
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 881
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Urgency: No
Consultant: Olgalilia Ramirez
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Fiscal: No

Subject: Pupils: grounds for suspension and expulsion: bullying

SUMMARY

This bill expands the definition of "bullying by an electronic act," from the "creation *and* transmission" of a communication to the "creation *or* transmission" of a communication by means of an electronic device.

BACKGROUND

Existing law:

- 1) Prohibits a pupil from being suspended or recommended for expulsion unless the principal of the school determines that the pupil has committed certain acts, and gives schools the discretion to take action for most offenses.
(Education Code § 48900)
- 2) Authorizes, schools to suspend or recommend for expulsion a pupil who engages in an act of bullying, which is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - a) Placing a reasonable student or students in fear of harm to that student's or those students' person or property.
 - b) Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health.
 - c) Causing a reasonable student to experience substantial interference with his or her academic performance.
 - d) Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school. (EC § 48900(r)(1))
- 3) Defines "electronic act" as the creation and transmission of a communication originated on or off school sites, by means of an electronic device, including but not limited to a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including but not limited to any of the following:

- a) A message, text, sounds, or image.
- b) A post on a social network website including, but not limited to:
 - i) Posting to or creating a burn page, as defined, created for the purpose of having one or more of the effects listed above.
 - ii) Creating a credible impersonation of another actual student, as defined, for the purpose of having one or more of the effects listed above.
 - iii) Creating a false profile, as defined, for the purpose of having one or more of the effects listed above. (EC § 48900(r)(2))

ANALYSIS

- 1) This bill expands the definition of “bullying by an electronic act,” from the “creation *and* transmission” of a communication to the “creation *or* transmission” of a communication by means of an electronic device.

STAFF COMMENTS

- 1) ***Need for the bill:*** According to the author, concerns have been raised that prior legislation, AB 256, may have inadvertently narrowed the definition of bullying via an electronic act, by defining "electronic act" as the creation *and* transmission of a communication. These provisions limit a principal or superintendent's ability to suspend or expel a student to only those incidences where a student created *and* transmitted a communication via an electronic device. A principal or superintendent is unable to suspend or recommend expulsion if a student did not create the communication but took part in transmitting it to others.

This bill broadens the definition of bullying via an electronic act, by clarifying that an “electronic act” means the creation *or* transmission of any communication.

- 2) ***Currently authorized to suspend or recommend for expulsion.*** Existing law authorizes schools to suspend, or recommend for expulsion, a student who has been found to engage in an act of bullying provided that the behavior is related to attendance or school activity regardless of the time of day.

Prior to suspending a student for bullying, schools must first determine that the victim is in fear of harm, the act has a substantially detrimental effect on the victim's health, academic performance, or the victim experiences substantial interference with his or her ability to participate in or benefit from school services or activities. As such, a student cannot be suspended or recommended for expulsion unless the act disrupts a school activity or attendance.

- 3) ***Alternatives to out-of-school suspension.*** Existing law provides that suspension may be imposed only when other means of correction fail to bring about proper conduct. Before a student can be suspended, an informal conference between the principal, student and whenever practicable, the teacher, supervisor or school

employee must take place. Schools may also consider alternative forms of corrective action, such as in-school suspension.

This bill provides an additional tool for addressing student conduct issues should alternative means of corrective action fail.

4) *PRIOR LEGISLATION*

AB 1450 (Garcia, 2014) which is identical to this bill was subsequently gutted and amended on the Senate floor. AB 1450 passed this committee 7-2 and was transmitted to the Senate Floor.

SUPPORT

California Association for Health, Physical Education, Recreation and Dance
(CAHPERD)

California Federation of Teachers

California School Boards Association

California Teachers Association

San Francisco Unified School District

State Public Affairs Committee Junior Leagues of California

OPPOSITION

American Civil Liberties Union of California

Gay-Straight Alliance Network of California

National Center for Youth Law

Public Counsel

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