
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 667 **Hearing Date:** June 14, 2017
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Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil discipline: suspension: informal conference

SUMMARY

This bill requires that the principal, his or her designee, or the district superintendent of schools inform a pupil who is being suspended of the other means of correction that were attempted prior to the suspension, during the mandatory informal conference.

BACKGROUND

- 1) Prohibits a pupil from being suspended or recommended for expulsion unless the superintendent of the school district or the principal of the school determines that the pupil has committed certain acts, including, *among other acts*, all of the following:
 - a) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - b) Willfully used force or violence upon the person of another, except in self-defense.
 - c) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, except as specified.
 - d) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind.
 - e) Committed or attempted to commit robbery or extortion.
 - f) Caused or attempted to cause damage to school property or private property.
 - g) Stole or attempted to steal school property or private property.
 - i) Committed an obscene act or engaged in habitual profanity or vulgarity.
 - j) Committed or attempted to commit a sexual assault or committed sexual battery.

- k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - l) Engaged in, or attempted to engage in, hazing.
 - m) Engaged in an act of bullying. (Education Code § 48900)
- 2) Authorizes school district superintendents and school principals to use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior, as specified. (EC § 48900(v))
- 3) Provides that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct, but authorizes a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts or the pupil's presence causes a danger to persons. (EC § 48900.5)
- 4) Authorizes, but does not require, school districts to document the other means of correction used and to place that documentation in the pupil's record. (EC § 48900.5)
- 5) Specifies that other means of correction include, but are not limited to:
- a) A conference between school personnel, the pupil's parent or guardian, and the pupil.
 - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
 - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a 504 plan.
 - e) Enrollment in a program for teaching prosocial behavior or anger management.
 - f) Participation in a restorative justice program.
 - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
 - h) After-school programs that address specific behavioral issues or expose

pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

- i) Community service, as specified. (Education Code §48900.5)
- 6) States that schools should consider implementing at least one of the following if the number of pupils suspended during the prior school year exceeded 30 percent of the school's enrollment:
- a) A supervised suspension program.
 - b) A progressive discipline approach during the schoolday on campus (as an alternative to off-campus suspension), using any of the following activities:
 - i) Conferences between the school staff, parents, and pupils.
 - ii) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.
 - iii) Detention.
 - iv) Study teams, guidance teams, resource panel teams, or other assessment-related teams. (EC § 48911.2)
- 7) Authorizes teachers to suspend pupils from class for the day and the following day. If the pupil is to remain on campus during that suspension, the pupil must be under appropriate supervision. Teachers must ask the parent to attend a parent-teacher conference regarding the suspension. Pupils are prohibited from returning to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher and principal. (EC § 48910)

ANALYSIS

This bill requires that the principal, his or her designee, or the district superintendent of schools inform a pupil who is being suspended of the other means of correction that were attempted prior to the suspension, during the mandatory informal conference.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, "California currently is in the middle of a school attendance crisis with an estimated 210,000 K-5 students in California missing 10% of the school year in 2015-2016. Suspension of a pupil, when used as a primary tool for discipline only exacerbates this problem causing students to miss critical hours of instruction which has both immediate and long term impacts. According to the Attorney General's In School + On Track report of 2016, suspensions have resulted in over 23,000 days of missed instruction for students. In addition 55% of pupils with more than one suspension are also chronically absent, making one of the primary drivers of the crisis.

Suspensions, according to data are also not dealt out equally. Not only are boys 3 times more likely to be suspended than girls, but students of color as well as foster youth and students of low-income are disproportionately suspended. Often these groups encompass the state's most vulnerable, and can ill afford to miss hours of instruction.

Existing law requires that suspension of a pupil be imposed only when other means of correction fail to bring about proper conduct. These include but aren't limited to; a conference including the pupil, positive behavioral support and enrollment in programs teaching prosocial behavior or anger management.

Despite the authorization of other means of correction, it is often unclear what if any methods were used in compliance with the law should before it."

- 2) ***Rate of suspensions and expulsions declining but disparities persist.*** The California Department of Education (CDE) reported that 243,603 students were suspended statewide in 2014-15, representing a 13 percent drop from the prior year and a 34 percent drop over the three-year period since CDE began collecting suspension and expulsion data at the student level through the California Longitudinal Pupil Achievement Data System (CALPADS). A total of 6,611 students were expelled in 2014-15, representing a reduction of 14 percent from the prior year and 40 percent over the same three-year period.

CDE attributes a number of factors to the reduction in statewide suspension and expulsion rates, including a focus on successful alternatives to suspensions and expulsions, including restorative justice programs, as well as a variety of behavioral intervention strategies and supports. In addition, the passage of AB 420 (Dickinson) in 2013 limited suspensions and expulsions for willful defiance-related offenses.

The disproportionate incidence of suspensions and expulsions among certain populations of students, including African American students, has gained nationwide attention in recent years. This holds true in California, where African American students make up 6 percent of total statewide enrollment, but made up 16% of students suspended in both 2013-14 and 2014-15.

Similarly, the Attorney General's 2016 report, *In School + On Track*, notes that "African American students represent 22 percent of all suspensions and 28 percent of students suspended for more than three days, while only representing 5 percent of the overall K-5 student population."

- 3) ***Growing trend to use alternatives to suspension and expulsion.*** According to the U.S. Department of Education, "teachers and students deserve school environments that are safe, supportive, and conducive to teaching and learning. Creating a supportive school climate—and decreasing suspensions and expulsions—requires close attention to the social, emotional, and behavioral needs of all students. Evidence does not show that discipline practices that remove students from instruction—such as suspensions and expulsions—help to improve either student behavior or school climate. Suspensions are associated with negative student outcomes such as lower academic performance, higher

rates of dropout, failures to graduate on time, decreased academic engagement, and future disciplinary exclusion. Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.”

- 3) ***Pupil engagement state priority.*** One of the eight state priorities for purposes of local control and accountability plans (LCAPs) and the local control funding formula (LCFF) is pupil engagement, as measured by suspension and expulsion rates. In their LCAPs, school districts, county offices of education, and charter schools have to explain what actions they are taking to achieve the goals they’ve set for each state priority. Given that LCAPs were first implemented for the 2014-15 school year, the reduction in suspensions for disruption/willful defiance, and suspensions overall could also be linked to the pupil engagement priority.
- 4) ***Related and previous legislation.*** SB 607 (Skinner, 2017) permanently eliminates the authority to suspend or recommend for expulsion any pupil in kindergarten or grades 1 to 5, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, and prohibits until July 1, 2028, the authority to suspend or recommend for expulsion any pupil or grades 6 to 12, inclusive, for that same act.

AB 420 (Dickenson, Chapter 660, Statutes of 2014) Eliminated, until July 1, 2018, the authority to suspend a pupil enrolled in grades K-3, inclusive, and the authority to recommend for expulsion a pupil enrolled in grades K-12, inclusive, for disrupting school activities or otherwise willfully defying the valid authority of those school personnel engaged in the performance of their duties, as specified.

AB 2242 (Dickinson, 2012) would have prohibited pupils who are found to have disrupted school activities or otherwise willfully defied the authority of school officials from being subject to extended suspension, or recommended for expulsion. AB 2242 was vetoed by the Governor, whose veto message read:

I cannot support limiting the authority of local school leaders, especially at a time when budget cuts have greatly increased class sizes and reduced the number of school personnel. It is important that teachers and school officials retain broad discretion to manage and set the tone in the classroom.

The principle of subsidiarity calls for greater, not less, deference to our elected school boards which are directly accountable to the citizenry.

SUPPORT

Children Now
Alliance for Boys and Men of Color
American Civil Liberties Union of California

Asian Americans Advancing Justice
Black Parallel School Board
California School-Based Health Alliance
California School Boards Association
California Teachers Association
Children's Defense Fund-California
Common Sense Kids Action
Dolores Huerta Foundation
Equal Justice Society
Fight Crime: Invest In Kids
Genders & Sexualities Alliance Network
Los Angeles County Office of Education
Legal Services for Children
National Center for Youth Law
Our Family Coalition
Promesa Boyle Heights
Public Counsel

OPPOSITION

None received

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