
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: SB 320
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Urgency: No
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Fiscal: Yes

Subject: Pupil fees: complaint of noncompliance: regulations

SUMMARY

This bill authorizes the Superintendent (SPI) to ensure appeals regarding pupil fees are resolved in a timely manner and prohibits a school from establishing a local policy that authorizes resolution of a complaint by only providing a remedy to the complainant without also providing a remedy to all affected students, parents, and guardians.

BACKGROUND

Existing law establishes that state-supported educational opportunities have a right to be enjoyed without regard to economic status and prohibits school officials from requiring any pupil, except for pupils in classes for adults, to purchase any instructional material for the pupils' use in the school. (Education Code § 51004 and § 60070)

Existing law specifies that a pupil enrolled in a school shall not be required to pay a pupil fee, deposit or other charge imposed for participation in any educational activity offered by a school, school district, charter school, or county office of education that constitutes an integral fundamental part of elementary and secondary education including curricular and extracurricular activities. (EC § 49011 and 49010)

Existing law provides that a complaint regarding pupil fees may be filed with the principal of a school under the Uniform Complaint Procedures (UCP). The complaint may be filed anonymously. If a public school finds merit in the complaint, then the public school is required to provide a remedy to all affected pupils, parents and guardians that, where applicable, includes reasonable efforts to ensure full reimbursement. A complainant who is dissatisfied with a local educational agency's (LEA's) Decision may appeal the decision to the California Department of Education (CDE). The complainant shall receive a written appeal decision within 60 days of the CDE's receipt of the appeal. (EC § 49013)

ANALYSIS

This bill:

1. Prohibits a school from establishing a local policy that authorizes resolution of a complaint by only providing a remedy to the complainant without also providing a remedy to all affected students, parents, and guardians.

2. Delegates all power and authority necessary to the SPI to ensure timely resolution of any complaint found to have merit.
3. Requires the superintendent to adopt regulations by June 30, 2016 that include but are not limited to the following provisions:
 - A. Upon finding merit in an appeal, require the department to specify the remedy a school must take to resolve the complaint.
 - B. Authorize the CDE, as appropriate, to resolve an appeal based on newly presented evidence without sending the case back to the school.
 - C. Require the school to provide evidence to the CDE of the corrective action taken within 60 days of the decision.
 - D. If the school fails to provide corrective action, require the appropriate school or district administrator as specified to appear before the state board and explain the school's failure to fulfill the requirement.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, despite current law, some schools continue to charge unlawful school fees, and the complaint process does not always function in the manner intended. Subsequently, parents have reported that schools continue to resolve complaints by reimbursing only the family that filed the complaint and have experienced long delays in the process due to appeals going back and forth from the department and the school. This bill seeks to strengthen the local pupil fee complaint process and CDE's authority over appeals in order to improve the process for parents while establishing clear guidelines for schools.
2. ***What is a pupil fees complaint?*** According to CDE, an unlawful pupil fees complaint is a written statement alleging violation of a federal or state law or regulation related to noncompliance with laws relating to pupil fees. A complaint alleging a violation must be filed with the school through uniform complaint procedures outlined in regulations (CCR, Title 5, sections 4600-4687 and EC sections 4910-49013).
 - A. These procedures include among other things:
 - (1) Upon filing the school has 60 days to complete the investigation and prepare a final report.
 - (2) If there is disagreement with the school's decision, the complainant can submit an appeal to CDE within 15 days of receiving the final decision.

- (3) If CDE finds merit in the complaint, the school is required to provide a remedy to all affected students, parents, and guardians where applicable.

This bill statutorily clarifies the specific procedure which must be followed by a school district in order to remedy a complaint. It also clearly delegates power and authority to the SPI to ensure timely resolution of any complaints found by the SPI to have merit.

3. ***Appearing before the State Board of Education (SBE).*** SBE is the K-12 policy-making body for academic standards, curriculum, instructional materials, assessments and accountability. The SBE adopts instructional materials for use in grades K-8. The SBE also adopts regulations (Title 5) to implement a wide variety of programs created by the Legislature, such as charter schools, and special education. In addition, the SBE has the authority to grant local education agency requests for waivers of certain provisions of the state Education Code.

This bill would require the superintendent of the school district or the county office of education or the principal of the charter school to appear at the next regularly scheduled meeting of the state board to explain why the school failed to take corrective action and meet timeline requirements. It's unclear if the board possesses the enforcement authority to address a school's failure to comply with state law or if appearing before the state board would motivate a resolution for the complainant.

A more effective approach could be to require the school district to notify all parents of the department's ruling on an appeal and the requirement to remedy the issue.

In addition, the committee may wish to direct school districts and school boards to offer a more effective enforcement mechanism should a school fail to comply with existing law.

4. ***Related and prior legislation.***

AB 1575 (Lara, CH. 776, 2012) required the CDE to publish guidelines on pupil fees, incorporate pupil fees into the uniform complaint process so students and parents can challenge unlawful fees at their local school, and enable parents to appeal a decision through the CDE's uniform complaint process. AB 1575 was introduced in response to a 2001 report from the University of California Los Angeles that found multiple instances where schools charged students and families for instructional materials despite existing law.

AB 165 (Lara, 2011) would have reinforce the constitutional prohibition on the imposition of pupil fees and establishes policies to ensure compliance with the prohibition. AB 165 was ultimately vetoed by the Governor, whose message read:

This bill responds to a lawsuit filed by the ACLU against the state, alleging that some local school districts are denying students their

right to a free public education by charging improper fees for classes and extracurricular activities. Local district compliance with this right is essential, and those who fail should be held accountable. But this bill takes the wrong approach to getting there.

This bill would mandate that every single classroom in California post a detailed notice and that all 1,045 school districts and over 1,200 charter schools follow specific compliant, hearing and audit procedures, even where there have been no complaints, let alone evidence of any violation. This goes too far.

SUPPORT

ACLU
California Association for Bilingual Education
Californians Together
CTA

OPPOSITION

None received.

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