
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 8 **Hearing Date:** June 12, 2019
Author: Chu and Eduardo Garcia
Version: May 16, 2019
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil health: mental health professionals.

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

SUMMARY

This bill requires public schools, including charter schools, to have one mental health professional who is accessible on campus during school hours for every 600 pupils by December 31, 2024, and requires counties to provide Mental Health Services Act funding to school districts, county offices of education, and charter schools for that purpose.

BACKGROUND

Existing law:

- 1) Specifies that the minimum requirements for the services credential with a specialization in pupil personnel services are a baccalaureate degree or higher degree from an approved institution, a fifth year of study, and any specialized and professional preparation that the commission shall require, including completion of a commission-approved program of supervised field experience that includes direct classroom contact, jointly sponsored by a school district and a college or university. The services credential with a specialization in pupil personnel services authorizes the holder to perform, at all grade levels, the pupil personnel service approved by the commission as designated on the credential, which may include, but need not be limited to, school counseling, school psychology, child welfare and attendance services, and school social work. (Education Code § 44266)
- 2) Requires any psychologist employed to provide care to the health and physical development of pupils to hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, or a services credential issued by the State Board of Education or Commission on Teacher Credentialing. (EC § 49422)
- 3) Prohibits any person who is an employee of a school district from administering psychological tests or engaging in other psychological activities involving the application of psychological principles, methods or procedures unless the person

holds a valid and current credential as a school psychologist or is a psychological assistant or intern performing the testing or activities under the supervision of a credentialed psychologist. (EC § 49422)

- 4) Specifies that the minimum requirements for a services credential with a specialization in health for a school nurse are all of the following: a baccalaureate or higher degree from an accredited institution, a valid California license as a registered nurse, and one year of coursework beyond the baccalaureate degree in a program approved by the Commission on Teacher Credentialing. (EC § 44267.5)
- 5) Authorizes school districts to utilize 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, § 80049.1(c))
- 6) Defines “licensed mental health service provider” as “a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code, or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, or associate clinical social worker.” (Health & Safety Code § 128454)

ANALYSIS

This bill requires public schools, including charter schools, to have one mental health professional who is accessible on campus during school hours for every 600 pupils by December 31, 2024, and requires counties to provide Mental Health Services Act funding to school districts, county offices of education, and charter schools for that purpose. Specifically, this bill:

- 1) Requires a school of a school district or county office of education and a charter school, on or before December 31, 2024, to have at least one mental health professional for every 600 pupils generally accessible to pupils on campus during school hours.
- 2) Requires a school of a school district or county office of education and a charter school with fewer than 600 pupils, on or before December 31, 2024, to do one of the following:
 - a) Have at least one mental health professional generally accessible to pupils on campus during school hours.
 - b) Employ at least one mental health professional to provide services to pupils at multiple schools.

- c) Enter into a memorandum of understanding with a county agency or community-based organization for at least one mental health professional employed by the agency or organization to provide services to pupils.
- 3) Specifies that the role of a required mental health professional includes, but is not limited to, all of the following:
 - a) Providing individual and small group counseling supports to individual pupils and pupil groups to address social-emotional and mental health concerns.
 - b) Facilitating collaboration and coordination between school and community providers to support pupils and their families by assisting families in identifying and accessing additional mental health services within the community as needed.
 - c) Promoting school climate and culture through evidence-informed strategies and programs by collaborating with school staff to develop best practices for behavioral health management and classroom climate.
 - d) Providing professional development to staff in diverse areas, including, but not limited to, behavior management strategies, mental health support training, trauma-informed practices, and professional self-care.
- 4) Requires a required mental health professional who does not hold a services credential with a specialization in pupil personnel services or a services credential with a specialization in health for a school nurse to work with pupils only under the supervision of an individual who holds a services credential with a specialization in pupil personnel services or a services credential with a specialization in administrative services.
- 5) Authorizes the school of a school district or county office of education and a charter school to employ community mental health workers, cultural brokers, or peer providers to supplement the services provided by mental health professionals if they have a current certificate of clearance from the Commission on Teacher Credentialing and are supervised in their school-based activities by an individual who holds a services credential with a specialization in pupil personnel services or a services credential with a specialization in administrative services.
- 6) Requires at least one of the required mental health professionals a school of a school district or county office of education or a charter school to hold a services credential with a specialization in pupil personnel services as described in Section 44266 that authorizes the individual to perform school counseling, school psychology, or school social work.
- 7) Requires, on and after January 1, 2029, all required mental health professionals providing services to hold a services credential with a specialization in pupil personnel services that authorizes the individual to perform school counseling, school psychology, or school social work.

- 8) Encourages a school of a school district or county office of education and a charter school with pupils who are eligible to receive Medi-Cal benefits to do all of the following:
 - a) Seek reimbursement, to the extent applicable, through the Local Educational Agency Medi-Cal Billing Option for services provided pursuant to this section.
 - b) Seek reimbursement, to the extent applicable, through the School-Based Medi-Cal Administrative Activities program for administrative costs related to providing services pursuant to this section.
 - c) Seek reimbursement, to the extent applicable, through the Early and Periodic Screening, Diagnostic, and Treatment Program.
- 9) Requires a county to provide ongoing funding from prevention and early intervention funds under the Mental Health Services Act, enacted by the voters at the November 2, 2004, statewide general election as Proposition 63, to a school district, county office of education, or charter school, within the county, for purposes of funding the positions and services required by the bill.
- 10) Provides the following definitions:
 - a) “Community mental health worker” or “cultural broker” means a frontline public health worker with behavioral health training who works for pay or as a volunteer in association with the local health care systems and usually shares ethnicity, language, socioeconomic status, or life experiences with the pupils served. A community mental health worker sometimes offers interpretation and translation services and culturally appropriate health education and information, assists pupils and family members in receiving the care they need, and gives, to the extent permitted by law, informal counseling and guidance.
 - b) “Mental health professional” includes any of the following:
 - i) An individual who holds a services credential with a specialization in pupil personnel services that authorizes the individual to perform school counseling, school psychology, or school social work.
 - ii) An individual who holds a services credential with a specialization in health for a school nurse.
 - iii) A professional licensed by the State of California to provide mental health services, including, but not limited to, psychologists, marriage and family therapists, educational psychologists, social workers, child and adolescent psychiatrists, and clinical counselors.
 - iv) An associate clinical social worker.
 - v) A marriage and family therapist intern.

- vi) A marriage and family therapist trainee.
 - vii) A clinical counselor intern.
 - viii) A clinical counselor trainee.
- c) “Peer provider” means a person who draws on lived experience with mental illness or a substance use disorder and recovery, bolstered by specialized training, to deliver valuable support services in a mental health setting. Peer providers may include people who have lived experience as clients, family members, or caretakers of individuals living with mental illness. Peer providers offer culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. Services provided by peer providers include, but are not limited to, support, coaching, facilitation, or education that is individualized to the pupil.
- 11) Specifies that the bill’s provisions do not alter the scope of practice for any mental health professional in a manner that is not authorized pursuant to existing law.
- 12) Specifies that the bill’s provisions authorize the delivery of mental health services in a setting or in a manner that is not authorized pursuant to existing law.
- 13) Includes Legislative findings and declarations relating to these provisions, including that the bill is consistent with, and furthers the intent of, the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.

STAFF COMMENTS

- 1) Need for the bill. According to the author, “California lacks a comprehensive mental health care infrastructure and funding structure to deliver services to children and youth, and provide prevention and early intervention services. Schools have been identified as the best setting for mental health prevention and treatment services. However, in California there are few schools that provide on campus mental health services, and students to pupil support personnel ratios are too high to provide timely access. California pupil support ratios rank in the last 10 in the nation...Of children and youth who are receiving mental health services, 70 percent of them are getting them in school; and on campus treatment is associated with increased access for students of color and from low-income families who otherwise go without treatment.”
- 2) ***Mental Health Services Act (MHSA) and Mental Health Services Fund.*** Proposition 63 was passed by voters in November 2004. The MHSA imposes a 1 percent income tax on personal income in excess of \$1 million and creates the 16 member Commission charged with overseeing the implementation of MHSA. The 2016-17 Governor’s Budget projected that \$1.9 billion in revenue would be deposited into the Fund in fiscal year 2017-18. The Mental Health Services Act

(MHSA) addresses a broad continuum of prevention, early intervention, and service needs, as well as provided funding for infrastructure, technology, and training needs for the community mental health system. In addition to local programs, the MHSA authorizes up to 5 percent of revenues for state administrative functions performed by a variety of state entities such as the California Department of Health Care Services (DHCS) and Office of statewide Health Planning and Development (OSHPD). It also funds evaluation of the MHSA by the Commission, which was established by the MHSA. Unspent MHSA funds are required to be placed in a reserve in accordance with an approved plan, and funds allocated to a county that have not been spent for their authorized purpose within three years are required to revert those funds back to the state.

The MHSA requires each county mental health department to prepare and submit a three-year plan to DHCS that must be updated each year and approved by DHCS after review and comment by the Commission. In their three-year plans, counties are required to include a list of all programs for which MHSA funding is being requested and that identifies how the funds will be spent and which populations will be served. Counties must submit their plans for approval.

- 3) ***Local funding decisions.*** In recent years, the state has transitioned to the Local Control Funding Formula (LCFF) and the utilization of Local Control and Accountability Plans (LCAPs) to empower local educational agencies (LEAs) with the ability to tailor important educational decisions to the unique circumstances of their schools and communities. LCFF affords LEAs flexibility to allocate their state funding as they see fit, consistent with the goals and actions specified in their LCAPs, which are tied to the eight state priorities. It should be noted that LEAs could establish the same or similar ratios without state legislation at the local level through their LCFF allocations and the LCAP process if all stakeholders agreed it was the best utilization of the LCFF funds.
- 4) ***Incidence of mental health and behavioral health issues for children and youth.*** A 2014 UCLA Policy Brief notes that nearly half of all Americans will need mental health treatment sometime during their lifetimes, with initial symptoms frequently occurring in childhood or adolescence. According to a report by the American Institutes for Research, Mental Health Needs of Children and Youth, up to 20 percent of children in the United States experience a mental, emotional, or behavioral health disorder every year. The most prevalent mental health disorder in children and youth is attention deficit hyperactivity disorder (ADHD), followed by depression, behavioral or conduct problems, anxiety, substance use disorders, Autism spectrum disorders, and Tourette syndrome. In many cases, these conditions occur together, which can complicate identification and treatment.
- 5) ***California lags in providing social-emotional support to pupils.*** According to the California Department of Education data for 2016-17, there were 5,932 school psychologists and 687 social workers employed in California schools. Further, 29 percent of California school districts have no counseling programs at all. The ratio of students per counselor in this state averages 945 to 1, compared to the national average of 477 to 1, ranking California last in the nation. As of

2016-17, there were only 2,630 credential school nurses, but there are more than 10,000 public K-12 schools in California.

- 6) ***Student mental health initiatives.*** The California Department of Education (CDE) is engaged in a number of initiatives aimed at improving support for student mental health needs. Among them are:
- Student Mental Health Policy Workgroup established in 2012 to develop policy recommendations that promote early identification, referral, coordination, and access to quality mental health services for students.
 - Training Educators Through Recognition and Identification Strategies – Eliminating Barriers to Learning project, a mental health training project funded by the California Mental Health Services Authority and administered through a contract with the Placer County Office of Education.
 - A federally-funded "Now is the Time" project to provide support to three local educational agencies, and CDE training of school staff in a program called Youth Mental Health First Aid.
 - Since 2011 an initiative called the Regional K-12 Student Mental Health Initiative, operated through the California County Superintendents Educational Services Association, has provided training designed to build capacity and cross-system collaboration to develop and sustain school-based mental health programs addressing prevention and early identification strategies.

The federal Every Student Succeeds Act (ESSA) also offers support for student mental health through a grant program called Student Support and Academic Enrichment Grants, which may be used, among many other purposes, to “expand access to or coordinate resources for school-based counseling and mental health programs, such as through school-based mental health services partnership programs.” This and other provisions of ESSA are subject to appropriation.

- 7) ***Student Mental Health Policy Workgroup.*** The State Superintendent of Public Instruction (SPI) convened the Student Mental Health Policy Workgroup (SMHPW) in 2012 to assess the mental health needs of California students and gather evidence to support policy recommendations to the SPI and the California Legislature. Its policy recommendations include “Credentialing Preparation to Meet Students’ Mental Health Needs. This recommendation acknowledges that significant mental health and wellness knowledge is required to fully address student barriers to education. There is a clear need for all credentialed classroom teachers and administrators to receive mental health and wellness training that would help in prevention and respectful early identification and support. In addition, teachers and administrators need to know how to refer students to mental health services. The SMHPW recommendation is that the SPI request that appropriate credentialing programs (starting with multiple/single-subject and administrative services credentials) include mental health and wellness curricula

with information about mental health conditions and how they manifest at school.”

- 8) ***Related and previous legislation.*** AB 258 (Jones-Sawyer, 2019) Establishes the School-Based Pupil Support Services Program to increase in-school support services to pupils by appropriating funding from the Youth Education, Prevention, Early Intervention and Treatment Account. AB 258 has been referred to this committee but has not yet been set for a hearing.

AB 396 (Eggman, 2019) would have, subject to appropriation, created the School Social Worker Pilot Program to fund social workers at eligible schools or charter schools in specified counties. AB 396 was held in the Assembly Appropriations Committee.

AB 2022 (Chu, Chapter 484, Statutes of 2018) requires each school of a school district or county office of education, and charter schools, 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.

AB 2315 (Quirk-Silva, Chapter 759, Statutes of 2018) requires the California Department of Education (CDE), in consultation with the Department of Health Care Services 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 2471 (Thurmond, of the 2017-18 Session) would have required the transfer of funds from the Youth, Education, Prevention, Early Intervention and Treatment Account established through the passage of the Control, Regulate and Tax Adult Use of Marijuana Act to the CDE to establish a grant program which would allow schools to provide in-school support services to pupils. AB 2471 was held in the Assembly Appropriations Committee.

SUPPORT

Mental Health America of California (Sponsor)
Association of California School Administrators
California Association for Health, Physical Education, Recreation & Dance
California Federation of Teachers
California State PTA

OPPOSITION

None received

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