manner to support growing student needs."
- 2) **Adult education system in California.** The primary purpose of adult education is to provide adults with the precollegiate knowledge and skills they need to participate in civic life and the workforce. Toward this end, most adult education course offerings are in three instructional areas: basic math and English, English as a second language, and career technical education (CTE). For CTE, adult education providers tend to offer programs that are one year or less in length.

Community colleges and school districts (through their adult schools) are the primary providers of adult education. In addition, various other entities provide adult education, including community-based organizations, libraries, and jails. Due to longstanding concerns with a lack of coordination among providers, the 2013-14 budget package restructured California's adult education system by creating the CAEP and the adult education regional consortia, requiring each provider to become a member of a consortium with other providers to create an adult education plan to meet the civic and basic skill needs of adults in a specific region. Consortia membership is limited to LEAs, community college districts, county offices of education, and joint powers agencies.

- 3) **How are adult education consortia funded?** AB 104 (Committee on Budget), Chapter 13, Statutes of 2015 created the Adult Education Block Grant, which provides \$500 million in ongoing Proposition 98 funds to the consortia to serve the educational needs of adults in their region according to the consortium regional education plans. The Adult Education Block Grant has since been renamed the CAEP and has received two costs of living increases in subsequent fiscal years for a total of about \$538.5 million annually. The California Community Colleges (CCC) and the California Department of Education (CDE) disperse funding to regional consortia based on three factors:
  - a) The previous year's allocation to each consortium;
  - b) Need for additional funding to meet the regional consortium's adult education needs; and,

- c) Whether the consortium has effectively met the need.

If a consortium receives more funding in a given year than the previous fiscal year, each consortium member will receive at least the same amount of funding as they received in the previous year. If a consortium receives less funding in a given fiscal year, the consortium members will also receive less funding. The consortium determines the total percentage of funding loss and deducts the same percentage from each consortium member's funding allocation equal to the total percentage of total funding loss. Beginning in 2019-2020, each consortium is required to provide a member approved three year adult education plan that aligns with a three year fiscal plan to meet the educational needs of the region. The plan is to be updated each year with information regarding the educational services provided and the adult education needs of the region.

- 4) ***Is there a need to limit carryover funds?*** This bill would require members of a local consortium to carryover no more than 20 percent of their annual allocation unless they have a plan that has been approved by the local consortium. Local consortia within the CAEP are self-governed and have the ability to allocate funding to individual members within certain parameters. Proponents argue that the funds appropriated by the State should be spent in the year they are allocated given the tremendous need for adult education services and the limited funding available. Opponents argue that any consideration of limits on carryover should be considered within a three-year timeframe given the statutorily required three-year plan.
- 5) ***Arguments in support.*** The California Council for Adult Education and the California Adult Education Administrators Association state, "While annual carry-over may be planned for use for upcoming expenditures and some carryover may be a result of funding distribution delays at the state level, in some areas of the state, there are large – and growing – amounts of carry-over without a consortium-approved plan for expenditure of those funds. This growing carryover within consortia and specifically among individual members is resulting in funding not being used to serve students in the budget year as the needs grow.

"Given the overall shortage of funding to serve adult education students and the imperative to address critical learning needs of so many marginalized and disadvantaged adults and their families in California, local consortia need a mechanism for increased accountability of use of funds each year. Having any member carrying over a significant portion of the annual allocation creates undue tension within consortia as so many members struggle to meet unmet need within their communities, a particularly problematic issue for K12 Adult Schools who do not have access to separate apportionment. AB 1491 would establish clear criteria, accountability and a maximum threshold (proposed at 15%) for consortia members to carryover from year to year so as to ensure the maximum amount is used to support growing student needs in the budget year."

- 6) ***Arguments in opposition.*** The Association of Community and Continuing Education states, "We have serious concerns about AB 1491, as State-level guidance has been focused on a 3-year plan (in Education Code) and 3-year

fiscal cycle. A change in the fiscal cycle will result in additional resources to change to an annual planning cycle, and staff time to understand how this will impact the current 3-year plan. With a minimum amount of carry-over allowed, it could lead to unintended consequences related to spending habits at the expense of the program and students we serve. Some districts, both community colleges and K-12 schools, will have cash flow issues which will result in borrowing money from the district and using CAEP funds to pay interest which is an inefficient way to use state resources. In addition, with the cash flow issues, teachers and faculty could be laid off or not scheduled and programs will shut down until the cash flow issue is resolved and funds are allocated. The bill's language also calls for consortia as a whole, to lose funding if they are over the 15% threshold. This could result in millions of dollars leaving the region to serve adult learners, and going back to the State general fund, leaving the most at-risk and under-represented students without access to adult education. If community colleges are not given the time to allocate funds, some rural colleges or colleges with limited noncredit programming, might reconsider continued participation in the regional consortium structure thereby weakening the intent of the program statewide."

- 7) **Committee Amendments.** As currently drafted, this bill imposes an arbitrary 20 percent carryover cap for individual consortium members. Imposing such a cap fails to recognize that: (1) each consortium has a unique membership and runs different programs with varying resources, goals, and challenges, and (2) the adult education program model was designed to allow local consortium to plan, operate, and self-govern their programs in a way that best meets their local needs.

Existing law allows a consortium to make a finding that a member is "consistently ineffective in providing services that address the needs identified in the adult education plan..." and then reduce that member's allocation for redistribution among all the other members. However, statute is silent on how a consortium can make such a finding, resulting in consortia being advised that a unanimous vote is required. That means currently an ineffective member of a consortium can vote down any attempt at having their allocation reduced.

If it is the desire of the Committee to pass this measure, **staff recommends** amending the bill as follows:

- a) Strike the contents of the bill.
- b) Amend Education Code Section (ECS) 84901 by defining "carryover" to mean the amount of unspent adult education program funds from the prior fiscal year, certified on or before September 1 of the current fiscal year, expressed as a percentage of the prior fiscal year's allocation.
- c) Amend ECS 84914 by clarifying that a consortium's existing authority to make a finding that a member has been consistently ineffective in providing services that address the needs identified in the adult education plan:

- i) May be based on that member having excessive carryover for at least two consecutive fiscal years,
  - ii) Shall require a majority vote of the consortium's membership,
  - iii) Authorizes the consortium to reduce the ineffective member's allocation by no more than the amount of the member's carryover.
- d) Amend ECS 84914 to require a consortium with carryover from one or more prior fiscal years exceeding 20 percent to submit a written expenditure plan, including future corrective actions to reduce the consortium's carryover to below 20 percent, to the chancellor and the Superintendent.
- e) Amend ECS 84914 to specify that, for each fiscal year that a consortium has carryover of more than 20 percent, the chancellor and the Superintendent shall prescribe and assign technical assistance to that consortium to ensure that adequate adult education services are provided to the region in proportion to the region's available funding. Clarify that the chancellor and the Superintendent shall ensure that the consortium funding remains dedicated to that consortium's region.

**SUPPORT**

California Adult Education Administrators Association (co-sponsor)  
California Council for Adult Education (co-sponsor)  
Association of California School Administrators  
California Federation of Teacher  
Los Angeles Unified School District

**OPPOSITION**

Association of Community and Continuing Education  
Miracosta Community College District  
Mt. San Antonio College  
North Orange County Community College District  
Rancho Santiago Community College District  
San Diego College of Continuing Education  
San Diego Community College District  
South Orange County Community College District

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 748 **Hearing Date:** June 1, 2022  
**Author:** Carrillo  
**Version:** January 03, 2022  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Kordell Hampton

**Subject:** Pupil mental health: mental health assistance posters

**Note:** This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include a referral to the Committee on Judiciary.

## SUMMARY

On or before the start of the 2023–24 school year, this bill requires each schoolsite in a school district, county office of education (COE), or charter school serving pupils in any of grades 6 to 12 to create a poster that identifies approaches and shares resources regarding pupil mental health. This bill also requires the California Department of Education (CDE) to develop a model poster.

## BACKGROUND

Existing law:

- 1) Requires the Instructional Quality Commission (IQC), during the next revision of the publication "Health Framework for California Public Schools" (health framework), to consider developing, and recommending for adoption by the State Board of Education (SBE), a distinct category on mental health instruction to educate pupils about all aspects of mental health. (Education Code § 51900.5)
- 2) Specifies, for purposes of (1) above, that "mental health instruction" shall include, but not be limited to, all of the following:
  - a) Reasonably designed and age-appropriate instruction on the overarching themes and core principles of mental health.
  - b) Defining common mental health challenges such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.
  - c) Elucidating the services and supports that effectively help individuals manage mental health challenges.
  - d) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.

- e) Ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so pupils know to take action before a situation turns into a crisis. This should include instruction on both of the following:
    - i) How to appropriately seek and find assistance from mental health professionals and services within the school district and in the community for themselves or others.
    - ii) Appropriate evidence-based research and practices that are proven to help overcome mental health challenges.
  - f) The connection and importance of mental health to overall health and academic success as well as to co-occurring conditions, such as chronic physical conditions and chemical dependence and substance abuse.
  - g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of culture on the experience and treatment of mental health challenges.
  - h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by peers and other individuals who have experienced mental health challenges, and how they coped with their situations, including how they sought help and acceptance. (EC § 51900.5)
- 3) Requires the IQC, in the normal course of recommending curriculum frameworks to the SBE, to ensure that one or more experts in the mental health and educational fields provide input in the development of the mental health instruction in the health framework. (EC § 51900.5)
  - 4) Requires a school of a school district or county office of education and a charter school shall notify pupils and parents or guardians of pupils no less than twice during the school year on how to initiate access to available pupil mental health services on campus or in the community, or both. (EC § 49428)
  - 5) Requires school districts to send a notification to parents or guardians at the beginning of the first semester or quarter of the regular school term, with specified information. (EC § 48980)

## ANALYSIS

On or before the start of the 2023–24 school year, this bill requires each schoolsite in a school district, COE, or charter school serving pupils in any of grades 6 to 12 to create a poster that identifies approaches and shares resources regarding pupil mental health. This bill also requires the CDE to develop a model poster. Specifically, this bill:

- 1) Requires, on or before the start of the 2023–24 school year, each schoolsite in a school district, COE, or charter school, serving pupils in any of grades 6 to 12, inclusive, to create a poster identifying approaches and shares resources regarding pupil mental health.
- 2) Authorizes a schoolsite to partner with local, state, or federal agencies, or nonprofit organizations, for purposes of the design and content of the poster.
- 3) Requires the poster to be displayed in English and any other language if 15 percent or more of the pupils enrolled at the schoolsite speak a primary language other than English.
- 4) States the minimum size of the poster shall be no smaller than 8.5 by 11 inches and must use at least 12-point font.
- 5) Requires the poster, at a minimum, to display the following content:
  - a) Identification of common behaviors of those struggling with mental health or who are in a mental health crisis, including, but not limited to, anxiety, depression, eating disorders, emotional dysregulation, bipolar episodes, and schizophrenic episodes
  - b) A list of schoolsite-specific resources, including, but not limited to, counselors, wellness centers, peer counselors, community resources, including suicide prevention, substance abuse, child crisis, nonpolice mental health hotlines, public behavioral health services, and community mental health centers.
  - c) A list of positive coping strategies to use when dealing with mental health, including, but not limited to, meditation, mindfulness, yoga, breathing exercises, grounding skills, journaling, acceptance, and seeking therapy.
  - d) A list of negative coping strategies to avoid, including, but not limited to, substance abuse or self-medication, violence and abuse, self-harm, compulsivity, dissociation, catastrophizing, and isolating.
- 6) Requires, the poster to be prominently and conspicuously displayed at each schoolsite, and allows a governing board of a school district, governing body of a charter school, and county board of education to determine additional areas including, but not limited to, bathrooms, locker rooms, classrooms, classroom hallways, gymnasiums, auditoriums, cafeterias, wellness centers, and offices.
- 7) Requires schools to digitalize and distribute the poster related to pupil mental health through social media, internet websites, portals, and learning platforms.
- 8) Requires CDE to develop and maintain a model poster in collaboration with mental health experts, pupils, and administrators to serve as a guide for school districts, county offices of education, and charter schools.
- 9) Clarifies that a school district, COE, or charter school, serving pupils in any of grades 6 to 12, inclusive, shall not be civilly liable for any damages alleged to have



been caused by, or arisen as a result of, compliance or failure to comply with any of the requirements as set by this bill.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the authors, "Common mental health issues such as depression, anxiety, and substance use disorders generally emerge during adolescence. By ensuring that adolescents have easily accessible information about the early warning signs of mental health issues and are aware of school site resources, this bill is meant to address emerging mental health issues before they become worse.

"The California Healthy Kids survey, released every two years by the California Department of Education and the California Department of Public Health, has found that a long term rise in chronic sadness and hopelessness reported since 2015 among young people has continued. Their last survey was released in 2019, but the American Academy of Pediatrics has highlighted that the COVID-19 pandemic has exacerbated existing mental health challenges in adolescents.

"Section 231.6 of the Education Code added in 2019 upon the passage of AB 543 (Smith), this code section requires all high schools in California to display 8" by 11" posters that have instructions on how to report sexual harassment and/or assault. Existing Law does not address this specific problem with youth mental health. This bill would add language to Section 49428.5 of the Education Code."

- 2) ***Increasing occurrences of pupil mental health issues.*** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 months.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients' ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) ***COVID-19 has had an exacerbating effect on mental health issues.*** According to the 2020 report, "Roadmap for Resilience: The California Surgeon General's Report on Adverse Childhood Experiences, Toxic Stress, and Health," COVID-19 has only furthered the mental health issues children face. As the report notes, "For many children, the school is a bedrock of community belonging. The pandemic

has not only disrupted children's academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults.”

- 4) **Recently adopted health framework includes mental health.** While health is not a specifically required topic or course in middle school or high school, the SBE has adopted both content standards and a curriculum framework for health. On May 8, 2019, the SBE adopted the *2019 Health Education Curriculum Framework for California Public Schools, Transitional Kindergarten Through Grade Twelve*. The revised framework includes additional instructional strategies relating to mental health. The health framework will not be revised again until 2027.
- 5) **Committee Amendments.** *The committee recommends and the author accepts, the following amendments:*
  - Add pupils enrolled at that schoolsite to the list of organizations and entities a schoolsite may consult with when developing the design and content of the poster and determining age appropriateness and cultural relevance of the poster.
  - Clarify that the list of schoolsite-specific resources must include the contact information of the appropriate school staff member.
  - Add a list of community resources including suicide prevention, substance abuse, child crisis, nonpolice mental health hotlines, and public behavioral health services and community mental health centers to the list of minimum content the poster shall display.
  - Clarify that poster shall be prominently and conspicuously displayed in appropriate public areas, that *are accessible to, and commonly frequented by pupils* at each schoolsite.
  - Clarify that the governing board of a school district, governing body of a charter school, and county board of education must display the poster *in public areas accessible to, and commonly frequented by pupils* when considering additional areas to display the poster.
  - Clarify that the poster shall be digitized and distributed online to pupils through social media, internet websites, portals, and learning platforms *at the beginning of every school year*.
- 6) **Arguments in Support.** According to the California Federation of Teachers AFL-CIO “According to the most recent version of the California Healthy Kids Survey, administered biannually by the California Department of Education and the

California Department of Health Care Services, a long-term rise in chronic sadness and hopelessness reported among young people from past surveys has continued. Additionally, adolescents often do not seek out help. Studies show only one third of 15 and 16-year-olds with problematic mental health symptoms sought help, meaning that young people need every intervention opportunity possible to make sure that they end up seeking support [...] AB 748 seeks to require California's middle and high schools to display informative posters and materials that can help students identify signs of mental health decline, have a plan in the event of a mental health crisis, learn about positive coping strategies, and be informed of school site social and emotional resources. All of these resources must be made readily available to students in the easiest way possible by posting them on school campuses. As schools are reopening, the posters can also be distributed digitally. Providing the critical information that helps students seek out resources for mental health support is the first step in combating our mental health crisis."

- 7) **Related legislation. AB 543 (Smith)** Chapter 428, Statutes of 2019 requires public schools serving pupils in grades 9-12 to create and display a poster that notifies its pupils of the school's sexual harassment policy, and to provide a written copy of its sexual harassment policy to all students.

**AB 58 (Salas)** of this Session requires LEAs to provide suicide awareness and prevention training annually to teachers and requires CDE to develop model practices. *This bill is set to be heard in Senate Education Committee June 8, 2022.*

**AB 552 (Quirk-Silva)** of this Session Authorizes a county behavioral health agency (CHBA) and the governing board or governing body of a local educational agency (LEA) to enter into an Integrated School-Based Behavioral Health Partnership Program (Partnership Program), as established by this bill, to provide prevention and early intervention, and access to, behavioral health and substance use disorder services for pupils at schoolsites. *This bill is set to be heard in Senate Education Committee on June 1, 2022.*

**AB 309 (Gabriel)** Chapter 662, Statue of 2021, requires the CDE to develop model pupil mental health referral protocols, in consultation with relevant stakeholders, subject to the availability of funding for this purpose.

**AB 563 (Berman)** of this Session requires the CDE to establish an Office of School-Based Health Programs for the purpose of improving the operation of, and participation in, school-based health programs, including the SMAA and the LEA BOP. Requires that \$500,000 in federal reimbursements be made available for transfer through an interagency agreement to CDE for the support of the Office. *This bill is currently in Senate Education Committee.*

**AB 586 (O'Donnell)** of this Session establishes the School Health Demonstration Project to expand comprehensive health and mental health services to students by providing intensive assistance and support to selected local educational agencies to build the capacity for long-term sustainability through leveraging multiple funding streams and partnering with county Mental Health Plans, Managed Care Organizations, and community-based providers. Lessons learned through the pilot project would be used as a basis to scale up robust and sustainable school-based

health and mental health services throughout the state. *This bill is currently in Senate Education Committee.*

**AB 883 (O'Donnell)** of this Session requires Proposition 63 Mental Health Services Act (MHSA) funds unused by counties, within a specified period, to be reallocated to LEAs in that county to provide student mental health services. *This bill was held on suspense in Assembly Appropriations Committee.*

**AB 1080 (Cunningham)** of this Session authorizes school districts to partner with local or community mental health providers or clinics to administer its educational counseling program. *Died in Assembly Education Committee pursuant to Joint Rule 56.*

**AB 1081 (Cunningham)** of this Session requires the SPI, beginning with the 2021-22 fiscal year, to annually adjust the Local Control Funding Formula (LCFF) grade span adjustment by a specified amount for those LEAs documenting a partnership with a local mental health agency to promote integrated services, federal reimbursements, positive school climate, and pupil success, including but not limited to peer-led strengths-based, and wellness-oriented services; as well as alignment with the LCAP and the county's prevention and early intervention plan; and documented service access with at least one mental health professional for every 500 pupils of the school district or charter school. *Died in Assembly Education Committee pursuant to Joint Rule 56.*

**SB 229 (Dahle)** of this Session requires DHCS, in consultation with CDE, to provide up to \$500 million in grants annually to LEAs and private schools, to provide mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic, subject to an appropriation by the Legislature for this purpose. *This bill was held on suspense in Senate Appropriations Committee.*

**SB 75 (Committee on Budget and Fiscal Review)** Chapter 51, Statutes of 2019, establishes the Mental Health Student Services Act as a mental health partnership competitive grant program for establishing mental health partnerships between a county's mental health or behavioral health departments and school districts, charter schools, and the county office of education within the county, as provided. Also requires the CDE to jointly convene with the DHCS, a workgroup that include representatives from local educational agencies, appropriate county agencies, and legislative staff to develop recommendations on improving coordination and expansion of access to available federal funds through the LEA BOP, SMAA, and medically necessary federal EPSDT benefits.

**SB 224 (Portantino)** Chapter 675, Statutes of 2021, requires schools that offer one or more courses in health education to pupils in middle school or high school to include in those courses instruction in mental health.

**AB 2022 (Chu)** Chapter 484, Statutes of 2018, requires each school of a school district or COE, and each charter school, to notify students and parents or guardians of pupils, at least twice per school year, about how to initiate access to available student mental health services on campus or in the community.

**SUPPORT**

California Association For Health Physical Education, Recreation and Dance  
California Catholic Conference  
California Federation of Teachers AFL-CIO  
California State Association of Psychiatrists (CASP)  
National Association of Social Workers, California Chapter

**OPPOSITION**

None on file.

**-- END --**



This bill:

- 1) Authorizes a school district with approval of its governing board, to procure an alternative design-build contract for school construction projects in excess of \$5 million, and award the contract through the low bid or the best value method.
- 2) Sunsets the provisions of this bill on January 1, 2029.

#### *Definitions*

- 3) Establishes the following definitions:
  - a) "Alternative design-build" means a project delivery process in which both the design and construction of a project are procured from a single design-build entity based on its proposed design cost, general conditions, overhead, and project as a component of the project price.
  - b) "Best value" means a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the school district and the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring school district, or a tradeoff between price and other factors.
  - c) "Construction subcontract" means a subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or will render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the state which, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.
  - d) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services, as needed, pursuant to an alternative design-build contract.
  - e) "Design-build team" means the design-build entity and the individuals or other entities identified by the design-build entity as members of its team. Requires the members to include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.
  - f) "Project" means the construction of any school facility.

#### *Guidelines and Documents*

- 4) Requires the school district to develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the school district relating to the solicitation of an alternative design-build project, to submit a proposal as a design-build entity, or to join a design-build team. Requires the conflict-of-interest policy to apply to each school district entering into alternative design-build contracts.
- 5) Requires the school district to prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to, the size, type, and desired design character of the project, performance specifications covering the quality of materials, equipment, workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the school district's needs. The performance specifications and any plans must be prepared by a design professional who is duly licensed and registered in California.
- 6) Prohibits the documents referenced in (5) from including a design-build-operate contract for a project. The documents may include operations during a training or transition period but shall not include long-term operations for a project.

#### *Prequalification*

- 7) Requires the school district to prepare and issue a request for qualifications in order to prequalify, or develop a short-list of, the design-build entities whose proposals shall be evaluated for final selection. Requires the request for qualifications to include, but not be limited to, the following:
  - a) Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the school district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the school district to inform interested parties of the contracting opportunity.
  - b) Significant factors that the school district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors.
  - c) A standard template request for statements of qualifications prepared by the school district. In preparing the standard template, the school district may consult with the construction industry, the building trades and surety industry, and other school districts interested in using the authorization provided by this bill. Requires the template to include the following information: 1) a listing of all shareholders, and partners, including, a copy of the organizational documents or agreement committing to form the organization if the design-build entity is a privately held corporation; 2) evidence that the members of the design-build team have completed, or demonstrated the ability to complete the project of similar size, scope or complexity; 3) licenses, bonds and liability insurance; 4) information



- regarding workers' compensation history and worker safety program; and  
5) an acceptable safety record, as specified.
- d) Requires all information to be verified under oath.
  - e) Specifies that information required that is not otherwise a public record under the California Public Records Act shall not be open to public inspection.
- 8) Prohibits a design-build entity from being prequalified or shortlisted unless the entity provides an enforceable commitment to the school district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, as specified, except as follows:
- a) The school district has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by the project labor agreement;
  - b) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the school district before January 1, 2023; or
  - c) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.
- 9) Provides that "project labor agreement" has the same meaning as Public Contract Code (PCC) 2500(b)(1).

#### *Request for Proposals*

- 10) Requires the school district to prepare a request for proposals that invites prequalified or short-listed entities to submit competitive sealed proposals in the manner prescribed by the school district. Requires the request for proposals to include, but need not be limited to, the following elements:
- a) Identification of the basic scope and needs of the project or contract, the estimated cost of the project, the methodology that will be used by the school district to evaluate proposals, whether the contract will be awarded on the basis of low bid or best value, and any other information deemed necessary by the school district to inform interested parties of the contracting opportunity.
  - b) Significant factors that the school district reasonably expects to consider in evaluating proposals, including, but not limited to, cost or price and all non-price-related factors.

- c) The relative importance or the weight assigned to each of the factors identified in the request for proposals.
- d) Authorizes the school district to reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers if a best value selection method is used, and requires the school district to so specify in the request for proposals and publish separately or incorporate into the request for proposals applicable procedures to be observed by the school district to ensure that any discussions or negotiations are conducted in good faith.

#### *Awarding Contracts*

- 11) Provides that for those projects utilizing low bid as the final selection method, requires the competitive bidding process to result in lump-sum bids by the prequalified or short-listed design-build entities, and requires awards to be made to the design-build entity that is the lowest responsible bidder.
- 12) Provides that for those projects utilizing best value as a selection method, the alternative design-build competition shall progress as follows:
  - a) Competitive proposals shall be evaluated by using only the criteria and selection procedures specifically identified in the request for proposal, with the following minimum factors that must be weighted as deemed appropriate by the awarding entity:
    - i) The proposing design-build entity's design cost, general conditions, overhead, and profit as a component of the project price, unless a stipulated sum is specified;
    - ii) Technical design and construction experience; and
    - iii) Life-cycle costs over 15 or more years.
  - b) Authorizes the school district to hold discussions or negotiations with responsive proposers.
  - c) Requires responsive proposers to be ranked based on a determination of value provided, with a limit of three proposers required to be ranked.
  - d) Requires the award of the contract to be made to the responsible design-build entity whose proposal is determined to have offered the best value to the public, and requires the school district to publicly announce its award, as specified.
  - e) Provides that the contract awarded shall be subject to further negotiation and amendment pursuant to this bill.

- f) Specifies that the statement regarding the school district's contract award and the contract file shall provide sufficient information to satisfy an external audit.
- 13) Provides that a contract awarded pursuant to this bill shall be deemed a construction contract within the meaning of Education Code (EC) 17603, and subject to the requirements of PCC 20118.4.

*California Environmental Quality Act (CEQA) factors*

- 14) Specifies that a school district entering into a contract awarded pursuant to this bill that is subject to the CEQA shall retain the discretion to do all of the following:
- a) Terminate the contract at any time before a final project design is submitted to the Division of State Architect for approval;
  - b) Modify the project design or feature in a manner that a school district decides is necessary to comply with the CEQA, including, but not limited to, incorporation of mitigation measures identified in the environmental review document;
  - c) Balance the benefits of the proposed project against any of the project's significant environmental effects if the effects cannot be otherwise avoided or mitigated to a less than significant level; and
  - d) Disapprove the project design and not proceed with the project's final design and construction.
- 15) Requires a contract awarded by a school district pursuant to this bill to include terms as identified in (14) and condition the commencement of any activity beyond the design phase of the contract in compliance with applicable laws, including CEQA.
- 16) Prohibits a design-build entity or its subcontractors from engaging in any activity, including demolition, excavation, grading, or construction beyond the design phase unless the school district issues a notice of determination with the county clerk, and issues a notice to proceed with construction.
- 17) Requires the design-build entity to provide payment and performance bonds for the project in the form and in the amount required by the awarding authority, and issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.
- 18) Specifies that for purposes of procuring and awarding an alternative design-build contract, a school district is deemed to have complied with CEQA if the school district complies with (14) and a contract awarded contains the terms and conditions described in (15).

*Bonds and Insurance*

- 19) Requires the design-build entity to provide payment and performance bonds for the project in the form and in the amount required by the school district and issued by a California admitted surety. Prohibits the payment bond from being less than the amount of the performance bond.
- 20) Requires the alternative design-build contract to provide errors and omissions insurance coverage for the design elements of the project.
- 21) Requires the school district to develop a standard form of payment and performance bond for its alternative design-build projects.

#### *Subcontractors*

- 22) Authorizes the school district, in each alternative design-build request for proposals, to identify specific types of subcontractors that must be included in the design-build entity statement of qualifications and proposal. Provides that all subcontractors that are identified in the proposal are afforded protections under the Subletting and Subcontracting Fair Practices Act.
- 23) Specifies that following an award of the alternative design-build contract, the design-build entity is required to proceed as follows in awarding construction subcontracts with a value exceeding one-half of 1% of the contract price allocable to construction work:
  - a) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the school district;
  - b) Establish reasonable qualification criteria and standards; and
  - c) Award the subcontract either on a best value basis or to the lowest responsible bidder, which may include prequalification or short-listing.
- 24) Provides that the process stipulated in (23) does not apply to construction subcontracts listed in the original proposal.
- 25) Requires construction subcontracts to be subject to an open book evaluation by the school district. Specifies that based on the open book evaluation, the district shall set the price of the alternative design-build contract. The contract may be subject to further negotiation or amendment. The district may terminate the contract if the district and the design-build entity are unable to reach an agreement.
- 26) Provides that a licensed construction subcontractor that provides design services used on a project shall not be responsible for any liability arising from that subcontractor's design if the construction subcontract for that design is not performed by that subcontractor.

#### *Retention Proceeds*

- 27) Provides that the retention proceeds withheld by the school district from the design-build entity shall not exceed 5%, and the retention proceeds withheld between the design-build entity and any subcontractor may not exceed the percentage specified in the contract between the school district and the design-build entity.
- 28) Specifies that if the design-build entity provides written notice to any subcontractor that is not a member of the design-build entity, before or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract from any payment made by the design-build entity to the subcontractor.

*Report to the Legislature*

- 29) Requires a school district that uses the alternative design-build procurement method to submit to the appropriate policy and fiscal committees of the Legislature a report on the use of the procurement method no later than January 1, 2028.
- 30) Requires the report to include, but not be limited to, the following information:
  - a) A description of the projects awarded using the alternative design-build procurement method;
  - b) The contract award amounts;
  - c) The design-build entities awarded the projects;
  - d) A description of any written protests concerning any aspect of the solicitation, bid, or award of the contracts, including the resolution of the protests;
  - e) A description of the prequalification process;
  - f) The number of subcontractors listed by construction trade type on each project that provided design services, but did not meet the target price for their scope of work and therefore did not perform construction services on that project.
  - g) Whether the school district used any portion of a design prepared by a subcontractor that did not perform the construction work.
  - h) The number of subcontractors listed by construction trade type on each project that meets the definition of a small business or microbusiness.
  - i) An assessment of the project performance, including, but not limited to, a summary of any delays or cost increases if a project awarded pursuant to this bill has been completed.

- 31) Specifies that the bill governs design-build contracts entered into on or after January 1, 2023, and nothing in the bill affects, expands, alters, or limits any rights or remedies otherwise available at law.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "The design-build procurement method fosters partnership between designers and contractors that results in efficiency and fewer change orders during the construction phase. However, school districts and other entities that use design-build contracting have found that without a design, it is difficult for a school district or the design-build team to predict the cost for the project. Existing design-build contracting does not allow for any adjustments from the initial contract price. As a result, contractors may add contingencies into their proposals to cover future uncertainties. These uncertainties include the unpredictable cost to construct the final design and inflation during the duration of the design phase. This leads to either higher costs to the school district due to the inability to adjust the initial price downward, or alternatively, a design plan that does not incorporate the needs for a new school (e.g., fewer classrooms, lower quality material) due to the inability to adjust the price upward. This bill will allow a school district to renegotiate payment after a design has been initiated or completed to ensure that the price a school district pays more accurately reflects the true costs."
- 2) **Typical Design-Bid-Build Procurement.** Under current law, K-12 school districts are required to competitively bid any public works contract over \$15,000 and award the contract to the lowest responsible bidder. Under this process, a school district would first hire an architect to design a school facility and then issue a bid for the construction phase, awarding the contract to the lowest bidder. This process is commonly called "design-bid-build." AB 1402 (Simitian), Chapter 421, Statutes of 2001, established the design-build process that enabled a school district to issue a bid for both the design and construction of projects over \$10 million and authorized school districts to consider factors other than cost. The authority was extended several times. In 2015, AB 1358 (Dababneh), Chapter 752, Statutes of 2015, aligned school districts' design-build contracting process with the process established for state and local agencies, reduced the threshold to projects over \$1 million, and extended the sunset to January 1, 2025.
- 3) **Design-Build Procurement.** Under a design-build process, a K-12, California Community College (CCC) district, or other public or private agency issues a bid for both design and construction of a facility: A general contractor may collaborate with an architect/engineer to submit a proposal, or a general contractor may submit the proposal and subcontract with an architect/engineer. The school district must establish a process to prequalify design-build entities using a standard questionnaire developed by the Department of Industrial Relations. The questionnaire requires contractors to provide detailed information regarding the company and its financial status, including whether the company has been in bankruptcy or involved in a civil lawsuit, licensing information, prior contracting experience (whether the contractor has completed other public works

projects), whether the contractor has been involved or has been found to have violated any federal, state or local laws, and whether the contractor has violated any labor and health and safety laws, including prevailing wage.

A school district may award a design-build contract to the lowest bidder, or use criteria in addition to cost, which may include qualification, experience, proposed design approach, life cycle costs, project features, and project functions. Based on the criteria selected by a governing board, the proposals are scored and awarded to the bidder whose proposal is considered to be the best value to the school district. Under a design-bid-build process, the architect works independently on the design of the facility. Once construction begins, any problems identified by the contractor must be resolved, frequently with the school district acting as the mediator. Under design-build, the architect and contractor work together from the beginning of the project, thereby reducing conflicts and delays during the construction phase. Design-build contracting can expedite the construction of a project, avoid conflicts between architects/engineers and contractors, and, according to experiences from school and CCC districts, reduce costs by reducing change orders once construction begins.

- 4) ***How would this bill modify the existing Design-Build Process?*** This bill establishes an alternative design-build procurement method as a pilot project by modifying the existing design-build process as follows:
- a) For projects using best value rather than lowest bidder, a proposing design-build entity's design cost, general conditions (project specific costs), overhead (administrative), and profit as a component of the project price are added to the initial evaluation.
  - b) After a contract has been awarded, and presumably after a design has started or has been completed, the contract is subject to further negotiations and changes up to the sum of the costs of construction subcontracts.
  - c) A school district is authorized to review subcontractor bids received by the design-build entity through an open book evaluation and allows the school district to require the design-build entity to repeat the subcontractor bidding process if the school district determines that the costs of the construction subcontracts exceed the anticipated value of the project or if the school district determines any individual subcontract is unreasonable.
  - d) A school district retains the authority to cancel the alternative design-build contract. If a contract is canceled, the bill has language specifying that a subcontractor is not responsible for any liability arising from the subcontractor's design if the construction subcontract is performed by another subcontractor.

The pilot project is limited to districts with projects over \$5 million. Any district choosing to utilize the alternative design-build method must submit a report to the appropriate policy and fiscal committees of the Legislature by January 1, 2028, with specified information about the projects awarded using this method.

**SUPPORT**

Los Angeles Unified School District (sponsor)  
Associated Builders and Contractors of California

**OPPOSITION**

None received

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and course placement) in the implementation of supervised tutoring and not limit the type of courses that qualify for apportionment funded supervised tutoring.

- 3) Makes other clarifying and conforming changes.

### STAFF COMMENTS

- 1) **Need for the Bill.** According to the author, "Currently, colleges are allowed to receive funding for supervised tutoring in basic skills courses, such as remedial English or math, but not for those courses that students can use toward a credential or for transfer. Under existing law, colleges would not be eligible to claim funding for tutoring support in these credit-bearing classes.

"As colleges move toward placement practices that ensure students are completing transfer-level courses within one year, per AB 705, supervised tutoring is an important resource to ensure successful student completions. Further, colleges need a more stable funding stream to ensure these resources are available to all students and can hire permanent staff.

"Supervised tutoring has been shown to be an effective tool for colleges to support student in-class learning. A study conducted by the Center for Community College Student Engagement identified tutoring as a promising practice for community colleges to sustain student success and cites research that suggests students in tutoring are associated with higher GPAs and pass rates. Studies at San Bernardino Valley College and College of the Canyons in Santa Clarita observed the effects of tutoring on student success and found that these students had higher success rates than the campus-wide average.

"Providing apportionment to colleges for supervised tutoring of degree-applicable and transfer-level courses will help students continue on their academic pathways and reinforce in-class learning. Additionally, this change would give colleges flexibility in their student support structures when complying with AB 705, and could provide net cost benefits to the state by having fewer students retake courses."

- 2) **Other Tutoring Assistance Eligible for Apportionment.** As noted in the background of this analysis, under state regulations, student attendance in tutoring assistance is eligible for apportionment only for *noncredit* courses identified in statute of which includes certain basic skills courses and classes in parenting, ESL, citizenship for immigrants, education programs for persons with substantial disabilities, older adults, home economics, short-term vocational programs, and health and safety education. State regulations further provide conditions for which funds may be claimed for tutoring assistance. Specifically, tutoring services, among other things, must be conducted through a designated learning center under the supervision of a qualified faculty member, a student tutor who has been successful in a particular discipline and has received specific training in tutoring methods. This form of tutoring is known as supervised tutoring.

Based on fall 2019 enrollment data, the CCC Chancellor's office assumes that 230,302 new students will enroll in supervised tutoring and are seeking support for a *credit* course, while 25,589 new students will enroll in supervised tutoring and are seeking support for a *noncredit* course. This bill adds supervised tutoring assistance that supports any type of course (credit and/or noncredit bearing) instruction to the list of apportionment eligible noncredit courses.

- 3) **Reinforcement of Existing Concurrent Support Goals.** This bill also seeks to ensure tutoring support for course instruction is consistent with concurrent support models promoted in existing law, established by AB 705, regarding remedial education and placement of students into transfer level math and English courses. Provisions established under AB 705 encourage the use of concurrent supports to ensure that more students who are placed into transfer-level English and quantitative reasoning/mathematics will succeed. According to guidance issued by the CCC Chancellor's office on tutoring apportionment and basic skills in 2019, tutoring and non-credit co-requisite (i.e. concurrent support) models are considered appropriate and well-documented ways of improving the likelihood of student success, especially among some students who are directly placed into transfer-level English and quantitative reasoning/mathematics courses, as well as those students in English as a second language courses. The Chancellor's office guidance additionally permitted colleges to claim apportionment for supervised tutoring courses that support students in transfer-level English and math courses that build communication/literacy skills, qualitative reasoning skills, or critical thinking skills. In part, this bill seeks to grant clarity for, and expand the type of, tutoring support colleges can claim apportionment. In so doing, it may result in greater financial stability for concurrent support efforts used to help students succeed in transfer level courses.
- 4) **Other Funding Source for Tutoring Assistance.** State funds designated for Student Equity and Achievement (SEA) Program allow for use of those funds for tutoring assistance, among other things. Funds are not limited to tutoring activities; each campus may choose to allocate funding for an array of services and supports based on their local goals and student needs. According to the Chancellor's office, the needs are vast and SEA funds may not be sufficient for campuses to deliver a robust tutoring system. Staff notes that current regulations prohibit the collection of state apportionment dollars for tutoring services that are being paid from state categorical funds. It appears that there is no opportunity for an overlap in funding. Should this bill move forward today, the Legislature may wish to evaluate whether allowing categorical dollars for tutoring assistance is necessary.
- 5) **Prior Legislation.** AB 1935 (Irwin, 2018), would have enabled supervised tutoring for basic skills and for degree applicable and transfer-level courses offered at the CCC eligible for state apportionment funding. AB 1935 was held in the Senate Appropriations Committee.

SB 1009 (Wilk, 2018), would have enabled community colleges to claim state apportionment funding for supervised tutoring for certain courses, as defined. SB 1009 was held in Senate Appropriations Committee.

AB 705 (Irwin, Chapter of 745, Statutes of 2017) requires community college districts to maximize the probability that a student will be placed in and complete transfer-level or college credit in math and English within a one-year timeframe by utilizing multiple measures to achieve this goal.

**SUPPORT**

Antelope Valley Community College District  
Association of Community and Continuing Education  
California Acceleration Project  
California Edge Coalition  
Campaign for College Opportunity  
Career Ladders Project  
Community College League of California  
Contra Costa Community College District  
Faculty Association of California Community Colleges  
Improve Your Tomorrow, INC.  
Kern Community College District  
Mt. San Antonio College  
Mt. San Jacinto Community College District  
North Orange County Community College District  
Palo Verde Community College District  
Pasadena Area Community College District  
Peralta Community College District  
Promesa Boyle Heights  
Public Advocates INC.  
San Bernardino Community College District  
San Diego Community College District  
San Francisco; City College of  
San Jose-evergreen Community College District  
State Center Community College District  
Student Senate for California Community Colleges  
Yuba Community College District

**OPPOSITION**

None received.

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB 1467 **Hearing Date:** June 1, 2022  
**Author:** Cervantes  
**Version:** April 28, 2021  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** Student safety: sexual assault procedures and protocols: sexual assault counselors

**NOTE:** This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

## SUMMARY

This bill requires sexual assault counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault counselors from releasing the identity of the victim, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation.

## BACKGROUND

Existing federal law:

- 1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX.
- 2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

Existing state law:

- 1) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct. (Education Code § 231.5 and §

66281.5)

- 2) Requires, as a condition of receiving state financial assistance, the appropriate governing board or body of each campus of the University of California (UC), CSU, California Community Colleges (CCC), private postsecondary educational institutions, and independent institutions of higher education to implement, and at all times comply with, specified requirements including disseminating a notice of nondiscrimination, designating an employee to coordinate compliance, and adopting rules and procedures within the policies required by state and federal law. (EC § 66281.8)
- 3) Requires the governing board of each community college district, the Trustees of the CSU, the Regents of the UC, and the governing boards of independent postsecondary institutions to adopt policies concerning campus sexual violence, domestic violence, dating violence, and stalking that includes an affirmative consent standard, detailed and victim-centered policies and protocols, and the standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence. (EC § 67386)
- 4) Requires the governing board of each community college district, the Trustees of the CSU, the Board of Directors of the Hastings College of the Law, and the Regents of the UC shall each adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers. (EC § 67385)
- 5) Requires schools to post information on their Web sites relative to the designated Title IX coordinator, rights of students and responsibilities of schools, and a description of how to file a complaint. (EC § 221.61)
- 6) Provides that the victim of a sexual assault has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a sexual assault counselor if the privilege is claimed by any of the following: a) The holder of the privilege; b) A person who is authorized to claim the privilege by the holder of the privilege; or c) The person who was the sexual assault counselor at the time of the confidential communication, but that person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure. (Evidence Code § 1035.8.)
- 7) Defines "sexual assault counselor," for purposes of the sexual assault counselor-victim privilege, to include, among others, a person who is engaged in sexual assault counseling on the campus of a public or private institution of higher education. (Evidence Code § 1035.2)

## ANALYSIS

This bill requires sexual assault counselors at public colleges and universities to be independent from the Title IX office, prohibits sexual assault counselors from releasing

the identity of the victim, and authorizes the California State University (CSU) chancellor to collaborate with specified entities when reviewing executive orders related to discrimination, harassment, and retaliation. Specifically, this bill:

*Sexual assault counselors*

- 1) Requires a sexual assault counselor to be independent from the Title IX office, and to be appointed based on experience and a demonstrated ability to effectively provide sexual violence victim services and response.
- 2) Prohibits, regardless of whether victims wish their identity to remain confidential, a sexual assault counselor from notifying the university or any other authority, including law enforcement, of the identity of the victim or any witness or of the alleged circumstances surrounding the reported sexual misconduct unless otherwise required by applicable state or federal laws.

*Executive order review*

- 3) Authorizes the Chancellor of the CSU, when reviewing and updating any executive orders relating to discrimination, harassment, and retaliation, to do so in collaboration with any of the following:
  - a) The Systemwide Title IX Office.
  - b) The Executive Vice Chancellor of Academic and Student Affairs, the Associate Vice Chancellor for Student Affairs and Enrollment Management, the Vice Presidents for Student Affairs, and other Executive Vice Chancellors and Vice Chancellors.
  - c) The Office of General Counsel.
  - d) The Vice Chancellor of Human Resources and other human resources and academic personnel officers.
  - e) Campus Title IX coordinators.
  - f) Presidents and provosts of the various campuses of the university.
  - g) Sexual assault counselors, confidential sexual assault victims advocates, and domestic violence counselors.
  - h) Representatives of the student bodies at each campus of the university.
  - i) The Vice Chancellor of Administration and Finance.
- 4) Requires the Chancellor of the CSU to submit the text of all executive orders to which this bill applies in an annual report to the respective chairs of the Assembly Committee on Higher Education and the Senate Committee on Education.

**STAFF COMMENTS**

- 1) *Need for the bill.* According to the author, "Sexual assault counselors are in a unique position to observe, assess, and participate in the response to campus sexual assault. On-campus counselors assist student survivors by providing both emotional support and information regarding on-campus and community-based resources. This can include counseling or crisis intervention, as well as assistance navigating the reporting process if a survivor wishes to file a report. Counselors may also accompany survivors to appointments, meetings, or hearings. Historically, sexual assault counselors have been exempt from having to report instances of sexual misconduct to the university or law enforcement, providing a confidential resource for survivors seeking help.

"To fully support survivors in a trauma-centered manner, it is vital that sexual assault counselors focus on the needs of the survivor. The role of a sexual assault counselor is to explain all options and also supports any decision the survivor makes, which may include action against the university. In these situations, the sexual assault counselor may fear losing their employment or other forms of retribution due to their support of student survivors. Campus-based sexual assault counselors and advocates should have clear protections in place in order to have an ability to act independent from the University, in the best interest of the survivor without threat or fear of retaliation from the University."

- 2) *Title IX.* Title IX prohibits the exclusion of any person, on the basis of sex, from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving federal financial assistance. Title IX applies to schools, local and state educational agencies, and other institutions that receive federal financial assistance from the federal Department of Education.

An institution that receives federal financial assistance must operate its education program or activity in a nondiscriminatory manner free of discrimination based on sex, including sexual orientation and gender identity. Some key issue areas in which recipients have Title IX obligations are: recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment, which encompasses sexual assault and other forms of sexual violence; treatment of pregnant and parenting students; treatment of LGBTQI+ students; discipline; single-sex education; and employment.

Title IX offices conduct investigations of violations of Title IX, including sexual assault. This bill requires sexual assault counselors to be independent from the Title IX office. However, this bill does not preclude sexual assault counselors from being employed by the postsecondary educational institution.

- 3) *Fiscal impact.* According to the Assembly Appropriations Committee, this bill imposes the following costs:



- a) Minor General Fund costs to UC campuses. Sexual assault counselors already are independent from Title IX offices.
  - b) Minor General Fund costs to CSU campuses. Sexual assault counselors are sometimes independent from Title IX offices. However, CSU notes the bill could lead to liability issues which could result in additional costs.
  - c) Minor Proposition 98 General Fund costs to CCC campuses.
- 4) *Related legislation.* AB 1968 (Seyarto) requires the CSU and requests the UC to develop content and presentation standards and a model internet website template regarding the steps a student who is a victim of sexual assault may take immediately following the assault. AB 1968 requires the standards and model website template to be developed in collaboration with sexual assault survivor advocates and others who work with sexual assault victims. AB 1968 is scheduled to be heard by this Committee on June 8.

AB 2683 (Gabriel) requires the CCC and CSU, and requests UC and any independent institution of higher education or private postsecondary education institution that receives state financial assistance, to provide annual sexual harassment and sexual violence prevention training to students. AB 2683 requires all students attending the CCC, CSU, and any independent institution of higher education or private postsecondary education institution that receives state financial assistance to attend an annual sexual violence and harassment training beginning September 1, 2024. AB 2683 is scheduled to be heard by this Committee on June 8.

## SUPPORT

California Legislative Women's Caucus

## OPPOSITION

None received

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# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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**Bill No:** AB-1671      **Hearing Date:** June 1, 2022  
**Author:** Patterson  
**Version:** March 16, 2022  
**Urgency:** No      **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** California Ban on Scholarship Displacement for Foster Youth Act of 2022

**NOTE:** This bill has been referred to the Committees on Education and Human Services. A "do pass" motion should include referral to the Committee on Human Services.

## SUMMARY

This bill establishes the California Ban on Scholarship Displacement for Foster Youth Act to prohibit public and private postsecondary educational institutions from reducing the institutional aid offer to a low-income current or former foster youth who received a private scholarship award.

## BACKGROUND

### *Existing federal law*

- 1) Establishes the federal Pell Grants financial aid program for students with a defined demonstrated financial need to be used for tuition and fees, books, supplies, transportation, and living expenses for the equivalent of up to six years of full-time enrollment. In the 2022-2023 award year the maximum amount of awarded to Pell Grant Recipients is \$6,495, an increase of \$150 from the 2020-2021 maximum Pell Grant award. (United States Code, Title 20 § 1070 et seq)

### *Existing state law*

- 2) Establishes the Donahoe Higher Education Act to define and provide the missions of the California Community Colleges (CCC), California State University (CSU), and the University of California (UC), and for independent institutions of higher education as nonpublic higher education institutions who are considered nonprofits and are accredited by an agency recognized by the United States Department of Education to confer undergraduate degrees, graduate degrees, or both (Education Code § 66010 et seq)
- 3) Provides for the following definitions:
  - a) "Institutional financial aid" means all institutional grant aid including student need-based and merit-based aid (EC § 66021.1)
  - b) "Cost of attendance" means the monetary costs of attending college or university for the purpose of determining financial aid eligibility. Includes

the cost of mandatory systemwide tuition and fees, books and supplies, room and board, transportation, and miscellaneous personal expenses for an undergraduate California resident student, as used in determining financial aid eligibility. (EC § 66028.1)

- 4) Requires the CSU and the UC, by February 1 of each year, to provide to the Legislature information detailing the expenditure of revenues from student fees, the use of institutional financial aid, and the systemwide average cost of attendance per student (EC § 66028.6)
- 5) Establishes systemwide tuition and fee waivers for qualifying foster youth, as defined, who attend either the CSU or the UC. (EC § 66025.3)

## ANALYSIS

This bill establishes the California Ban on Scholarship Displacement for Foster Youth Act to prohibit public and private postsecondary educational institutions from reducing the institutional aid offer to a low-income current or former foster youth who received a private scholarship award.

- 1) Establishes the California Ban on Scholarship Displacement for Foster Youth Act of 2022.
- 2) Prohibits the UC, CSU, CCC, and any private postsecondary educational institution in the state that receives, or benefits from, state-funded financial assistance or enrolls students who receive state-funded student financial assistance, beginning with the 2023–24 academic year, from reducing the institutional financial aid offer of a current or former foster youth student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act for an academic year as a result of private scholarship awards designated for the student, unless the student's gift aid exceeds the student's annual cost of attendance.
- 3) Authorizes postsecondary educational institutions to reduce the institutional financial aid offer of a current or former foster youth student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act by no more than the amount of the student's gift aid that exceeds the student's annual cost of attendance.
- 4) Prohibits postsecondary educational institutions from considering receipt or anticipated receipt of private scholarships when considering a current or former foster youth student who is eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act for qualification for institutional financial aid.
- 5) Encourages postsecondary educational institutions, to ensure financial aid is maximized, and to implement efforts to avoid scholarship displacement through consultation with scholarship providers and students to avoid situations where institutional financial aid and private scholarships can only be used for specific

purposes.

- 6) Prohibits this bill from being interpreted or implemented in a manner inconsistent with state or federal law, and provides that the provisions of this bill are severable.
- 7) Provides the following definitions, among others:
  - a) "Cost of attendance" means the student's tuition and fees, books and supplies, living expenses, transportation expenses, and any other student expenses used to calculate a student's financial need for purposes of student aid programs under Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.).
  - b) "Financial need" means the cost of attendance minus the expected family contribution.
  - c) "Financial need" means the cost of attendance minus the student aid index.
  - d) "Gift aid" means all financial aid designated for the student's educational expenses, including a grant, scholarship, tuition waiver, fellowship stipend, or other third-party payment, that is not a loan or pursuant to a work study program.
  - e) "Institutional financial aid" means financial aid that is paid for by the institution of higher education from its funds and the recipient of the aid is selected by the institution.
  - f) "Private scholarship" means financial assistance awarded to students based on one or more factors, including, but not limited to, academic merit, talent, or a particular area of study, by a private company, foundation, or nonprofit organization, or a public charity or service group.
  - g) "Scholarship displacement" means the reduction of institutional financial aid due to private scholarship awards.
  - h) "Student Aid Index" means, with respect to a student, an index that reflects an evaluation of a student's approximate financial resources to contribute toward the student's postsecondary education expenses for the academic year.

#### STAFF COMMENTS

- 1) *Need for the bill.* According to the author, "Currently, California's institutes of higher education require students to report when they receive a scholarship from a private source, such as a foundation, corporation, or a philanthropic group. This in turn allows these schools to reduce institutional financial aid packages, at their own discretion.

"Many colleges practice scholarship displacement because it can award any unused funds for other students. However, for current and former foster youth

who already face numerous challenges when pursuing higher education, scholarship displacement can only complicate matters. Many of these students lack the financial resources, mentorship, support, stability, and guidance that is critical to completing their programs. With the rising cost of housing, books, transportation, and everything else related to higher education, and without the financial or familial support that many other students have, foster youth should not have their financial aid reduced for any reason.”

- 2) *How is financial aid determined?* As is noted in the Assembly Higher Education Committee analysis of this bill, financial aid is defined by the United States Department of Education as “money to help pay for college or career school”.

The federal Higher Education Act of 1965 requires postsecondary educational institutions to consider all available financial resources when financial aid packages are built for individual students to ensure the offered financial aid package does not exceed the student’s financial need, as determined by cost of attendance. Financial aid packages offered to students on behalf of their chosen college or university, often contain one or more of the following types of monetary assistance:

- a) Grants are a form of gift aid that is not repaid by the student. This form of financial aid can be limited to students within an income bracket or who wish to be employed in a high-need industry. The state-funded grant program is the California CalGrant program which provides tuition and fee assistance to low-and middle-income students who meet specific eligibility criteria.

Additionally, current and former foster youth in California qualify for the Chafee Grant for Foster Youth, which provides students with \$5,000 a year for college or career and technical training.

- b) Scholarships are a form of gift aid that is not repaid by the student. Often, the monetary assistance is provided by a nonprofit or a private organization to a student based on academic merit, talent, or a particular area of study. Scholarships can be provided for specific purposes such as paying for tuition or living expenses.
- c) Loans require students to borrow money from a financial institution or from the United States Department of Education to help pay for the total cost of attendance. Depending on the terms of the loan, the student will be required to pay the loan back with interest.
- d) Work-Study programs enable students to earn money to pay for the total cost of attendance while working part-time at a specific job site, often either on campus or related to their field of study.
- e) Educational awards for community service enable students to earn monetary assistance by volunteering in their communities. An example of this is the newly established California College Corps which enables students to volunteer for 450 hours and receive up to \$10,000 in financial assistance

(\$7,000 living allowance and \$3,000 education award).

After considering the combined financial aid available to a student, the postsecondary education institution of attendance *may* provide a student with “institutional aid” to further reduce the financial burden the student can experience while attending their chosen college or university.

A student who qualifies for more than one financial aid program, their campus financial aid office will “package” together aid to help meet the student’s financial needs and cover their cost of attendance. A student’s total financial aid package must not exceed the student’s cost of attendance. When packaging aid, institutions first prioritize awarding gift aid before moving on to awarding loans and work-study. If a student’s aid package exceeds the student’s cost of attendance then adjustments are made to eliminate the over award.

To help cover college costs, students can access financial aid from federal, state, and university, and private sources. Financial aid programs can consist of loan and gift aid programs. Grants, scholarships, and tuition waivers are considered gift aid, which simply means awards do not have to be repaid. Alternatively, loan programs must be repaid by students. The term institutional gift aid as used in this bill refers to gift aid offered by a college, excluding loans. As noted in the Assembly Higher Education analysis, decisions about allocating institutional aid funds reflect a number of different factors, including the types of resources colleges have at their disposal as well as their commitment to providing educational opportunities to low-and middle-income students. Additionally, institutional aid programs play a unique role in supporting individual colleges’ enrollment and completion goals in that colleges have the flexibility to distribute their own grant funds; however, these funds are often tied with differential reliance on tuition revenues which can make the amount available volatile from one year to the next.

All three segments of California’s public higher education system administer institutional gift aid programs. UC provides institutional gift aid to needy students through its UC Grant to cover both tuition costs and the cost of living. CSU provides institutional gift aid through its State University Grant (SUG) to needy students to cover only tuition costs. CCC provides institutional gift aid (tuition waiver) through its California College Promise Grant (formerly known as the Board of Governor’s fee waiver) to needy students to cover only tuition costs.

This bill seeks to address how colleges and universities (private and public) determine a student’s offer of institutional gift aid (non-loan programs) when private scholarships are designated for that student. The provisions of this bill are limited to institutional aid offers made to low-income students specifically those who are current or former foster youth student and eligible to receive a Federal Pell Grant award or financial assistance under the California Dream Act.

- 3) *Scholarship displacement.* The Assembly Higher Education Committee analysis of this bill references a 2017 article from *Inside Higher Ed* “In ‘Scholarship Displacement’ Debate, Who Speaks for Low-Income Students?” which states that “scholarship displacement” is the educational practice of reducing

institutional aid by the monetary amount of a private scholarship or grant received by a student. New law prompts debate over 'scholarship displacement,' raising questions about who speaks for low-income students ([insidehighered.com](http://insidehighered.com))

Institutions of higher education reduce institutional aid offered, or practice scholarship displacement, to decrease the amount spent on institutional aid and in turn use the "saved" institutional aid to provide it to another student in need. However, institutional aid is often limited to the payment of tuition or systemwide fees whereas scholarship funding can be used to pay for the total cost of attendance, housing, books, and food. Therefore, with the increase in the cost of attendance, and more students identifying as food insecure, scholarship displacement has an even more disproportionately negative impact on financially-needy students because they rely on all forms of financial aid (need-based grants as well as scholarships) while non-financially-needy students do not rely on need-based grants.

- 4) *Technical amendment.* To clarify that this bill applies to institutional gift aid rather than to institutional loans, staff recommends an amendment to reference "institutional gift aid" rather than "institutional financial aid."
- 5) *Fiscal impact.* According to the Assembly Appropriations Committee, to the extent this bill prevents scholarship displacement it would reduce the amount of aid that would otherwise be available for distribution to other students.
- 6) *Related legislation.* AB 288 (Calderon and Bonta, 2022) prohibits public and private postsecondary educational institutions from reducing the institutional aid offer to low-income students (not just current or former foster youth) who received a private scholarship award. AB 288 is scheduled to be heard by this Committee on June 1.

AB 3086 (Bonta, 2020) was substantially similar to AB 288 (Calderon and Bonta, 2022). AB 3086 was not heard due to the shortened legislative timeline.

## SUPPORT

California Alliance of Child and Family Services  
 California Faculty Association  
 Children Now  
 GenUp  
 National Association of Social Workers, California Chapter

## OPPOSITION

None received

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the district(s) and the district(s) would allow the individual to substitute teach for up to 60 days for one teacher during the school year;

- e) Verification that the employing agency will make available to the permit holder the staff development activities that are offered to their regular teaching staff; and
  - f) Submission to the CTC of a completed Application for Credential Authorizing Public School Service; the applicable fee(s); and unless clearance is already on file with the Commission, personal identification on duplicate fingerprint cards and the completed Application for Character and Identification Clearance.
- 2) States the requirements for the reissuance of an Emergency Career Substitute Teaching Permit, including all of the following:
    - a) Statement of continued endorsement from the superintendent of the employing school district or COE;
    - b) Verification that staff development activities that were offered to their regular teaching staff were made available to the permit holder; and
    - c) Submission to the CTC of a completed Application for Credential Authorizing Public School Service; and the applicable fee(s).
  - 3) Authorizes the Emergency Career Substitute Teaching Permit holder to serve as a substitute in any classroom; preschool, kindergarten, and grades 1-12, inclusive; or in classes organized primarily for adults. Prohibits, the holder from serving as a substitute for more than 60 days for any one teacher during the school year. Restricts the permit to the schools operated by the employing agency that requested the permit.
  - 4) States that an Emergency Career Substitute Teaching Permit is valid for no less than one year and expires one calendar year from the first day of the month immediately following the date of issuance.

## ANALYSIS

This bill requires the Commission on Teacher Credentialing (CTC), when issuing an initial emergency career substitute teaching permit, to accept employment verification for the previous consecutive three year period from one or more California school districts participating in a consortium in determining the accumulated work days per year.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "California's supply of substitute teachers has been declining for a few years now, however the emergence of the COVID-19 pandemic created an even more dire situation. Our children suffered tremendous learning loss in the first year of remote learning. Now, they have

returned to in-person classroom instruction and schools are struggling to find educators to teach them. Our kids are the ones bearing the greatest cost of this teacher shortage. Of course, our current substitute permit requirements ensure students still receiving a quality education on days their teachers are absent. However, it is important to provide greater flexibility wherever possible to ensure unnecessary administrative barriers are not effecting our kids' access to quality substitute teachers. AB 1876 will make the Career Substitute Teaching Permit more accessible to qualified substitutes needed to address the extended shortages and absences of full time teacher without compromising our current teaching standards.”

- 2) **COVID-19 implications.** With the unprecedented COVID-19 crisis, creative solutions that increase opportunity for substitute teacher candidates to qualify for permits are needed more urgently than ever. Since the 2021-22 school year, schools across the state have been hit hard with teacher absences. Some school districts had over 100 certificated absences each school day, and not enough substitute teachers to fill the need. Many districts attempted to recruit parents to substitute teach. Possible periodic resurgences of the COVID-19 pandemic may again require an increase in the number of substitute teachers needed in the 2023-2024 academic year and beyond.

In the midst of the COVID-19 pandemic, California is facing a massive substitute teacher shortage. In the 2015-16 school year, the California Commission on Teacher Credentialing (CTC) issued 102 new career substitute teaching permits. In 2019-20, it issued only 67. With dozens of teachers out every week due to COVID infection or exposure, California has leaned on its dwindling substitute teacher pool more than ever. Across the nation, states have had to cancel classes due to districts' inability to staff classrooms, this has led many of them to ease requirements to attract more substitute teachers.

- 3) **What is the difference between a career substitute teaching permit and a 30 day substitute teaching permit?** A career substitute teaching permit authorizes a person to serve as a substitute teacher for up to 60 days in a single classroom. Career substitute teachers are required to demonstrate a history of substitute teaching in the district or the county by being employed for at least 90 days per school year, for each of the previous three school years. By contrast, the holder of a 30 day substitute teaching permit may only teach up to 30 days in a single classroom and does not have a requirement to demonstrate a history of previous substitute teaching experience.
- 4) **Teacher shortages increase the demand for substitute teachers.** Teacher shortages have increased the need and demand for substitute teachers. New strategies for substitute recruitment and retention are rapidly changing. According to a report and survey conducted by EdWeek Research Center, *The Substitute Teacher Gap: Recruitment and Retention Challenges in the Age of Covid-19*, short-term substitute teaching positions have been difficult to fill because of low wages, lack of benefits, and a requirement to hold a bachelor's degree. This report found that on average about 250,000 positions are left to be filled daily with substitute teachers with only 54% of total absences covered with substitute teachers filling in the vacancies. The report also found that 71% of

administrators and school board members predict that the demand for substitute teachers will increase in the next five years. The report interviewed a California school board member who stated, "Many of those people that we do recruit to become substitutes end up getting hired as fulltime teachers, which is great; however, then we lose them on the substitute teacher roles."

- 5) ***Already weak teaching pipeline further damaged by COVID-19 education disruptions.*** A March 2021 report by the Learning Policy Institute (LPI) raised concerns about the effects of the COVID-19 pandemic on the teacher shortage in California:
- a) Teacher shortages remain a critical problem. Most districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers with substandard credentials and permits, reflecting a statewide trend of increasing reliance on underprepared teachers.
  - b) Teacher pipeline problems are exacerbated by teacher testing policies and inadequate financial aid for completing preparation. Many districts attributed shortages to having a limited pool of fully credentialed applicants, with more than half reporting that testing requirements and lack of financial support for teacher education pose barriers to entry into teaching.
  - c) Teacher workload and burnout are major concerns. The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
  - d) Growing retirements and resignations further reduce supply. In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. District leaders anticipate higher retirement rates next year, which could exacerbate teacher shortages.
- 6) ***The state has taken short-term actions to alleviate teacher staffing issues in response to COVID-19.*** Historically, existing laws and regulations have restricted holders of substitute teaching credentials or permits to a maximum of 30 cumulative days for any one educator in a general education assignment and 20 cumulative days for any one educator in a special education assignment during a school year.

On January 11, 2022, Governor Newsom signed Executive Order (EO) N-3-22 which allows individuals who do not currently hold an Emergency 30-Day Substitute Teaching Permit to receive a Temporary County Certificate (TCC) to serve in an emergency substitute assignment immediately. This EO also temporarily extends the substitute service limitation for holders of a substitute teaching credential or a TCC to 120 days for any one teacher in a general education setting. This flexibility is not extended to Special Education settings. In order for the 120 day limit in a general education setting to apply, the educator must be placed in the assignment by March 31, 2022.

Further, the 2021-22 State Budget allows any holder of a substitute teaching credential or permit issued by the CTC to substitute teach for up to 60 cumulative days for any one educator in a general education or special education assignment, until July 1, 2022. As part of the proposed 2022-23 State Budget, the Governor proposes to extend this flexibility for one additional fiscal year, until July 1, 2023.

**SUPPORT**

Association of California School Administrators

**OPPOSITION**

None received

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- f) The holder of a credential, permit, or certificate to teach, other than an emergency permit, who seeks an additional authorization to teach;
  - g) An applicant for a credential to provide service in the health profession;
  - h) An applicant who achieves scores on the writing, reading, and mathematics sections of the College Board SAT Reasoning Test, the enhanced ACT Test, or the California State University Early Assessment Program that are sufficient to waive the English placement test and the entry level mathematics examination administered by the California State University;
  - i) An applicant for an eminence credential; and
  - j) An applicant who earns at least a letter grade of B in qualifying coursework determined by a credential preparation program, or determined by the commission for an applicant not enrolled in a California credential preparation program, to sufficiently serve as an indicator of proficiency in basic reading, writing, and mathematics skills in the English language.
- 3) Requires the CTC to administer the California basic skills proficiency test (CBEST) in accordance with rules and regulations adopted by the CTC. Requires a fee to be charged to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test. Requires the amount of the fee to be established by the CTC to recover the cost of examination administration and development.
- 4) States that an individual who passes the state basic skills proficiency test, as adopted by the Superintendent, is considered proficient in the skills of reading, writing, and mathematics, and is not be required to be retested by this test for purposes of meeting the proficiency requirements.
- 5) States that an individual who passes one or more components of the CBEST in the subjects of basic reading, writing, or mathematics shall be deemed to have demonstrated his or her proficiency in these subject areas and shall not be required to be retested in these subjects during subsequent test administrations.
- 6) Authorizes the CTC to issue or renew emergency teaching or specialist permits provided that all of the following conditions are met:
- a) The applicant possesses a baccalaureate degree conferred by a regionally accredited institution of higher education and has fulfilled all subject matter requirements;
  - b) The applicant passes the state basic skills proficiency test; and
  - c) The commission approves the justification for the emergency permit submitted by the school district in which the applicant is to be employed.

- 7) Requires a person holding an emergency teaching or specialist permit to attend an orientation to the curriculum and to techniques of instruction and classroom management, and to teach only with the assistance and guidance of a certificated employee of the district who has completed at least three years of full-time teaching experience, or the equivalent thereof. States the intent of the Legislature to encourage districts to provide directed teaching experience to new emergency permit holders with no prior teaching experience.
- 8) Requires the holder of an emergency permit to participate in ongoing training, coursework, or seminars designed to prepare the individual to become a fully credentialed teacher or other educator in the subject area or areas in which he or she is assigned to teach or serve. Requires the employing agency to verify that employees applying to renew their emergency permits are meeting these ongoing training requirements.

## ANALYSIS

This bill requires the Commission on Teacher Credentialing (CTC) to waive the basic skills proficiency requirement for the issuance of an emergency 30-day substitute teaching permit until July 1, 2024.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "Our school districts are struggling with their most severe substitute and teacher shortage in years. AB 1893 will temporarily remove the most time consuming component of the 30 day emergency substitute permit process to expedite the number of substitutes available to schools and ease strains on staff."
- 2) **California basic skills requirement.** The main path to satisfy the basic skills requirement is by taking the CBEST, which is designed to test basic reading, mathematics, and writing skills found to be important for the job of an educator. The test is not designed to measure the ability to teach those skills. There are exemptions from passage of the CBEST exam for certain types of teachers and for applicants who have passing scores on other exams, such as Advanced Placement exams and college admissions exams. Applicants may also fulfill the basic skills requirement through coursework. All teacher candidates must demonstrate basic skills by passing the CBEST or through one of the existing exemptions.

According to the CTC, once the CBEST is completed, it takes approximately two weeks to receive test results. If a candidate is satisfying the basic skills requirement through coursework, the evaluation of the candidate's coursework is evaluated within the 50 day CTC application processing time.

- 3) **COVID-19 implications.** With the unprecedented COVID-19 crisis, creative solutions that increase opportunity for substitute teacher candidates to qualify for permits are needed more urgently than ever. Since the 2021-22 school year, schools across the state have been hit hard with teacher absences. Some

school districts had over 100 certificated absences each school day, and not enough substitute teachers to fill the need. Many districts attempted to recruit parents to substitute teach. Possible periodic resurgences of the COVID-19 pandemic may again require an increase in the number of substitute teachers needed in the 2023-2024 academic year and beyond.

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- 4) ***Teacher shortages increase the demand for substitute teachers.*** Teacher shortages have increased the need and demand for substitute teachers. New strategies for substitute recruitment and retention are rapidly changing. According to a report and survey conducted by EdWeek Research Center, *The Substitute Teacher Gap: Recruitment and Retention Challenges in the Age of Covid-19*, short-term substitute teaching positions have been difficult to fill because of low wages, lack of benefits, and a requirement to hold a bachelor's degree. This report found that on average about 250,000 positions are left to be filled daily with substitute teachers with only 54% of total absences covered with substitute teachers filling in the vacancies. The report also found that 71% of administrators and school board members predict that the demand for substitute teachers will increase in the next five years. The report interviewed a California school board member who stated, "Many of those people that we do recruit to become substitutes end up getting hired as fulltime teachers, which is great; however, then we lose them on the substitute teacher roles."
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Further, the 2021-22 State Budget allows any holder of a substitute teaching credential or permit issued by the CTC to substitute teach for up to 60 cumulative days for any one educator in a general education or special education assignment, until July 1, 2022. As part of the proposed 2022-23 State Budget, the Governor proposes to extend this flexibility for one additional fiscal year, until July 1, 2023.

## SUPPORT

Association of California School Administrators  
California Charter Schools Association

## OPPOSITION

None received

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