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California State Senate

EDUCATION



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AGENDA

Wednesday, April 17, 2024
9 a.m. -- 1021 O Street, Room 2100

MEASURES HEARD IN FILE ORDER

1. SB 939 Umberg Educational equity: schoolsite and community resources: neurodivergent pupils.
2. SB 1315 Archuleta School accountability: local educational agencies: annual reporting requirements.
3. SB 1348 Bradford Postsecondary education: California Seal of Excellence in Serving Black and African American Postsecondary Students.
4. SB 1380 Dodd Charter schools: establishment.
5. SB 996 Wilk Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education.
6. SB 1435 Ochoa Bogh Books and other school materials: obscene matter.
7. SB 1445 Cortese Governing boards: pupil members: expulsion hearing recommendations.
8. SB 1080 Newman Pupil nutrition: school meals: halal and kosher food options.
9. SB 1171 Newman Pupil instruction: Cambridge Assessment International Education programs.
10. SB 1263 Newman Teacher credentialing: teaching performance assessments: repeal.

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 939	Hearing Date:	April 17, 2024
Author:	Umberg		
Version:	March 11, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Lynn Lorber		

Subject: Educational equity: schoolsite and community resources: neurodivergent pupils.

SUMMARY

This bill expands the Categorical Program Monitoring process to require the California Department of Education (CDE) to assess whether local educational agencies (LEAs) have provided to certificated schoolsite employees who service students in grades 7-12 information on existing schoolsite and community resources related to supporting students who are neurodivergent. As a result, this bill indirectly expands the information that schools are required to provide to teachers to include existing schoolsite and community resources to support students who are neurodivergent.

BACKGROUND

Existing law:

- 1) Provides that no person in the State of California shall be subjected to discrimination, or any other form of illegal bias, including harassment, and that no person shall be excluded from participation in or denied the benefits of any local agency's program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an educational institution or any other local agency which is funded directly by, or that receives or benefits from any state financial assistance. (California Code of Regulations, Title 5, § 4900)
- 2) Prohibits any person from being subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (Education Code (EC) § 220)
- 3) Requires the Superintendent of Public Instruction (SPI) to be responsible for providing leadership to local agencies to ensure that the requirements of nondiscrimination laws and their related regulations are met in educational programs that receive or benefit from state or federal financial assistance and are under the jurisdiction of the State Board of Education. (5 CCR § 4902)
- 4) Vests with the SPI and other state officials and agencies the authority to enforce federal and state laws that protect pupils from unlawful discrimination and

harassment and that require LEAs to create an equitable learning environment for all pupils, regardless of race, ethnicity, gender, sexual orientation, or other protected characteristics. Existing law provides that this authority includes the power to ensure that LEAs comply with laws supporting pupils' right to receive accurate and inclusive education in California's schools. (EC § 202)

- 5) The Safe Place to Learn Act, provides that it is the policy of this state to ensure that all LEAs continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. Existing law provides that it is also the policy of the state to improve student safety at schools and the connections between students and supportive adults, schools, and communities. (EC § 234)

Categorical Program Monitoring

- 6) Requires CDE to monitor adherence to anti-discrimination laws as part of its regular monitoring and review of LEAs, commonly known as the Categorical Program Monitoring process. Existing law requires CDE to assess whether LEAs have taken specified action, including but not limited to the following:
 - a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics, and include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the LEA.
 - b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics, and requires the process to include specified components.
 - c) Publicized anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public.
 - d) Provided information to certificated schoolsite employees who serve pupils in any of grades 7 to 12 on existing schoolsite and community resources related to the support of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) pupils, or related to the support of pupils who may face bias or bullying on the basis of religious affiliation, or perceived religious affiliation.
 - e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.
 - f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.
 - g) Identified a responsible LEA officer for ensuring school district or county office of education compliance. (EC § 234.1)

ANALYSIS

This bill:

- 1) Expands the Categorical Program Monitoring process to require the CDE to assess whether LEAs have provided to certificated schoolsite employees who service students in grades 7-12 information on existing schoolsite and community resources related to supporting students who are neurodivergent.
- 2) Indirectly expands the information that LEAs are required to provide to teachers to include existing schoolsite and community resources to support students who are neurodivergent.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “SB 939 helps and acknowledges pupils with neurodivergence, which is spectrum of differences in brain function and behavioral traits encompassing conditions such as Autism Spectrum Disorder, ADHD, Dyslexia, and more. As our understanding of diversity and inclusion evolves, the legal framework that protects and uplifts every student must evolve as well. Historically, students with neurodivergent conditions have faced unique challenges in educational settings, ranging from misunderstanding and stereotypes to bullying and discrimination. This not only hinders students’ academic growth but also affects their emotional and social development. SB 939 therefore seeks to amend Section 234.1 of the Education Code to explicitly include protections for neurodivergent students, ensuring they receive the same rights to a safe and positive learning environment as their peers.”
- 2) ***What does neurodivergent mean?*** Neurodiversity is a term that acknowledges differences in brain function and that people learn, think, and behave differently from each other. According to UC Davis, neurodiversity “describes the natural range in how people experience and interact with the world, with no single one way being viewed as the ‘right’ way. This term is often used to refer to autism, but also includes other neurological and developmental conditions, such as learning disabilities and ADHD. Neurodiversity is seen in the differences in how people think, learn, and behave- and these differences, when supported, are often strengths.”
- 3) ***Indirectly expands information to be provided by LEAs.*** While this bill specifically expands Categorical Program Monitoring to include an assessment of whether LEAs have provided specified information to schoolsite staff, it indirectly expands the information that LEAs are required to provide to school staff to include existing schoolsite and community resources to support students who are neurodivergent.

LEAs are currently required to publicize anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies to pupils, parents, employees, agents of the governing board, and the general public. LEAs are further required to provide to certificated employees who serve grades 7-12 information on existing schoolsite and community resources related to the support of LGBTQ students, or related to the support of students who may face bias or bullying on the basis of religious affiliation

or perceived religious affiliation.

For LEAs to be compliant under Categorical Program Monitoring pursuant to this bill, LEAs will need to also provide information to teachers in grades 7-12 information on existing schoolsite and community resources related to supporting students who are neurodivergent.

- 4) ***Does not affect special education or 504 plans.*** This bill essentially requires LEAs to provide information to schoolsite teachers about how to support students who are neurodiverse. This bill does not create a new eligibility category for special education or 504 accommodations, nor does it affect special education or accommodations in any way (such as requiring support or services be provided). The program instruments used in categorical program monitoring to ensure LEAs have provided information to secondary teachers on existing schoolsite and community resources related to the support of LGBTQ students reference things such as peer support clubs, safe spaces, and health providers with experience or training in treating or supporting these pupils.
- 5) ***Categorical Program Monitoring.*** Federal and state laws require CDE to monitor implementation of categorical programs operated by LEAs. The purpose of the review is to ensure that LEAs are spending the funding as required by law. At the end of each review, CDE completes a report that details any findings of non-compliance and informs the school, district, or county office how to correct the findings.

LEAs are assigned to one of four cohorts: A, B, C, or D. Each school year, approximately 130 LEAs are selected for review—65 LEAs from one cohort for an *onsite review*, and 65 LEAs from a different cohort for an *online review*. The Cohort Rotation Schedule by School Year demonstrates the rotation of the cohorts over a four-year cycle.

This bill affects compliance monitoring that uses the “Education Equity” program instruments, which contain program-specific federal and state legal requirements that are tested during the monitoring process. According to the July 2023 program instrument relative to the existing requirement that LEAs provide information to secondary school teachers (grades 7-12) on existing schoolsite and community resources related to the support:

“School site resources may include, but are not limited to, peer support or affinity clubs and organizations, safe spaces for LGBTQ, or other at-risk pupils, counseling services, staff who have received anti-bias or other training aimed at supporting these pupils or who serve as designated support to these pupils, health and other curriculum materials that are inclusive of, and relevant to, these pupils, online training developed pursuant to EC Section 32283.5, and other policies adopted pursuant to this article, including related complaint procedures.

“Community resources may include, but are not limited to, community-based organizations that provide support to LGBTQ, or other at-risk pupils and their families, and physical and mental health providers with experience or training in treating or supporting these pupils.”

The compliance monitoring to ensure LEAs have provided the required information to secondary school teachers essentially consists of a review of the information that was provided.

- 6) ***Existing schoolsite and community resources.*** This bill essentially requires LEAs to provide information to teachers in grades 7-12 information on existing schoolsite and community resources related to supporting students who are neurodivergent. The CDE's website currently contains a page dedicated to bullying prevention training and resources, which include prevention strategies, links to outside resources (such as information about bullying of youth with disabilities and special health needs from stopbullying.gov), and the Online Bullying Training Module and Bullying Presentation created by CDE.
<https://www.cde.ca.gov/ls/ss/se/bullyres.asp>

CDE's online bullying module includes a chapter specific to bullying of students with disabilities. The online bullying module assists all school staff, school administrators, parents, students, and community members in increasing their knowledge of the dynamics of bullying. The online bullying module identifies the different acts of bullying and provides suggestions on strategies to utilize to address bullying. CDE also provides a free training that provides guidance on how to take a public health approach to bullying prevention with long-term, community-wide prevention strategies. <https://www.cde.ca.gov/ls/ss/se/documents/thisisbullying.pptx>

- 7) ***Collaborative for Neurodiversity and Learning.*** In 2019, a higher education budget trailer bill (SB 77, Committee on Budget and Fiscal Review, Chapter 53, Statutes of 2019) established the University of California (UC) and California State University (CSU) Collaborative for Neurodiversity and Learning. The stated goal of this initiative is to bring together the state's resources and leading experts in brain research and K-12 education to strengthen educational support and new teaching methods for children with diverse learning needs, including children with dyslexia and literacy issues. The Collaborative is to do all of the following:
- a) Develop a network of brain researchers and educators to share new knowledge on neurodiversity.
 - b) Identify and develop links between brain research and classroom practice.
 - c) Create a framework for embedding neurodiversity knowledge into the teacher education programs at UC and CSU.
 - d) Provide an opportunity for innovative experts in neuroscience and education to collaborate and develop new approaches for teaching and learning based on knowledge gained from brain research around learning differences, such as dyslexia.

The Collaborative is also tasked with providing leadership on the development and testing of new classroom interventions and teaching practices for literacy learning issues based on brain research at K-12 public schools. The Collaborative is to establish an evaluation team, composed of participants from CSU and UCLA to

measure the impact of the new classroom interventions and teaching practices at participating schools and identify which interventions and practices are most effective for neurodiverse learners.

The Collaborative is further tasked with supporting the development of a progressive teacher training curriculum to be integrated into professional preparation programs leading to a preliminary teaching credential that will have a long-term impact on supporting neurodiverse learners. <https://ca-literacy-dyslexia-collab.ucla.edu/>

The Collaborative appears to be well-positioned to be a resource for LEAs in providing information and resources to support students who are neurodivergent.

- 8) **Another approach.** To ensure LEAs are aware of and have access to resources, including training, to support students who are neurodivergent prior to being held accountable via Categorical Program Monitoring, **committee staff recommends the bill be amended as follows:**
- a) Require CDE to post information and resources from the UC/CSU Collaborative on their website, and require CDE to send a letter to LEA administrators or issue a management bulletin to let LEAs know about the resources.
 - b) Require school districts, county offices of education, and each schoolsite (including charter schools) to post information and resources from the Collaborative on their websites.
 - c) Require CDE to expand its online bullying training module to include information about how to support students who are bullied for being neurodivergent with links to resources from the Collaborative.

SUPPORT

California Charter Schools Association
California State Association of Psychiatrists

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1315	Hearing Date:	April 17, 2024
Author:	Archuleta		
Version:	February 16, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Lynn Lorber		

Subject: School accountability: local educational agencies: annual reporting requirements.

SUMMARY

This bill requires the California Department of Education (CDE) to conduct a biennial report on the number and types of reports that local educational agencies (LEAs) are required to submit on an annual basis.

BACKGROUND

Existing law

- 1) Establishes CDE in state government, and provides that it be administered through:
 - a) The State Board of Education (SBE) which shall be the governing and policy determining body of CDE.
 - b) The Director of Education in whom all executive and administrative functions of CDE are vested and who is the executive officer of SBE. (Education Code (EC) § 33300 and § 33301)
- 2) Requires that a Superintendent of Public Instruction (SP) be elected by the qualified electors of the State at each gubernatorial election, and prohibits any SPI from serving more than two terms. (California Constitution, Article IX, § 2)
- 3) Requires LEAs to submit numerous reports (too many to list in this analysis) to CDE on an annual basis.

ANALYSIS

This bill:

- 1) Requires CDE to conduct a biennial report on the number and types of reports that LEAs are required to submit on an annual basis.
- 2) Requires CDE to provide the report to the SPI, Governor, and Legislature by March 1, 2025 and every two years thereafter.
- 3) Requires the report to include all of the following:

- a) Information on each type of report, including if the report is required by a particular program.
 - b) The purpose of each report.
 - c) Recommendations for which reports can be consolidated to reduce the total number of reports LEAs are required to complete annually.
 - d) LEA administrative costs for completing each report, including but not limited to, necessary staffing.
- 4) Requires CDE, in determining administrative costs to LEAs, to seek voluntary input from LEAs of varying sizes and types.
 - 5) Requires the SPI, within 30 days of receiving a report from CDE, to present the report to the Assembly and Senate Education committees, the Assembly Committee on Budget, and the Senate Committee on Budget and Fiscal Review, and any other relevant subcommittees during legislative budget hearings.
 - 6) Defines LEA to include school districts, county offices of education, and charter schools.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “With the state facing a record deficit, it is vital for California to provide oversight on prior legislation to ensure taxpayer dollars are being used responsibly. School districts throughout the state are required to annually produce 170 reports, nearly equivalent to the statutorily required 180 instructional days in the school year. Although beneficial from an informational standpoint, the sheer number of reports can be suffocating for school districts and detracts from their ability to meet the educational needs of students. SB 1315 will help alleviate the administrative costs and burdens placed on school districts – especially important at a time when they are working hard to emerge and recover from the impacts of the pandemic.”
- 2) ***Are LEAs overwhelmed with reporting requirements?*** Absolutely. According to the author, LEAs are required to submit 170 reports on an annual basis. A cursory search of the Education Code by committee staff revealed that LEAs are required to report to CDE on an annual basis on numerous programs, activities, student outcomes, and use of grant funds. A small sampling includes the School Accountability Report Card, district budgets, attendance, student and educator demographic data, student assessment data, number of classified staff, estimated number of teacher hires, home-to-school transportation data, kindergarten program type, and updates to Local Control Accountability Plans.

Data collections administered by CDE to gather information about students, schools, and districts that are used for state and federal reporting purposes include but are not limited to:

- a) The California Basic Educational Data System (CBEDS) is an annual data collection administered in October for the purpose of collecting data about schools and districts, as well as some aggregate data on students and staff.
 - b) The California Longitudinal Pupil Achievement Data System is used to maintain individual-level data including student demographics, course data, discipline, assessments, staff assignments, and other data for state and federal reporting.
 - c) The Consolidated Application and Reporting System is a data collection system to apply for Categorical Program Funding and to report on the use of those funds.
 - d) Fiscal and Attendance Data.
 - e) Special Education.
- 3) **Required legislative hearings.** This bill requires the SPI, within 30 days of receiving a report from CDE, to present the report to the Assembly and Senate Education committees, the Assembly Committee on Budget, and the Senate Committee on Budget and Fiscal Review, and any other relevant subcommittees during legislative budget hearings.

Committees should maintain the authority to schedule their own hearings and set their own agendas. **Staff recommends an amendment** to strike the requirement for certain committees to hold hearings, and instead encourage those hearings to occur.

SUPPORT

California School Boards Association (sponsor)
Alameda County Office of Education
California Association of School Business Officials
Riverside County Superintendent of Schools
Torrance Unified School District

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1348	Hearing Date:	April 17, 2024
Author:	Bradford		
Version:	March 18, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Postsecondary education: California Seal of Excellence in Serving Black and African American Postsecondary Students.

SUMMARY

This bill establishes the California Seal of Excellence in Serving Black and African American Postsecondary Students Act of 2024 for purposes of recognizing campuses that excel at providing academic resources to Black and African American students with a state seal, provided they meet the specified conditions.

BACKGROUND

Existing law:

- 1) Establishes the California State University (CSU), under the administration of the Trustees of the CSU, the University of California (UC), under the administration of the Regents of the UC, the California Community Colleges (CCC), under the administration of the Board of Governors of the CCC, and independent institutions of higher education, as defined, as 4 segments of postsecondary education in the state. (Education Code § 66010.4 et seq)
- 2) Authorized the Trustees to establish an African American Political and Economic Institute at CSU, Dominguez Hills. This statutory provision was repealed on January 1, 2010.
- 3) Requires the CSU, Dominguez Hills, to rename the African American Political and Economic Institute as the Mervyn M. Dymally African American Political and Economic Institute. (Uncodified)

ANALYSIS

This bill:

- 1) Establishes the California Seal of Excellence in Serving Black and African American Postsecondary Students Act of 2024 for purposes of recognizing campuses that excel at providing academic resources to Black and African American students.

- 2) Requires that in order to be recognized with the state seal, a college or university have Black and African American students who represent at least 6 percent of the college or university's student body and have at least three of the following:
 - a) A student success program for Black and African American students.
 - b) A robust African American studies program.
 - c) Co-curricular learning opportunities or campus affinity centers.
 - d) Outreach programs and services that demonstrate a commitment to Black and African American student success.
- 3) Provides that the state seal be valid for five academic years and may be renewed.
- 4) Defines the following terms for purposes of the bill:
 - a) "College or university" to mean a University of California, California State University, and California Community Colleges campus, or an independent institution of higher education.
 - b) "State seal" to mean the California Seal of Excellence in Serving Black and African American Postsecondary Students established pursuant to this article.
- 5) States various findings and declarations related to supporting Black and African American students attendance in California postsecondary educational institutions.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "College enrollment and success for Black students in colleges and universities in California and nationally is low and declining. Equity gaps persist at nearly all levels of measurement. SB 1348 will recognize those institutions that focusing on enhancing Black student success in California. This legislation will also provide a simple way for the prospective students or their parents to know which colleges and universities have created environments where Black students are holistically embraced, enriched and empowered."
- 2) **Minority-serving institution designation.** The Minority Serving Institutions program is a federal program that supports higher education institutions that serve minority populations. Minority serving institutions consist of various subgroups, including Historically Black Colleges and Universities (HBCU) and Predominantly Black Institutions (PBI) and others. HBCUs are institutions that were established prior to 1964 with the principal mission of educating Black individuals. HBCUs are public and private institutions that vary in size and degree programs and are located primarily on the South and East Coasts. PBI's are mainly public two-year institutions, with at least 40 percent of enrolled students

identifying as Black Americans. Minority serving institutions are renowned for cultivating welcoming and supportive environments for students and offering comprehensive support services. There are no HBCUs or PBIs in California.

- 3) **Eligibility.** This bill aims to establish an independent designation for California institutions, taking into account factors that more accurately represent the state's population. In order to be eligible for the seal, higher education institutions must have a minimum of 6 percent Black and African American students among their student body. Institutions must also meet three of the four specified conditions. These conditions consist of having a program dedicated to the success of Black and African Americans, offering African American studies, providing co-curricular learning opportunities, having a campus affinity center, or having a Black and African American student outreach program and services for student success. Unlike the federal program, the state seal does not come with grant dollars for eligible institutions. When making enrollment decisions, the seal is likely to provide prospective students with valuable information about the campus culture.
- 4) **Who makes the determination?** The bill does not specify the authority responsible for determining eligibility and awarding the seal. There is no centralized higher education coordination entity in California to which responsibilities might be delegated. However, in its absence, the author may wish to consider delegating responsibility to one of the higher education segments, notably the CSU. The Central Office for the Advancement of Black Excellence was recently established by the CSU in response to the Chancellor's workgroup on Black student success recommendations. The campus where the center will be housed is currently being determined. The center would be responsible for helping with the funding and amplification of campus efforts to implement the 13 systemwide recommendations, which consist of developing and implementing an early outreach plan, developing a comprehensive enrollment strategy for Black students, developing a comprehensive retention and persistence strategy for Black students, and creating welcoming and affirming spaces. The center's role in supporting these efforts appears to be in line with the intended purpose of the proposed seal.
- 5) **Recent report.** The Campaign for College Opportunity released a report in February 2019, titled *State of Higher Education for Black Californians*. This report noted several facts that lend themselves to the purpose of this bill, notably:
 - a) California high schools graduate Black students at lower rates than all other racial/ethnic groups and have failed to address the significantly lower percentages of Black students who are offered and complete the college preparatory curriculum - a 17-percentage point gap in A-G completion between Black and White students exists.

Of the 25,000 Black high school graduates in 2017, only 9,000 completed the coursework necessary to be eligible for California's public four-year universities.
 - b) CCC transfer only three percent of Black students within two years, and only 35 percent within six years.

- c) Sixty-three percent of Black community college students do not earn a degree, certificate, or transfer within six years.
- d) Fifty-seven percent of Black freshmen at CSU do not complete a degree within six years and only nine percent do so in four years.
- e) Ninety-three percent of Black for-profit college students do not complete a degree within six years.
- f) Almost half of all Black students who attended college left without a degree.

The author may wish to consider including graduation rates as a criteria for awarding the seal.

6) Prior legislation

SB 426 (Bradford, 2019) would have required the CSU to establish the Dymally Fellows Project, to be operated out of the Mervyn Dymally African American Political and Economic Institute at CSU, Dominguez Hills, upon an appropriation by the Legislature. SB 426 died in the Assembly Appropriations Committee.

SUPPORT

California Federation of Teachers AFL-CIO
California State University, Office of the Chancellor
Campaign for College Opportunity

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1380	Hearing Date:	April 17, 2024
Author:	Dodd		
Version:	February 16, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Charter schools: establishment.

SUMMARY

This bill: (1) changes the basis for a school district to show it is not positioned to absorb the fiscal impact of a proposed charter school, (2) prohibits any person whose charter petition is denied by a school district from submitting a substantially similar petition as a countywide charter school, and (3) requires a county board of education to give testimony time to every school district in which a charter school proposes to operate, and each school district contiguous to those school districts, during a public hearing of a proposed countywide charter school that is equivalent to the testimony time given to the petitioner.

BACKGROUND

Existing law:

- 1) Establishes the Charter Schools Act of 1992, which authorizes a school district governing board or county board of education to approve or deny a petition for a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning, increased learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving, holding charter schools accountable for meeting measurable pupil outcomes, and providing the schools with a method to change from rule-based to performance-based accountability systems.
- 2) Establishes a process for the submission of a petition for the establishment of a charter school, identifying a single charter school to operate within the geographical boundaries of the school district, to be submitted to the school district.
- 3) Subjects charter schools proposed in districts that are not positioned to absorb the fiscal impact of the proposed charter school to a rebuttable presumption of denial. A school district meets this status if it satisfies one of the following conditions:
 - a) It has a qualified interim certification, and the county superintendent of schools, in consultation with the County Office Fiscal Crisis and Management Assistance Team (FCMAT), certifies that approving the

charter school would result in the school district having a negative interim certification.

- b) It has a negative interim certification.
 - c) It is under state receivership.
- 4) Authorizes a school that serves a countywide purpose, operating at one or more sites within the geographic boundaries of the county and providing instructional services that are not generally provided by a county office of education (COE), to submit the charter petition directly to the COE.
 - 5) Authorizes a county board of education to grant a charter for the operation of a countywide charter school if it is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district.
 - 6) Requires, no later than 60 days after receiving a petition, a county board of education to hold a public hearing to consider the level of support for the petition by teachers, parents or guardians, and the school districts where the charter school petitioner proposes to place school facilities. Following review of the petition and the public hearing, the county board of education shall either grant or deny the charter within 90 days of receipt of the petition. However, this date may be extended by an additional 30 days if both parties agree to the extension.
 - 7) Requires the county board of education to publish all staff recommendations, including the recommended findings, regarding the petition at least 15 days before the public hearing. At the public hearing at which the county board of education will either grant or deny the charter, petitioners shall have equivalent time and procedures to present evidence and testimony to respond to the staff recommendations and findings.
 - 8) Authorizes a county board of education to impose any additional requirements that it considers necessary for the sound operation of a countywide charter school. A county board of education may grant a charter for the operation of a countywide charter school only if granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district.

ANALYSIS

This bill:

- 1) Changes the basis for a school district to show it is not positioned to absorb the fiscal impact of a proposed charter school as follows:
 - a) Removes the district "...is under state receivership."
 - b) Adds the district received an emergency apportionment and either of the following:

- i) The district has an outstanding balance of its emergency loan and has not met the conditions to terminate the trustee's appointment.
 - ii) The district, during the first five fiscal years after fully repaying an emergency apportionment and the appointment of a trustee has been terminated, meets any of the following conditions:
 - ia) In the first fiscal year, the district's enrollment has declined by an average of at least 0.5 percent for the immediately preceding three fiscal years.
 - ib) In the second fiscal year, the district's enrollment has declined by an average of at least 1 percent for the immediately preceding three fiscal years.
 - ic) In the third fiscal year, the district's enrollment has declined by an average of at least 1.5 percent for the immediately preceding three fiscal years.
 - id) In the fourth fiscal year, the district's enrollment has declined by an average of at least 2 percent for the immediately preceding three fiscal years.
 - ie) In the fifth fiscal year, the district's enrollment has declined by an average of at least 3 percent for the immediately preceding three fiscal years.
 - iii) The district has, within the immediately preceding five fiscal years, adopted necessary budgetary solutions including, but not limited to, the consolidation of school sites, to maintain or improve the school district's fiscal solvency.
- 2) Prohibits any person from submitting a petition for the establishment of a countywide charter school that is substantially similar to a petition that has already been denied by a school district.
- 3) Permits a school district or districts in which a charter school proposes to operate, locate, or place its school facilities, and each school district contiguous to those school districts, to provide evidence and testimony during a public hearing of a proposed countywide charter school on the impact of the charter school on the interests of the entire community in which the charter school is proposing to operate, locate, or place its school facilities, the fiscal impact on the school district by the proposed charter school, and whether the educational services to be provided by the charter school will offer services that cannot be served as well by a charter school that operates in only one school district in the county. Each school district that chooses to provide evidence and testimony shall have the equivalent time and procedures to do so as the petitioner.

- 4) Specifies that the county board of education shall deny a petition for the establishment of a countywide charter school if a substantially similar petition has previously been submitted to and denied by the governing board of the school district in which the charter school proposes to operate, locate, or place its school facilities.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “SB 1380 promotes the fiscal health of California school districts, protects against insolvency when evaluating petitions for the establishment of charter schools, and closes a loophole that allows a charter school petition denied by a school district to be considered again as a countywide charter petition. As many California public schools face the fiscal pressures of declining enrollment, it is important to ensure that local context is taken into account and school districts have the ability to provide for the well-being of its entire student population.

“Currently, there is limited authority to consider the fiscal impact of a charter school petition for school districts in financial distress and this bill will provide school districts and county boards of education the information necessary to fully consider the impacts of proposed charter schools in order to protect the long-term fiscal stability of California schools.”

- 2) ***Background on charter schools.*** Charter schools are public schools that provide instruction in any combination of grades kindergarten through 12. In 1992, the state enacted legislation allowing charter schools in California to offer parents an alternative to traditional public schools and encourage local leaders to experiment with new educational programs. Except where specifically noted otherwise, California law exempts charter schools from many of the statutes and regulations that apply to school districts. Generally, all charter schools must (1) provide nonsectarian instruction, (2) charge no tuition, and (3) admit all interested students up to school capacity. To both open and continue operating, a charter school must have an approved charter setting forth a comprehensive vision for the school.

There are over 1,000 charter schools in California with an enrollment of around 700,000 pupils. Most charter schools are small, compared to traditional public schools, and located in urban areas. The median charter school enrolls about 250 students, whereas the median traditional public school enrolls about 525 students. Together, nine Bay Area counties, Los Angeles County, and San Diego County account for more than 60 percent of all charter schools and charter school enrollment in the state.

Charter schools can be conversions of existing public schools or new startup schools. About 15 percent of charter schools are conversions, with the remaining 85 percent being startups. Of these, about 80 percent offer traditional, classroom-based instruction and 20 percent offer some form of independent study, such as distance learning or home study.

- 3) ***Charter petition process and required elements.*** Groups that are interested in creating a charter school must adhere to a state prescribed application process. A charter petition must be signed by a sufficient number of interested teachers or parents and must set forth a comprehensive vision for the school, including its educational program, student outcome measurements, student discipline policy, employee policies, governance structure, and fiscal plans. Petitions must be submitted to an authorizer, which in most cases is the school district in which the charter school will be located. Groups can also submit petitions to the COE for charter schools that will offer services to student populations throughout the county and that cannot be served as well by a charter school operating in only one school district in the county.

Each charter petition must contain reasonably comprehensive descriptions of all of the following 15 elements:

- a) A description of the educational program of the school.
- b) The measurable pupil outcomes identified for use by the school.
- c) The method by which pupil progress in meeting those pupil outcomes is to be measured.
- d) The schools governance structure, including parental involvement.
- e) The qualifications to be met by individuals employed by the school.
- f) Procedures to ensure health and safety of pupils and staff.
- g) How the school will achieve racial and ethnic balance among its pupils, reflective of the general population residing in the district.
- h) Admission requirements.
- i) How annual financial audits will be conducted, and how audit exceptions and deficiencies will be resolved.
- j) The procedures by which pupils may be suspended or expelled.
- k) Provisions for employee coverage under the State Teachers Retirement System, the Public Employees Retirement System, or federal social security.
- l) The public school alternatives for pupils residing within the district who choose not to attend charter schools.
- m) The rights of any employee who leaves a school district to work in the charter school and of returning to the school district after working at the charter school.
- n) A dispute resolution process.

- o) The procedures to be used if the charter school closes.
- 4) ***Mayacamas Charter Middle School Petition “Loophole.”*** On September 15, 2022, the State Board of Education (SBE) heard the appeal of the Mayacamas Charter Middle School petition that was denied by the Napa Valley Unified School District (USD) and the Napa COE. The SBE upheld the appeal, reversing the local decisions of the district and county in denying the establishment of the charter school. Subsequently, a writ of mandate was filed against the SBE, and on June 29, 2023, the Sacramento Superior Court issued a tentative ruling in favor of the plaintiffs, granting a writ of mandate finding that the Board “abused its discretion in reversing the District Board’s and the County Board’s decision to deny the Charter School petition[,]” and that “[the] State Board erred in finding that the stated bases constituted grounds to overturn the decisions.”

Given the legal proceedings related to the appeal of the Mayacamas Charter Middle School denied by the Napa Valley USD, the Napa Valley COE, and a reversal of the SBE’s decision to approve the petition, the petitioner is presenting to the Napa County Board of Education, a substantially similar petition for the establishment of a countywide charter school.

According to the sponsors of this bill, attempting to establish a countywide charter school based on a petition substantially similar to the one denied by the district is a circumvention of the existing appellate process. ***The Committee may wish to consider*** a clearer definition of “substantially similar petition” that focuses on the statutorily required differences between a single school district charter school and a countywide charter school.

- 5) ***What is the difference between a single district charter school and a countywide charter school?*** Most charter schools in California are authorized and monitored by the school district in which they reside and are prohibited from operating outside the jurisdiction of that district. If a charter school organization is able to demonstrate that it cannot accomplish its educational mission if limited to a single district, however, it may apply for recognition as a countywide charter school. Countywide charter schools are authorized by a COE and may operate anywhere within the boundaries of that county.

Despite these differences, the elements that are required to be part of a petition for a single district charter school and a countywide charter school are nearly identical. ***The Committee may wish to consider*** whether supplementing the required elements for a countywide charter school petition in a way that highlights how these schools must differ from single district charter schools would better address the petition “loophole” cited by the sponsors.

- 6) ***School districts in “state receivership.”*** Existing law establishes a process for school districts experiencing financial distress, under specific conditions, to receive emergency apportionments from the State. This process is commonly referred to as “state receivership.”

Under charter school law, a school district that is not positioned to absorb the fiscal impact of a proposed charter school may deny a petition for the establishment of a charter school. A school district meets this criteria if it satisfies any of the following:

- a) It has a qualified interim certification and the county superintendent of schools, in consultation with FCMAT, certifies that approving the charter school would result in the school district having a negative interim certification.
- b) It has a negative interim certification.
- c) It is under state receivership.

In recognition that “state receivership” is not defined in statute, this bill would replace the term with “received an emergency apportionment pursuant to...”. Further, this bill extends the fiscal criteria above to include a school district that: (1) during the first five years after fully repaying an emergency apportionment, meets specified declining enrollment percentages, and (2) within the immediately preceding five years, adopted necessary budgetary solutions, including, but not limited to, consolidation of school sites, to maintain or improve the school district’s fiscal solvency. ***The Committee may wish to consider*** whether these expansions appropriately target school districts that are truly on the brink of fiscal distress.

- 7) ***Arguments in support.*** In a joint letter, The California School Boards Association, Napa Valley USD, and Vallejo City USD, co-sponsors of this bill, write, “California law holds school districts to strict standards and practices to monitor and maintain their ability to remain fiscally solvent, including the annual review and certification by their county superintendents of multiyear budgets that ensure they can meet their immediate and longer-term financial commitments. There are two key drivers of district fiscal solvency: (1) the number of students in a district, which determines the amount of state and federal revenues a district receives, and (2) the ongoing costs of educating students.

“SB 1380 aims to protect the long-term fiscal stability a district requires to provide students with the quality education they deserve. It does so by authorizing a school district to consider certain district conditions when making findings on the fiscal impact of a petition to establish a new charter school to be authorized by the district. The bill would also authorize a school district to provide information to a county board of education on the fiscal impact of a proposed countywide charter school.

“Finally, SB 1380 would close an important legal loophole that currently allows a charter school petition similar to one that has been denied by a district to circumvent charter law and the spirit of the appeal process, to be submitted to a county board of education for the establishment of a countywide charter school.”

- 8) ***Arguments in opposition.*** The California Charter Schools Association writes, “Senate Bill 1380 (Dodd) would: 1) greatly expand the conditions for which any

school district may deny a petition for a new charter school, and 2) create new limitations, and excessive meeting requirements on the establishment of countywide benefit charter schools authorized by a county board of education.

“AB 1505, enacted in 2019, added significant new authority for local school districts to deny a charter petition without regard to the quality of the proposed school or the needs of the community, under specified conditions of fiscal crisis (see Education Code Section 47605(c)(8)). AB 1505 also greatly limited the authority of the State Board of Education to consider appeals of locally denied charters and revised authority and process related to countywide benefit charters authorized by county boards of education. AB 1505 was a carefully crafted agreement between the Legislature, Governor and charter opponents and supporters.”

SUPPORT

California School Boards Association (co-sponsor)
Napa Valley Unified School District (co-sponsor)
Vallejo City Unified School District (co-sponsor)
Brentwood Union School District
California Education Partners
California Federation of Teachers
California School Employees Association
Castro Valley Unified School District
Fairfield-Suisun Unified School District
Hayward Unified School District
Modesto City Schools
Napa Valley Unified School District
Oakland Unified School District
Pittsburg Unified School District
San Diego Unified School District
San Francisco Unified School District
San Jose Unified School District
San Leandro Unified School District

OPPOSITION

A Plus Charter Consulting
Academia Avance
Achieve Charter Schools
Aims K-12 College Prep Charter District
Albert Einstein Academies Charter Schools
Alder Grove Charter School
Allegiance Steam Academy Thrive
Alliance College-ready Public Schools
Alma Fuerte Public School
Alpha Public Schools
Alta Public Schools
Altus Schools
Antioch Charter Academy

APLUS+
Ararat Charter School
Arts in Action Community Charter Schools
Aspire Public Schools
Association of Personalized Learning Schools & Services
Aveson Schools
Big Sur Charter School
Birmingham Community Charter High School
Bridges Preparatory Academy
Bright Star Schools
Bullis Charter School
California Charter Schools Association
California Creative Learning Academy
California Pacific Charter Schools
Camino Nuevo Charter Academy
Charter Schools Development Center
Children's Community Charter School
Chime Institute
Clovis Global Academy
Collegiate Charter High School of Los Angeles
Compass Charter Schools
Core Butte Charter School
Discovery Charter Preparatory School
Discovery Charter Schools
East Bay Innovation Academy
Ednovate
Education for Change Public Schools
Eel River Charter School
El Rio Community School
El Sol Science and Arts Academy
Environmental Charter Schools
Epic Charter School
Equitas Academy Charter Schools
Excel Academy Charter School
Extera Public Schools
Gateway Community Charters
Girls Athletic Leadership Schools Los Angeles
Gorman Learning Charter Network
Green Dot Public Schools California
Griffin Technology Academies
Guajome Schools
Harness Potential
Hawking Steam Charter School
Heartwood Charter School
High Tech Los Angeles
ICEF Public Schools
Imagine Schools
Ingenium Schools
Intellectual Virtues Academy of Long Beach
Isana Academies

Ivy Academia Entrepreneurial Charter School
Ivy Bound Academy Charter Middle School
James Jordan Middle School
JCS Family of Charter Schools
Kairos Public Schools
Kavod Charter School
Keyes to Learning Charter School
KIPP Norcal
Larchmont Charter School
Literacy First Charter Schools
Long Valley Charter School
Los Angeles Academy of Arts and Enterprise
Lucerne Valley Unified School District
Method Schools
Motivated Youth Academy
Multicultural Learning Center
Natomas Charter School
Navigator Schools
New Heights Charter School
New West Charter
Ocean Charter School
Ocean Grove Charter School
Odyssey Charter Schools
Olive Grove Charter School
Pacific View Charter School
Para Los Niños
Pasadena Rosebud Academy Charter School
Placer County Office of Education
Puente Learning Center
Redding Stem Academy
Renaissance Arts Academy
Rio Valley Charter School
Rocklin Academy Family of Schools
Sage Oak Charter Schools
San Jose Charter Academy
Santa Rosa Academy
Scholarship Pre Public School
Sebastapol Charter
Shasta Charter Academy
Shasta View Academy
Sierra Foothill Charter
Sky Mountain Charter School
Soleil Academy
South Sutter Charter School
Springs Charter Schools
Stem Prep Schools
Suncoast Preparatory Academy
Sycamore Academy of Science and Cultural Arts
Temecula Valley Charter School
The Academies Charter Management Organization

The Axia Group
The Classical Academies
The Foundation for Hispanic Education
The Learning Choice Academy Charter School
The O'Farrell Charter Schools
Trillium Charter School
Union Street Charter
Urban Charter Schools Collective
Valley Charter School
Valley Life Charter Schools
Value Schools
Vaughn Next Century Learning Center
Vibrant Minds Charter School
Vista Charter Public Schools
Vox Collegiate of Los Angeles
Westlake Charter School
William Finch Charter School
Wish Charter Schools
YPI Charter Schools

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 996	Hearing Date:	April 17, 2024
Author:	Wilk		
Version:	January 31, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education.

SUMMARY

This bill amends the California Healthy Youth Act (CHYA) by requiring local educational agencies (LEAs) to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education.

BACKGROUND

Existing law:

Education Code (EC)

- 1) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent (“opt-out”) process. (EC § 51938)
- 2) Requires LEAs, at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil’s enrollment, to provide parents and guardians with a notice:
 - a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.
 - b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.
 - c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultant, as provided.
 - d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child they must state their request in writing to the LEA. (EC § 51938)

- 3) Requires all notices, reports, statements, and records sent to the parent or guardian of any pupil by the public school or school district, if 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the California Department of Education (CDE) in the preceding year, to be written in that primary language, in addition to English, and may be responded to either in English or the primary language. (EC § 48985)
- 4) Requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school that includes the following
 - a) Information on the nature of HIV, as well as other sexually transmitted infections, and their effects on the human body.
 - b) Information on the manner in which HIV and other sexually transmitted infections are and are not transmitted, including information on the relative risk of infection according to specific behaviors, including sexual activities and injection drug use.
 - c) Information that abstinence from sexual activity and injection drug use is the only certain way to prevent HIV and other sexually transmitted infections and abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy. This instruction shall provide information about the value of delaying sexual activity while also providing medically accurate information on other methods of preventing HIV and other sexually transmitted infections and pregnancy.
 - d) Information about the effectiveness and safety of all federal Food and Drug Administration (FDA) approved methods that prevent or reduce the risk of contracting HIV and other sexually transmitted infections, including use of antiretroviral medication, consistent with the federal Centers for Disease Control and Prevention.
 - e) Information about the effectiveness and safety of reducing the risk of HIV transmission as a result of injection drug use by decreasing needle use and needle sharing.
 - f) Information about the treatment of HIV and other sexually transmitted infections, including how antiretroviral therapy can dramatically prolong the lives of many people living with HIV and reduce the likelihood of transmitting HIV to others.
 - g) Discussion about social views on HIV and AIDS, including addressing unfounded stereotypes and myths regarding HIV and AIDS and people living with HIV. This instruction shall emphasize that successfully treated HIV-positive individuals have a normal life expectancy, all people are at some risk of contracting HIV, and the only way to know if one is HIV-positive is to get tested.
 - h) Information about local resources, how to access local resources, and pupils' legal rights to access local resources for sexual and reproductive health care such as testing and medical care for HIV and other sexually transmitted

infections and pregnancy prevention and care, as well as local resources for assistance with sexual assault and intimate partner violence.

- i) Information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including, but not limited to, emergency contraception. Instruction on pregnancy shall include an objective discussion of all legally available pregnancy outcomes, including, but not limited to, all of the following:
 - j) Information about sexual harassment, sexual assault, sexual abuse, and human trafficking. Information on human trafficking shall include both of the following:
 - k) Information about adolescent relationship abuse and intimate partner violence, including the early warning signs thereof. (EC § 51934)
- 5) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade 7 using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)
- 6) Requires all primary supplemental instructional materials and assessments, including textbooks, teacher's manuals, films, audio and video recordings, and software shall be compiled and stored by the classroom instructor and made available promptly for inspection by a parent or guardian in a reasonable timeframe or in accordance with procedures determined by the governing board of the school district. (EC § 49091.10)

ANALYSIS

This bill:

- 1) Requires the governing board of an LEA to adopt, at a publicly noticed meeting, a policy specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education consistent with the following requirements:
 - a) The materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, if the LEA maintains an internet website or upon establishing an internet website.
 - b) If the LEA is not authorized to post the materials on its publicly available internet website due to copyright protections, the material shall be made available through a parent or guardian portal if the school district already maintains a portal or upon establishing a portal.
 - c) The materials and updates or changes to the materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.
 - d) Updates or changes to the materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a

parent or guardian portal, within 30 days of adoption of the updates or changes to the materials, but in no event later than 14 days before the instruction is given.

- e) If a school district contracts with outside consultants or guest speakers, the materials to be used by the outside consultants or guest speakers shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of contracting with the outside consultants or guest speakers, but in no event later than 14 days before the instruction is given.
 - f) Specifically for outside consultants or guest speakers that were contracted for before January 1, 2025, the materials to be used by be made available at each schoolsite and publicly posted on the LEA's internet website, and if applicable, through a parent or guardian portal, pursuant to subparagraph (A), within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.
- 2) Applies these requirements to materials adopted by the governing board of the school district before January 1, 2025.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Schools are required to teach sexual education, but it is a sensitive subject and parents are often in the dark about what their child is learning. This bill fosters collaboration and open dialogue between parents, their children, and schools to ensure the education they receive is appropriate and aligns with their values. Many parents feel like they don't have a seat at the table. By having this information readily available online, they can easily stay informed and feel empowered to become more involved in their child's education."
- 2) ***California Healthy Youth Act.*** The CHYA took effect in 2003 and was initially known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Originally, the act LEAs to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015), the act was renamed the CHYA and, for the first time, required LEAs, excluding charter schools, to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. Charter schools must also provide that same instruction. From its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of a portion, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians can exercise this right by informing the LEA in writing of their decision.
- 3) ***Right to inspection.*** Existing law requires LEAs to notify parents and guardians of their right to inspect written and audiovisual materials. Statute requires all primary supplemental instructional materials and assessments, including textbooks, teacher's manuals, films, audio and video recordings, and software shall be compiled and stored by the classroom instructor and be made available or

inspection by a parent or guardian in a reasonable timeframe or in accordance with procedures determined by the governing board of the school district.

This bill proposes to prescribe, only for materials related to comprehensive sexual health and HIV prevention education, parameters for inspection, including that materials be translated, available online, and before the date of instruction. While this bill only applies to CHYA, should these parameters apply to other education subject areas?

- 4) **Comprehensive sexual health education in lower grades.** Comprehensive sexual health education in lower grades has always been, and remains, optional. Under existing law, for grades 6 and below, an LEA must “opt-in” to offer that instruction to students. The LEA is then required by law to notify parents and guardians of their right to “opt-out” their child, whether in part or completely. All instruction and materials in grades K–6 must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades 7–12 may be also be included in an age-appropriate way in earlier grades.

5) **Related Legislation.**

SB 1222 (Dahle, 2022) would have This bill amends the CHYA by requiring LEA to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education. SB 1222 died in Senate Education Committee.

SB 217 (Dahle, 2021) was a previous iteration of SB 1222 (Dahle; 2022). SB 217 was held on suspense in Senate Appropriations.

SB 1045 (Melendez, 2022) would have required a classroom instructor to provide a parent or guardian with a copy of the classroom instructor’s lesson plan, upon request. SB 1045 died in Senate Education Committee.

SB 673 (Morrell, 2019) was similar to this bill and would have amended the California Healthy Youth Act by: (1) requiring active parental consent (“opt-in”) with a signature for sexual health and HIV prevention education in grades lower than 7, (2) specifically requiring local educational agencies to make written and audio visual materials available for inspection before the date of instruction on the local educational agency’s Internet website, and (3) requiring those material to be translated. SB 673 died in Senate Education Committee.

SUPPORT

California Catholic Conference
Protection of the Educational Rights of Kids - Advocacy

OPPOSITION

American College of Obstetricians and Gynecologists District IX

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1435	Hearing Date:	April 17, 2024
Author:	Ochoa Bogh		
Version:	April 8, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Books and other school materials: obscene matter.

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 would require the governing board of a local educational agency (LEA) to exclude from schools and school libraries serving pupils in preschool, transitional kindergarten, kindergarten, and grades 1 to 8, inclusive, all books, publications, or papers that contain harmful matter, as defined, by July 31, 2025 and allows a parent, guardian, or resident of a LEA to commence a civil action to obtain appropriate injunctive and declaratory relief for violations, as specified, after the governing board of the school district's refusal to remove any harmful matter requested of it.

BACKGROUND

Existing Law:

Penal Code (PEN)

- 1) "Harmful matter" means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
 - a) If it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.
 - b) In prosecutions, if circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and may justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value. (PEN 313 (a))
- 2) "Matter" means any book, magazine, newspaper, video recording, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription,

or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines, or materials. "Matter" also includes live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction. PEN § 313(b))

- 3) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity. (PEN § 313(c))
- 4) "Distribute" means transfer possession of, whether with or without consideration. (PEN § 313(d))
- 5) "Knowingly" means being aware of the character of the matter or live conduct. (PEN § 313(e)).
- 6) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor shall be punished as specified in Penal Code. (PEN § 313.1 (a))
- 7) Every person who violates Section 313.1, as specified in Penal Code, is punishable by fine of not more than two thousand dollars (\$2,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. (PEN § 313.4)
- 8) Allows, to be a defense in any prosecution, for any person violation, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor, was committed in aid of legitimate scientific or educational purposes. (PEN 313.3)

Education Code (EC)

- 9) Libraries may be established and maintained under the control of the governing board of any school district. (EC § 18100)
- 10) The governing board of a school district is accountable for the proper care and preservation of the school libraries of the district, and may make all necessary rules and regulations not provided for by the State Board of Education (SBE), or the Superintendent of Public Instruction (SPI) and not inconsistent therewith. (EC § 18121)
- 11) Requires the State Librarian to employ a consultant to provide technical assistance to public libraries in the development and enhancement of library services to children and youth. (EC § 19320.5)

- 12) Requires each district board to provide for substantial teacher involvement in selecting instructional materials and to promote the involvement of parents and other community members in choosing instructional materials. (EC § 60002)
- 13) Requires all instructional materials adopted by any governing board for use in the schools shall be, to the satisfaction of the governing board, accurate, objective, current, and suited to the needs and comprehension of pupils at their respective grade levels. (EC § 60045)

California Code of Regulation (CCR)

- 14) Persons employed by a school district as school librarians, assisted by other certificated personnel where deemed necessary, are responsible to perform the duties assigned by the school district governing board, including, but not limited to, supplementing classroom instruction, helping and instructing pupils in the choice and use of library materials, planning and coordinating school library programs with the instructional programs of a school district, selecting materials for school libraries, and conducting a planned course of instruction for those pupils who assist in the operation of school libraries, subject to such policies, rules and regulations as may be established by the governing board for the operation and utilization of school libraries. (CCR § 16043)

ANALYSIS

This bill:

- 1) Requires the governing board of a school district to exclude from schools and school libraries serving pupils in preschool, transitional kindergarten, kindergarten, and grades 1 to 8, inclusive, all books, publications, or papers that contain harmful matter, as defined in Penal Code by July 31, 2025.
- 2) Requires the governing board of an LEA, notwithstanding applying contemporary statewide standards, to establish contemporary local standards for deciding what is “harmful matter.”
- 3) Specifies that a defense, if a person with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly sells, rents, distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor, was committed in aid of legitimate scientific or educational purposes, in any prosecution related to “harmful matter”.
- 4) Allows a parent, guardian, or resident of an LEA to commence civil action to obtain appropriate injunctive and declaratory relief for violations of this section after the governing board of the school district’s refusal to remove any harmful matter requested of it.
- 5) Makes findings and declarations related to obscene and harmful matters defined as matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts

or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value as it related broadcasting on the radio or television and how these standard should apply to public school libraries for children.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The United States Supreme Court in *Miller v. California* (1973) 413 U.S. 15 found that obscene material is not protected under the First Amendment, and the Federal Communications Commission prohibits obscene, indecent, and profane content from being broadcast on the radio or television, in accordance with section 1464 of Title 18 of the United States Code.”

“When these sexually explicit books are presented during a school board meeting to be considered for removal, the materials are sometimes censored or unable to be read aloud for the safety of the viewing audience due these existing federal regulations. Yet, these books can be found in California school libraries, available for check out by children without their parents (or guardians) ever knowing.”

“SB 1435 ultimately seeks to protect our children from accessing content in school libraries that our state considers too sexually explicit to be distributed to minors in public, and material that our own federal government considers too obscene for adults to hear or view on radio and television.”

- 2) ***Background and Context: Miller v. California (1973).*** Within the provisions of the bill, the findings and declarations cite *Miller v. California* (1973) 413 U.S. 15 affirming that obscene materials are not protected under the First Amendment and clarifying what materials qualify as “obscene.” Before advancing, it is essential to discuss the context in which the ruling in *Miller* was made.

In 1968, Marvin Miller, after conducting a mass mailing campaign to advertise the sale of “adult” material (*Intercourse, Man–Woman, Sex Orgies Illustrated, and An Illustrated History of Pornography* — and a film entitled *Marital Intercourse*) for his business, was convicted of violating a California statute prohibiting the distribution of obscene materials. Unwilling recipients of Miller's brochures complained to the police, initiating the legal proceedings. Miller appealed to the U.S. Supreme Court, contending that the advertisements in question were not obscene under the First Amendment's freedom of speech guarantee.

Notability, while the findings and declarations highlight the Miller case, it is important to recognize that the Miller case was tried under the definition of “obscene matter” (Pen Code 311(a)) rather than “harmful matter” (Pen Code 313 (a)) as referenced in the bill. Although the definitions may seem similar, “obscene matter” generally refers to obscene materials in public, while “harmful matter” is more specific to minors.

During the trial, the judge had instructed the jury to use the *community standard* for California in determining whether the materials would be considered obscene. Miller then argued on appeal that these instructions had failed to comply with the Supreme Court's decision in *Memoirs v. Massachusetts*, which would require a national standard for obscenity because obscene works must be completely lacking in

redeeming social value. The appellate decision rejected this argument, and the state appellate court refused review.

Vacating and remanding the state court decision, Supreme Court Justice Warren Earl Burger reiterated that the First Amendment does not protect obscene speech, and especially hardcore pornography, but created a more detailed standard for determining whether material is obscene. He noted that any statutes prohibiting obscenity must be narrowly constructed and created three factors to help state legislatures in formulating them. These were:

- 1) Whether the average person, applying contemporary community standards, would find that the work as a whole appeals to the prurient interest;
- 2) Whether the work depicts or describes sexual conduct or excretory functions, as defined by state law, in an offensive way; and
- 3) Whether the work as a whole lacks serious literary, artistic, political, or scientific value.

Only if all three of these factors are satisfied with regard to a work as a whole—not portions of the work—can the speech give rise to criminal liability as obscene matter. In developing this test, Justice Burger refined the ruling in *Memoirs* that speech was only obscene if it had absolutely no redeeming value.

This bill potentially extends criminal liability and punishment to school districts and allows a parent, guardian, or resident of a school district to commence a civil action to obtain appropriate injunctive and declaratory relief for violations related to schools and school libraries for containing “harmful material.” The committee may wish to consider if the ability for a parent, guardian, or resident of a school district to commence a civil action to obtain appropriate injunctive and declaratory relief for violations as established in this bill may result in frivolous lawsuits against school districts, and whether the threat of criminal prosecution will cause librarians to self-censor and remove important works from school libraries.

The Supreme Court in *Miller v. California* established a new standard for determining what could be considered obscene materials and subject to government restrictions. The three-part test asked whether the average person, applying contemporary community standards, would find the work appeals on the whole to prurient interests; describes sexual conduct in a patently offensive way; and lacks any serious literary, artistic, political or scientific value, to give raise to criminal liability.

The definition of “harmful matter” in Penal Code 313 is based on the obscene materials standard developed in *Miller v. California* in that it criminalizes material that, taken as a whole and using contemporary statewide standards appeals to the prurient interest or describes or depicts sexual conduct in a patently offensive way, where the work, as a whole, lacks serious literary, artistic, political, or scientific value for minors.

Should the criminal standard for harmful material apply to school library books? Further, if the criminal standard were to be applied, the committee may wish to

consider to what extent a book from a school library would, as a whole, lack serious literary, artistic, political or scientific value.

- 3) ***Students' First Amendment Right to Receive Information: Board of Education Island Trees Union Free School District v. Pico (1982)***. In *Pico*, a four-justice plurality of the U.S. Supreme Court stated that a student's First Amendment right to access of information is violated when school officials remove books from a library "simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" (*Board of Educ., Island Trees Union Free School Dist. No. 26 v. Pico*, 457 U.S. 853, 871–72 (1982))

Unlike Miller (1973,) the U.S Supreme Court's ruling in Pico (1982) is very narrow and fact specific as it related to school libraries compared to the distribution of "adult" materials in public.

In 1976, the school board for the Island Trees Union Free School District No. 26 in New York removed 11 books from its schools' libraries, claiming they were "anti-American, anti-Christian, anti-Semitic and just plain filthy." The books included *Slaughterhouse-Five* by Kurt Vonnegut, *The Fixer* by Bernard Malamud, *Go Ask Alice* by Anonymous, *Black Boy* by Richard Wright, and *A Hero Ain't Nothin' but a Sandwich* by Alice Childress. After objections from the school superintendent—who noted that the officials had failed to follow the existing policy for book removal—the board appointed a review committee, which advised that five of the books at issue be kept in the libraries. The board, however, overruled the committee's recommendation, giving no explanation of its actions, and banned all but 2 of the 11 books. Steven Pico, a student at the high school, was among those who sought injunctive and declaratory relief, claiming that the school board violated their First Amendment rights.

A federal district court granted the board's motion for summary judgment on the basis that its motivation stemmed from a "conservative educational philosophy," which was permissible in light of the wide discretion usually given to school boards. Subsequently, The United States Court of Appeals for the Second Circuit reversed and remanded for trial, and certiorari was granted. Justice Brennan, writing the plurality opinion, stated that:

- 1) Local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion; and
 - 2) Issues of fact precluding summary judgment existed as to whether the school board exceeded constitutional limitations in exercising its discretion to remove the books from the school libraries.
- 4) ***Removal of Library Materials – Local Discretion***. The selection of materials for school libraries (or media centers) is subject to the discretion of the governing board and guided by the rights of students.

This bill requires the governing board of a school district to establish contemporary local standards for deciding what is “harmful matter”. It should be noted that Penal Code 313(a) requires the application of “contemporary statewide standards”. This bill ignores that application, and instead, requires the governing board of an LEA to apply a “local contemporary standard”. Existing law already allows governing board of school districts to determine, based on their community needs without exception to existing law, the books that can be found in school libraries.

According to CDE, school library plays an important role in preparing students to live and learn in a world of information. Since 1988, the mission of school library media programs across the country has been to ensure that students and staff are effective users of ideas and information by taking the following steps:

- Providing intellectual and physical access to materials in all formats.
- Providing instruction to foster competence and stimulate interest in reading, viewing, and using information and ideas.
- Working with other educators to design learning strategies to meet the needs of individual students.

Section 18121 of the education code states “the governing board of a school district is accountable for the proper care and preservation of the school libraries of the district, and may make all necessary rules and regulations not provided for by the SBE, or the SPI and not inconsistent therewith.” Further California Code of Regulation states school librarians and other certified personnel are responsible for performing various duties assigned by the school district’s governing board. These duties may include supplementing classroom instruction, assisting students in choosing appropriate library materials, planning library programs, selecting materials, and providing instruction on library operations, all by the governing board’s policies and regulations. (CCR 16043)

The standard set in *Pico* for when a book can be removed requires the removal to be due to the book’s “educational suitability” or “pervasive vulgarity.” (*Id.* at 871.). The process for removing books must be “established, regular, and facially unbiased.” (*Id.* at 874.) In summary, local boards have discretion to remove books from school libraries, but they must only use that discretion in an established process and the intention for the removal must be constitutionally valid, meaning it “may not be exercised in a narrowly partisan or political manner.” (*Id.* at 854.)

5) **Related Legislation.**

AB 1825 (Muratsuchi, 2024), which would prohibit public libraries refusing to procure books in a manner that discriminates against or excludes materials based on race, nationality, gender identity, sexual orientation, religion, disability, political affiliation, or socioeconomic status, or on the basis that the materials under consideration contain inclusive and diverse perspectives.

AB 1078 (Jackson, Chapter 229, Statutes of 2023) makes various changes to the adoption of instructional materials for use in schools, including a provision that would

prohibit a governing board from disallowing the use of an existing textbook, other instructional material, or curriculum that contains inclusive and diverse perspectives, as specified.

AB 48 (Leno, Chapter 81, Statutes of 2011) require California public schools to provide Fair, Accurate, Inclusive, and Respectful representations of our diverse ethnic and cultural population in the K-12 grade history and social studies curriculum.

SUPPORT

California Policy Center

Educate.Advocate.

Protection of the Educational Rights of Kids - Advocacy

Stand Up California

The American Council

18 Individuals

OPPOSITION

ACLU California Action

California Teachers Association

Equal Justice Society

Equality California

Generation Up

Our Family Coalition

Public Advocates

Public Counsel

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1445	Hearing Date:	April 17, 2024
Author:	Cortese		
Version:	March 19, 2024		
Urgency:	No	Fiscal:	No
Consultant:	Kordell Hampton		

Subject: Governing boards: pupil members: expulsion hearing recommendations.

SUMMARY

This bill allows a county board of education (CBOE) and the governing board of a local educational agency (LEA) to authorize its pupil member or members to make restorative justice recommendations that may be considered by CBOEs or school district governing boards in closed session expulsion hearings, as specified.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Authorizes a student petition to be submitted to the governing board of a school district maintaining one or more high schools requesting the governing board to appoint one or more student members to the governing board. (EC § 1000(b)(1)), 35012(d)(1), and 47604.2 (b)(1))
- 2) Requires the petition to contain the signatures of either of the following, whichever is less:
 - a) Not less than 500 students regularly enrolled in high schools of the school district.
 - b) Not less than 10 percent of the number of students regularly enrolled in high schools of the school district. (EC § 1000(b)(2), 35012(d)(2), 47604.2 (b)(2))
- 3) Upon receipt of a petition for pupil representation, the governing board of a school district, county office of education, and charter school shall the inclusion within the membership of the governing board, in addition to the number of regular members otherwise prescribed, at least one pupil member. (EC § 1000(b)(3), 35012(d)(3), 47604.2(b)(3))
- 4) Requires a pupil member to receive all materials other board members receive between open meetings, except for materials about closed sessions. (EC § 1000(b)(9)(B), 35012(b)(9)(A), 47604.2 (b)(9)(A))
- 5) 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*, 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. (EC § 48900)
- 6) 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))
- 7) States 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 (*not* including disrupting 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) or the pupil's presence causes a danger to persons. (EC § 48900.5)

ANALYSIS

This bill:

- 1) Allows a CBOE to authorize its pupil member or members to make restorative justice recommendations that may be considered by the CBOE in closed session expulsion hearings and specifies that, if a CBOE or LEA authorizes its pupil member or members to make a restorative justice recommendation, then the CBOE must disclose limited case information that pertains to expulsion hearings to the pupil member or members to allow the pupil member or members to make those recommendations if the pupil who is subject to the expulsion hearing and the pupil's parent or guardian provides written consent with federal and state privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and any implementing federal regulations.
- 2) Allows a school governing board of a LEA to authorize its pupil member or members to make restorative justice recommendations that may be considered by LEA in closed session expulsion hearings and specifies that if a LEA authorizes its pupil member or members to make a restorative justice recommendation then the LEA must disclose limited case information that pertains to an expulsion hearing to the pupil member or members to allow the pupil member or members to make those recommendations if the pupil who is subject to the expulsion hearing and the pupil's parent or guardian provides written consent with federal and state privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and any implementing federal regulations.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Excluding student board members from the expulsion hearing process deprives students of the opportunity to advocate for their peers. Restorative justice alternatives are necessary to protect our most vulnerable student populations by ensuring they remain in school while emphasizing the importance of collaboration and community involved conflict resolution.”

“By focusing on repairing harm and strengthening connections amongst affected individuals, peers, teachers, and the wider school community, we can provide students with the support they need. All parties should have the opportunity to contribute to the resolution process, shifting the school board's role from authority to facilitator and promoting student-centered problem-solving.”

“I’ve seen the benefits of restorative justice initiatives first hand. In 2011, as a Santa Clara County Supervisor, I established the Santa Clara County Peer Court. Under Peer Court, juries composed of teenage peers judge low-level juvenile offenders facing their first misdemeanor charges. Peer Court has proven to be a cost-effective method of advancing restorative justice while allowing young people to avoid the juvenile system.”

- 2) ***Student Board Members: Eligibility, Roles, and Abilities.*** Student board members enable governance teams to incorporate student voices in their district responsibilities, elevating student perspectives on education policy decisions that they may not have otherwise considered. Students get the opportunity to participate in the governance process of their district meaningfully, learn essential democratic skills, and represent and advocate for their peers. Any student elected to serve as a member of the governing board of a school district must be enrolled in a high school of the school district and chosen by the pupils enrolled in the high school or high schools of the school district.

Student board members are full board members and have the right to attend meetings and receive all available session materials, be appointed to subcommittees, be briefed by staff, and be invited to attend other board functions. School boards may also set the roles and responsibilities of student board members within their bylaws. Examples of these duties may include:

- Making motions on matters upon which the board can act;
- Questioning witnesses during an open session; and
- Attending training and conferences.

Student board members can also express their opinions and perspectives through preferential voting. Preferential voting means that student members may formally express their preference on a motion before a vote by the board. Preferential votes do not count in the final numerical outcome of a motion. Student board members, however, cannot participate in or receive closed-session materials because they

often include discussions of sensitive topics such as student discipline or personnel and labor issues.

This bill would allow pupil members to receive limited case information, upon approval of the pupil being expelled and their parents, to make a recommendation to their board, but not participate in the hearing.

3) **County Offices of Education Are Responsible For Some Alternative Education.**

Current law gives county offices of education (COE) a role in alternative education, which refers to any nontraditional academic program designed for students who require or could benefit from an alternative placement. COEs are responsible for ensuring that students incarcerated at the county level are provided with an educational program. COEs receive direct funding for educating students on probation, referred by probation departments, or mandatorily expelled. All other at-risk students, including nonmandatorily expelled students, students referred by school attendance review boards, students with significant behavior issues, and students with serious academic deficiencies, are funded through school districts while served by COEs

Would it be more appropriate for pupil members at a CBOE to provide recommendations for appeal hearing rather than expulsion hearings, as COEs traditionally do not expel their students?

4) **When Is A Pupil Recommended For Expulsion?**

Expulsion is the most serious disciplinary action a school administrator may recommend, and a school district may impose on a student. Expulsion can only occur through the action of the school district governing board, but administrators have an important role in recommending expulsion. Due process procedures for student expulsion are prescribed in EC § 48915, which categorizes the types of offenses that require an expulsion recommendation and those that do not require an expulsion recommendation. If an administrator does recommend expulsion for a specified offense, a student is entitled to a hearing within 30 school days after that determination unless the student or parents or guardians request in writing that the hearing be postponed. This excludes expulsion for students in kindergarten to grade twelve, inclusive, for willful defiance which is prohibited. It should be noted that the California Department of Education’s (CDE) website contains a matrix tool designed to help administrators decide, when expulsion of a student is deemed mandatory, expected, or at administrators discretion.

Must Recommend Expulsion (Mandatory)	Shall Recommend Expulsion Unless Particular Circumstances Render Inappropriate	May Recommend Expulsion (Discretionary)
EC § 48915(c) Act must be committed at school or school activity. 1. Firearm	Act must be committed at school or school activity. EC § 48915(a) states that an administrator shall recommend expulsion for the following violations	Acts committed at school or school activity or on the way to and from school or school activity. a. Inflicted physical injury b. Possessed dangerous objects

<p>a. Possessing firearm when a district employee verified firearm possession and when student did not have prior written permission from a certificated employee which is concurred with by the principal or designee.</p> <p>b. Selling or otherwise furnishing a firearm.</p> <p>2. Brandishing a knife at another person.</p> <p>3. Unlawfully selling a controlled substance listed in California <i>Health and Safety Code</i> Section 11053 et. seq.</p> <p>4. Committing or attempting to commit a sexual assault or committing sexual battery as defined in <i>EC</i> § 48900(n).</p> <p>5. Possession of an explosive.</p>	<p>(except for subsections [c] and [e]) unless the administrator finds that expulsion is inappropriate due to a particular circumstance.</p> <ol style="list-style-type: none"> 1. Causing serious physical injury to another person, except in self-defense. <i>EC</i> § 48915(a)(1)(A) 2. Possession of any knife or other dangerous object of no reasonable use to the pupil. <i>EC</i> § 48915(a)(1)(B) 3. Possession and/or use of any substance listed in the California <i>Health and Safety Code</i> commencing with §11053, except for the first offense for possession of not more than one avoirdupois ounce of marijuana other than concentrated cannabis. 4. Robbery or extortion. <i>EC</i> § 48915(a)(1)(D) 5. Assault or battery, or threat of, on a school employee. <i>EC</i> § 48915(a)(1)(E) <p>The recommendation for expulsion shall be based on one or both of the following:</p> <ol style="list-style-type: none"> 1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct. 	<ol style="list-style-type: none"> c. Possessed drugs or alcohol (policy determines which offense) d. Sold look alike substance representing drugs or alcohol e. Committed robbery/extortion f. Caused damage to property‡ g. Committed theft h. Used tobacco (policy determines which offense) i. Committed obscenity/profanity/vulgarity j. Possessed or sold drug paraphernalia k. Disrupted or defied school staff l. Received stolen property m. Possessed imitation firearm n. Committed sexual harassment o. Harassed, threatened or intimidated a student witness p. Sold prescription drug Soma q. Committed hazing r. Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in <i>EC</i> § 32261(f) and (g), directed specifically toward a pupil or school personnel. <p>The recommendation for expulsion shall be based on one or both of the following:</p> <ol style="list-style-type: none"> 1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct (see <i>EC</i> Section 48915[b][1]). 2. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others
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	<p>Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others (see <i>EC</i> Section 48915[b][2]).</p>	<p>(see <i>EC</i> Section 48915[b][2]).</p> <p><i>EC</i> Section 48900(t) states a pupil who aids or abets in infliction of physical injury to another, as defined in California <i>Penal Code</i> Section 31, may suffer suspension, but not expulsion. However, if a student is adjudged by a court to have caused, attempted to cause, or threatened personal injury, the student may be expelled.</p> <p><i>EC</i> Section 48900(u) "school property" includes, but is not limited to, electronic files and databases.</p>
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Source: CDE

It is worth noting that EC 48917 empowers the local governing board to suspend the enforcement of an expulsion order and assign the student to a school, class, or program that is deemed appropriate for their rehabilitation at any time after voting to expel a pupil. The student is considered on probationary status during the suspension period for the expulsion order.

- 5) ***Restorative Justice and Other Approaches to Suspension and Expulsion.*** Several school districts, including some of the largest, have adopted board policies prohibiting willful defiance as the basis for suspension or expulsion and are committing resources to effectively implement alternative correction models, including restorative justice, positive behavior interventions and support, and other evidence-based approaches. For example, Oakland Unified School District has banned the suspension or expulsion of students based solely upon willful defiance. Oakland Unified offers restorative justice programs in their schools. Furthermore, the Legislature has made significant investments to encourage LEAs to establish alternatives to suspension and expulsion.

In a 2019 study conducted by WestEd, *Restorative Justice in U.S. Schools*, “Educators across the United States have been looking to restorative justice as an alternative to exclusionary disciplinary actions. Two significant developments have partly driven the popularity of restorative justice in schools. First, there is a growing perception that zero-tolerance policies, popular in the United States during the 1980s– 1990s, have harmed students and schools, generally, and had a particularly pernicious impact on Black students and students with disabilities. These policies, many argue, have increased the use of suspensions and other exclusionary discipline practices to ill effect. For example, researchers reviewing data from Kentucky found that, after controlling for a range of different factors, suspensions explained 1/5 of the Black-White achievement gap. Secondly, restorative justice has gained popularity as a means of addressing disproportionalities in exclusionary discipline. For example, it was found that Black students were 26.2 percent more

likely to receive an out-of-school suspension for their first offense than White students.

“In this manner, restorative justice is viewed as a remedy to the uneven enforcement and negative consequences that many people associate with exclusionary punishment,” according to the study. Exclusionary discipline can leave the victim without closure and fail to resolve the harmful situation. In contrast, because restorative justice involves the victim and the community in the process, it can open the door for more communication and resolutions to problems that do not include exclusionary punishments like suspension. Unlike punitive approaches, which rely on deterrence as the sole preventative measure for misconduct, restorative justice uses community-building to improve relationships, reducing the frequency of punishable offenses while yielding a range of benefits. There are a variety of practices that fall under the restorative justice umbrella that schools may implement. These practices include victim-offender mediation conferences; group conferences; and various circles that can be classified as community-building, peace-making, or restorative.”

This bill would allow CBOEs and LEAs governing boards the ability to allow their pupil members to make restorative justice recommendations that may be considered by the CBOE or LEA governing board in closed session expulsion hearings, but does not allow pupil board members to attend closed session.

- 6) **Student Privacy – The 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 the 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.

While the bill requires a CBOE or LEA governing board to disclose limited case information that pertains to a closed session expulsion hearing to pupil members, if the CBOE or LEA governing board allows pupil members to make restorative justice recommendations to be considered by the board, the requirement for disclosure is dependent on the consent of both the student and the student’s parent for release of limited case information.

- 7) **Committee Amendments.** *Committee staff recommends, and the author has agreed to accept, the following amendments:*
- a) Remove reference to CBOEs as they traditionally do not expel their students.

- b) Allow charter school governing boards to allow each pupil member to make restorative justice recommendations that may be considered by its governing board.

8) Related Legislation.

AB 824 (Bennett, Chapter 669, Statutes of 2021) authorizes a pupil petition requesting that a COE or the governing body of a charter school appoint one or more pupil board members to be submitted to a board or body operating one or more high schools.

AB 261 (Thurmond, Chapter 257, Statutes of 2017) provides that a pupil member of the governing board of a school district shall have preferential voting rights.

SB 468 (Leyva, Chapter 283, Statutes of 2017) modifies the existing requirement that school district governing boards provide the student board member with materials presented to the board members to specify that the student members are to receive all open meeting materials at the same time the materials are presented to the board members, and requires governing boards to invite the student member to staff briefings provided to board members or offer a separate briefing within the same timeframe as the briefing of board members.

SUPPORT

California Association of Student Councils (sponsor)
Communities United for Restorative Youth Justice
SIATech Academy South High School
Young Women's Freedom Center

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 1080 **Hearing Date:** April 17, 2024
Author: Newman
Version: March 14, 2024
Urgency: No **Fiscal:** Yes
Consultant: Kordell Hampton

Subject: Pupil nutrition: school meals: halal and kosher food options.

SUMMARY

This bill requires a schoolsite of an local educational agency (LEA), county superintendent of schools, or charter school to provide a nutritionally adequate breakfast and lunch kosher or halal school meal if 5% or more of pupils request a halal or kosher school meal option, but does not prohibit schoolsites of an LEA, county superintendent of schools, or charter school from providing a halal or kosher school meal option if the 5% threshold is not met.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Requires every public school to post the school district's nutrition and physical activity policies, in public view within all school cafeterias or other central eating areas. (EC § 49432)
- 2) Requires, commencing with the 2022–23 school year all of the following:
 - a) A school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except when it requires family daycare homes to be reimbursed for 75% of the meals served. Requires the meals provided to be nutritiously adequate meals that qualify for federal reimbursement;
 - b) A charter school to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period. Requires the meals to be nutritiously adequate meals that qualify for federal reimbursement; and
 - c) An LEA that has a reimbursable school breakfast program to not charge any pupil enrolled in transitional kindergarten, kindergarten, or any of grades 1 to 12,

inclusive, any amount for any breakfast served to that pupil through the program, and to provide a breakfast free of charge to any pupil who requests one, without consideration of the pupil's eligibility for a federally funded free or reduced-price meal. Requires the meals provided free of charge to be nutritiously adequate, and to count toward the total of two school meals required to be provided each schoolday. (EC § 49501.5)

Penal Code (PEN)

- 3) A person selling or falsely exposing meat or meat preparations as halal, whether raw or prepared for human consumption, is guilty of a misdemeanor. This includes falsely claiming that the food product or its contents are halal or that both halal and nonhalal meat are sold in the same place of business. The person must also display a sign stating "halal meat" or "nonhalal meat" on their display window signs. Selling or exposing food preparations falsely as halal or prepared by Islamic religious requirements in a restaurant or other place is punishable by a fine of \$100 or more or imprisonment in a county jail of 30 days or more. (PEN § 383c)
- 4) A person selling or falsely exposing meat or meat preparations as kosher, whether raw or prepared for human consumption, is guilty of a misdemeanor. They must display a sign stating "kosher and nonkosher meats sold here" on their window signs in all display advertising. They must also display a sign saying "kosher meat" or "nonkosher meat" on each type of meat or food preparation. Selling or exposing kosher and nonkosher food or preparations in a restaurant or other place where food products are sold for consumption on the premises is also a misdemeanor. Penalties include a fine of \$100 or \$600, imprisonment in the county jail of 30 days or 90 days, or both. (PEN § 383b)

ANALYSIS

This bill requires a schoolsite of an LEA, county superintendent of schools, or charter school to provide a nutritionally adequate breakfast and lunch kosher or halal school meal if 5% or more of pupils request a halal or kosher school meal option, but does not prohibit schoolsites of an LEA, county superintendent of schools, or charter school from providing a halal or kosher school meal option if the 5% threshold is not met.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "By requiring California schools to offer halal and kosher meal options consistent with Muslim and Jewish cultural practices, SB 1080 will reduce stigma, promote cultural understanding and appreciation among students, build a more tolerant environment, and break down stereotypes and prejudices. SB 1080, which would be the first state-wide culturally appropriate school nutrition program of its kind in the nation, will also help promote engagement and participation between schools and families from religious minority backgrounds by encouraging them to communicate regarding their dietary needs on a proactive, inclusive basis."

"In light of the recent, alarming increase of Islamophobia and anti-Semitism, California has an opportunity to once again exert national leadership, this time by

further advancing the integration of members of these communities within our public school system. Offering halal and kosher meals to schools that meet the bill's threshold will allow all students, regardless of religious persuasion or dietary restrictions, to participate in school meals; to more fully engage in school life; and to feel valued and included in their community.”

- 2) ***Meals Service Options: USDA Meal Programs or Competitive Food.*** The California Department of Education (CDE) Nutrition Services Division administers many of the USDA meal programs at the state level:
- a) *The National School Lunch Program (NSLP).* The NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential childcare institutions. It provides nutritionally balanced, low-cost, or free lunches to children each school day.
 - b) *The School Breakfast Program (SBP).* The SBP provides reimbursement to states to operate nonprofit breakfast programs in schools and residential childcare institutions. The Food and Nutrition Service of the USDA administers the SBP at the federal level.
 - c) *The Child and Adult Care Food Program (CACFP).* The CACFP is a federal program that provides reimbursements for nutritious meals and snacks to eligible children and adults who are enrolled for care at participating childcare centers, daycare homes, and adult daycare centers. The CACFP also provides reimbursements for meals served to children and youth participating in afterschool programs, children residing in emergency shelters, and adults over the age of 60, or living with a disability and enrolled in daycare facilities.
 - d) *The Summer Food Service Program (SFSP).* The SFSP is a federally-funded, state-administered program. The SFSP reimburses program operators who serve free healthy meals and snacks to children and teens in low-income areas.
 - e) *The Seamless Summer Option (SSO).* Schools participating in the NSLP or SBP are eligible to apply for the SSO. This option allows public schools to combine features of the School Nutrition Programs and the SFSP along with reduced paperwork requirements, making it easier for schools to feed children during the traditional summer vacation periods and, for year-round schools, long school vacation periods.

Separate from school meal provisions, competitive food and beverage requirements in California began in 1976 with rules that govern food and beverage sales by student organizations. Since 2001, due to awareness of the obesity epidemic, there have been numerous state laws passed which currently shape the competitive food environment in California schools for all foods and beverages sold to students outside the meal program. In July 2014, schools implemented the USDA competitive food regulations, called Smart Snacks in School (SSIS). In 2016, California passed Senate Bill 1169 (McGuire, chapter 280, Statutes of 2016) which streamlines state competitive food rules with the federal SSIS. Today's rules encompass a comprehensive approach to food and beverage sales by all groups or individuals, during the school day, throughout the school campus.

USDA Explored Halal and Kosher School Meal Options in 2023.

On May 30, 2023, the USDA Agricultural Marketing Service (AMS) conducted research to expand its Kosher and Halal food options in USDA nutrition assistance programs. Companies that manufacture Kosher or Halal-certified food products and wish to sell them to the USDA for use in nutrition assistance programs, such as The Emergency Food Assistance Program (TEFAP) and the NSLP, were invited to respond to the USDA's request for information (RFI). The purpose of the RFI is to enable AMS to gain a thorough understanding of the companies' capabilities and limitations when it comes to supplying these food products. School nutrition operators looking for resources on serving kosher and halal meals to students can contact the advocacy organizations listed on TEFAP's website.

While USDA has explored options to better support schools in providing Halal and Kosher meals to students, currently, Halal and Kosher meals are not included in USDA's meal services options for schools which means there are not clear guidance or standards.

- 3) **School Meal Reimbursement Rates.** School meal reimbursement, by both the federal government and the state, varies each year. In order to receive reimbursement, schools must follow a certain meal pattern determined by the USDA. Depending on the age range of the students served, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternative, and milk. Most schools throughout the state participate in "offer versus serve," which allows a student to pick three of the aforementioned five components in order for the school to receive full reimbursement for that student's meal.

The federal school breakfast rates are \$2.28 for free breakfast and \$1.98 for reduced breakfast.

School Breakfast Program (SBP)

Type of Meal	Free	Reduced-Price	Paid
Basic Breakfast	\$2.28	\$1.98	\$0.38
Severe Need Breakfast	\$2.73	\$2.43	\$0.38

Note: Severe Need Breakfast is for approved sites that served 40 percent or more free and reduced-price lunches in 2021–22, or 2022–23 if no National School Lunch Program data was available in 2021–22.

Source: CDE, 2023-24

The federal school lunch reimbursement rates are \$4.33 for free lunch and \$3.93 for reduced priced lunch. Schools that serve more than 60% low income students receive \$0.02 more for both free and reduced priced lunches, as shown in the chart below.

National School Lunch Program (NSLP)

Description	Free	Free+8 cents*	Reduced-Price	Reduced-Price+8 cents*	Paid	Paid+8 cents*
Agencies that served less than 60% free/reduced-price lunches in 2022–23	\$4.25	\$4.33	\$3.85	\$3.93	\$0.40	\$0.48
Agencies that served 60% or more free/reduced-price lunches in 2022–23	\$4.27	\$4.35	\$3.87	\$3.95	\$0.42	\$0.50
Commodity Value	\$0.365	\$0.365	\$0.365	\$0.365	\$0.365	\$0.365

Note: Payments listed for free and reduced-price lunches include both Section 4 and Section 11 funds of the National School Lunch Act. Source: CDE, 2023-24

- 4) **Kosher and Halal Diets and Certified Foods.** Certain criteria determine if any specific animal could be permitted as food for someone who keeps kosher. Among land animals, they must both chew their cud and have a cleft hoof to be kosher, for example, cows or venison. Pork, camel, and rabbit are non-kosher animals. Among water-living animals, only true fish having both fins and scales are permitted. Hence, salmon, tuna, flounder, cod, for example, are kosher, while all shellfish, dolphin, whale, eels, and any fish that do not have both fins and scales are not kosher. In a broad general rule, non-birds-of prey are kosher; chicken, duck, and goose are all kosher animals.

According to the USDA’s website; individuals following a kosher diet must only eat meat with kosher certification for beef, poultry, fish, and other animal meats. Unless experts in kosher food requirements are authorized, kosher certification is also mandatory on any processed and packaged product. Kosher products will never contain both meat and dairy ingredients. Pork and shellfish products are not permissible in a kosher diet. Some USDA Foods are certified kosher by an established certifying authority, meaning the product has been processed in a facility that maintains the integrity of the kosher certification. These items are identified on the list of foods available by TEFAP with a "(K)" next to the item name.

Halal diets follow certain dietary restrictions prohibiting the consumption of pork products, alcohol, products containing alcohol, and products made with non-halal animal-derived ingredients. For instance, some cheese products may contain an ingredient called rennet, derived from animals and unsuitable for halal-observant communities. It is not sufficient that the ingredients are halal, but one should eliminate the possibility of cross contamination when processing or serving food. Food cannot be fried in the same oil as non-halal ingredients, and serving spoons should be separate. It is preferable to serve halal food away from non-halal items to minimize spillage leading to cross contamination.

Some USDA Foods are certified halal, which means that they are acceptable and have been processed in a facility that maintains the integrity of the halal certification. These items can be identified on the TEFAP foods available list with an "(H)" next to its name.

The committee may wish to consider if LEAs are equipped with the proper facilities to serve halal and kosher meals that are aligned with the standards and practices to

provide such meals. Further, the ability of a school district to procure such food from vendors on a consistent basis given the volume of which some district would be ordering should be considered.

5) **Related Legislation.**

AB 558 (Nazarian, Chapter 905, Statutes of 2022) requires, by July 1, 2023, the CDE, in consultation with the State Department of Social Services, to develop guidance for LEAs that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible nonschoolaged children breakfast or a morning snack at an LEA schoolsite.

AB 130 (Committee on Budget, Chapter 44, Statutes of 2021) establishes a California Universal Meals Program with changes to the state meal mandate and new requirements for high poverty schools to apply for a federal provision.

SB 1138 (Skinner, Chapter 512, Statutes of 2018) requires state prisons and hospitals to serve plant-based meals.

ACR 279 (Kalra, Chapter 213, Statutes of 2018) encourages Californians to include more healthy plant-based foods in their diet.

ACR 16 (Nation, Chapter 62, Statutes of 2003) urged CDE and the Department of Public Health to develop school lunch menu plans that include a daily vegan lunch option that is nutritionally balanced.

SUPPORT

California Association of Food Banks
Council on American-Islamic Relations, California
Lashon Academy

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 1171	Hearing Date:	April 17, 2024
Author:	Newman		
Version:	February 14, 2024		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Pupil instruction: Cambridge Assessment International Education programs.

SUMMARY

This bill requires the Superintendent of Public Instruction (SPI) to annually update information on the Cambridge Assessment International Education program available on the California Department of Education's (CDE's) website to include current information on the various programs available to school districts to offer or access Cambridge Assessment International Education Advanced Subsidiary (AS) and Advanced (A) level courses, including online courses. Requires and authorizes the use of the Cambridge Assessment International Education program throughout the Education Code where Advanced Placement (AP) and International Baccalaureate (IB) are currently specified.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Allocates \$547 million for the A–G Completion Improvement Grant Program. Authorizes, as a use of the grant, AP and IB exam fees for unduplicated (foster youth, low-income, and English learner) pupils. (EC § 41590)
- 2) Authorizes a school principal evaluation to include local and state academic assessments, state standardized assessments, formative, summative, benchmark, end of chapter, end of course, AP, IB, college entrance, and performance assessments. (EC § 44671)
- 3) Authorizes the governing board of a school district to, and urges it to, provide access to a comprehensive educational counseling program for all students enrolled in the school district. States the intent of the Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling program within a Multi-Tiered System of Support (MTSS) framework. Authorizes educational counseling to include counseling in developing a list of coursework and experience necessary to assist and counsel each pupil to begin to satisfy the A–G requirements for admission to the University of California (UC) and the California State University (CSU) and encourage participation in college preparation programs, including, but not limited to, the Advancement Via Individual

Determination (AVID) program, early college, dual enrollment, AP, and IB programs. (EC § 49600)

- 4) Ratifies the Interstate Compact on Educational Opportunity for Military Children. Requires, as it relates to course placement, when the student transfers before or during the school year, the receiving state school to initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and there is space available, as determined by the school district. Requires course placement to include, but not be limited to, Honors, IB, AP, vocational, technical and career pathways courses. Requires continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. (EC § 49701)
- 5) Establishes The State Seal of Biliteracy to certify attainment of a high level of proficiency by a graduating high school pupil in one or more languages, in addition to English, and certifies that the graduate meets specified criteria, including passing a world language AP examination with a score of 3 or higher or an IB examination with a score of 4 or higher. (EC § 51461)
- 6) Requires the Local Control Accountability Plan (LCAP) template, adopted by the State Board of Education (SBE), and the LCAP adopted by a school district, county offices of education, or charter school, to include as a measure of pupil achievement the percentage of pupils who have passed an AP examination with a score of 3 or higher. (EC § 52060 & 52066)
- 7) Authorizes a school district to help pay for all or part of the costs of one or more AP and IB examinations that are charged to economically disadvantaged pupils. (EC § 52240 and 52922)
- 8) Requires the SPI to annually update information on the IB Diploma Program available on the CDE's website. Requires the SPI to also provide support to high schools that offer IB courses to facilitate communication with the Academic Senate for the California Community Colleges, the Academic Senate of the CSU, and the Academic Senate of the UC about the rigor of those courses and to ensure that college credit is given to pupils who participate so that they benefit from successful efforts in IB programs. (EC § 52922)
- 9) Establishes the Golden State Pathways Program as a competitive grant program. Requires, in order to be eligible to receive a grant award, grant recipients to, in part, commit to providing participating pupils the opportunity to earn at least 12 postsecondary credits that are applicable toward the completion of a degree, certificate, or credential through College and Career Access Pathways dual enrollment courses, AP courses, or IB courses. (EC § 53023)
- 10) Requires the CDE to administer the California Career Technical Education Incentive Grant Program as a competitive grant program. Requires the applicant to meet minimum eligibility standards, including offering high quality curriculum and instruction aligned with the California Career Technical Education Model Curriculum

Standards, including, but not limited to, providing a coherent sequence of career technical education courses that enable pupils to transition to postsecondary education programs that lead to a career pathway or attain employment or industry certification upon graduation from high school, including programs that integrate academic and career technical education and that offer the opportunity for participants to prepare for postsecondary enrollment and to earn postsecondary credits through AP courses, IB courses, or by formal agreement with a postsecondary partner to provide dual enrollment opportunities. (EC 53071)

ANALYSIS

This bill:

- 1) Expands allowable uses for A–G Success Grant, to include Cambridge, in addition to AP and IB, to be used for activities that directly support pupil access to, and successful completion of, the A–G course requirements. Eligible grant activities may include the payment of AP, IB, and Cambridge Assessment International Education fees for unduplicated pupils.
- 2) Expands school principal evaluations to include to include Cambridge, but not be limited to, other evidence of academic growth of pupils based on multiple measures that may include pupil work as well as pupil and school longitudinal data that demonstrates pupil academic growth over time. Assessments used for this purpose must be valid and reliable and used for the purposes intended and for the appropriate pupil populations. Academic assessments include, but are not limited to, state standardized assessments, formative, summative, benchmark, end of chapter, end of course, college entrance, performance assessments, AP exams, IB exams, and the Cambridge International AS and A Level examinations. For career and technical education, authentic performance assessment is a strong indicator of effective teaching and learning.
- 3) Authorizes the governing board of a school district to, and urges it to, provide access to a comprehensive educational counseling program for all pupils enrolled in the school district. States the intent of the Legislature that a school district that provides educational counseling to its pupils implement a structured and coherent counseling program within a MTSS framework. Authorizes educational counseling to include counseling in schools that enroll pupils in grades 6 to 12, inclusive, developing a list of coursework and experience necessary to assist and counsel each pupil to begin to satisfy the A–G requirements for admission to the UC and the CSU and encourage participation in college preparation programs, including, but not limited to, the AVID program, and early college, dual enrollment, AP, IB, and Cambridge International AS and A Level programs.
- 4) Expands the State the State Seal of Biliteracy certifies attainment of a high level of proficiency by a graduating high school pupil in one or more languages, in addition to English, and certifies that the graduate meets specified criteria, including proficiency in one or more languages other than English, demonstrated through one of several specified methods, including passing a world language AP examination with a score of 3 or higher, an IB examination with a score of 4 or higher, a

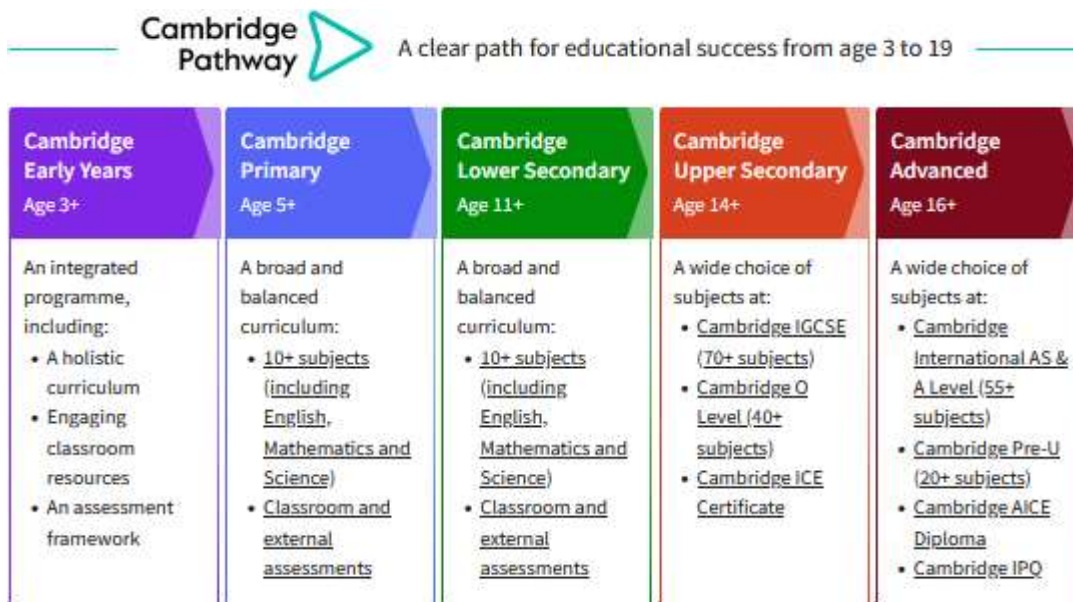
Cambridge International A Level examination with a score of E or higher, or a Cambridge International AS Level examination with a score of E or higher.

- 5) Expands the pupil achievement state priority for purposes of the LCAP, including pupil achievement, measured by applicable specified methods including, the percentage of pupils who have passed an AP examination with a score of 3 or higher, a Cambridge International A Level examination with a score of E or higher, or a Cambridge International AS Level examination with a score of E or higher.
- 6) Requires the SPI to annually update information on the Cambridge Assessment International Education program available on the CDE's website to include current information on the various programs available to school districts to offer or access Cambridge Assessment International Education AS and Advanced A level courses, including online courses. Requires the SPI also to provide support to high schools that offer Cambridge Assessment International Education AS and A level courses to facilitate communication with the Academic Senate for the CCCs, the Academic Senate of the CSU, and the Academic Senate of the UC to ensure students receive college credit for successful participation in Cambridge Assessment International Education assessments.
- 7) Authorizes a school district that offers Cambridge International General Certificate of Secondary Education (IGCSE), AS or A level courses and examinations, to help pay the test fees for pupils in need of financial assistance.
- 8) Expands the ability to earn units applicable to the Golden State program to include completion of Cambridge courses.
- 9) Expands courses eligible to include Cambridge Assessments for the California Career Technical Education Incentive Grant Program to meet specified eligibility standards, including offering high quality curriculum and instruction aligned with the California Career Technical Education Model Curriculum Standards, including programs that integrate academic and career technical education and that offer the opportunity for participants to prepare for postsecondary enrollment and to earn postsecondary credits through AP courses, IB courses, Cambridge Assessment International Education courses, or by formal agreement with a postsecondary partner to provide dual enrollment opportunities.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Higher education institutions, both nationally and globally, widely acknowledge and affirm the effectiveness of the Cambridge International program in readying students for post-secondary studies, Students engaged in the Cambridge program in California do not currently enjoy the same incentives and statutory recognition as students in the Advanced Placement and International Baccalaureate Programs. This discrepancy adversely affects schools and students interested in this rigorous educational program. SB 1171 solves this issue by adding the Cambridge international program to the list of accepted exams in California statute."

- 2) **Cambridge International.** Cambridge International offers a comprehensive K-12 educational system called the Cambridge Pathway, which is fully integrated throughout its courses and is flexible. It combines teaching and learning with assessments that measure student mastery. Each stage of this pathway builds on learners' development from the previous one. Schools have the flexibility to offer any of the four stages and courses alongside other curricula. Over 10,000 schools in more than 160 countries provide Cambridge qualifications. Cambridge University Press & Assessment is a not-for-profit organization and a part of the University of Cambridge in the United Kingdom.



Cambridge Assessment International Education collaborates with schools worldwide to develop an education system that shapes learners' knowledge, understanding, and skills. The Cambridge Pathway enables learners to prepare for the real world by offering five stages of education spanning from ages 3 to 19. The stages build on each other, allowing learners further to develop their knowledge, understanding, and skills. Schools can choose from different subjects and decide which stages to offer. Currently, the Fullerton Joint Union High School District, Inglewood Unified School District, Montebello Unified School District, and Placentia-Yorba Unified School District are the only California LEAs utilizing Cambridge International.

Cambridge is similar to AP and IB. Students are exposed to higher levels of learning meant to prepare students for college and are eligible to receive college credit. This bill attempts to have the same recognition in statute as AP and IB.

- 3) **Advanced Placement.** The College Board manages the AP program, a non-profit organization that aims to connect students to higher education success and opportunities. The program enables high school teachers to teach introductory college-level courses to high school students. At the end of the year, students take a standardized test in one of the 35 subject areas offered by the program. If students score well, they may receive college credit from the university they later enroll in. The AP program offers exams in various subjects, such as Arts, English, History and Social Sciences, Math and Computer Science, Sciences, and World Languages and

Cultures. Each exam is scored on a 5-point scale that determines how qualified a student is to receive college credit and placement. However, each college decides what scores to grant credit or placement. The AP program conducts studies in all subjects to compare AP student performance with college students in similar courses. These studies determine how AP students' scores are translated into an AP score of 1-5. More than 60 percent of all exams taken earn a score of 3 or higher. Students may receive extra points on their grade point average by participating in an AP course, depending on locally developed policies.

- 4) ***International Baccalaureate.*** The IB is a non-profit organization based in Switzerland that serves students in multiple countries and reports more than 1,700 schools in the United States. Its three programs (Primary Years Program, Middle Years Program, and pre-university Diploma Program (DP)) aim to develop students who contribute to a more peaceful world by promoting intercultural understanding and respect. The curriculum is made up of the DP core (theory of knowledge, extended essay and creativity, activity, and service) and six subject groups (studies in language and literature, language acquisition, individuals and societies, sciences, mathematics, and the arts) for students 16-19 years of age. The IB program provides a curriculum framework teachers can teach and an end-of-course exam for students. Participation in an IB course or program may add extra points to a student's grade point average by locally developed policies.

- 5) ***Related Legislation.***

AB 1509 (Quirk Silva, 2023) requires the SPI to annually update information on the Cambridge Assessment International Education program available on the CDE's website to include current information on the various programs available to school districts to offer or access Cambridge Assessment International Education AS and A level courses, including online courses. Requires and authorizes the use of the Cambridge Assessment International Education program throughout the Education Code where A) and International Baccalaureate (IB) are currently specified. *SB 1171 is identical to the introduced version of this bill. This bill was held in Assembly Appropriations Committee.*

AB 181 (Committee on Budget, Chapter 52, Statutes of 2022) establishes and allocates \$547 million for the A–G Completion Improvement Grant Program. Authorizes, as a use of the grant, AP and IB fees for unduplicated (foster youth, low-income, and English learner) pupils.

AB 815 (Brownley, Chapter 618, Statutes of 2011) establishes the State Seal of Biliteracy to be voluntarily affixed to the diploma or transcript of a high school graduate who has attained functional proficiency in speaking, reading, and writing skills in one or more languages, in addition to English.

SB 532 (Hernández, Chapter 238, Statutes of 2011) requires the SPI to annually update the information on AP available on the CDE website to include current information on the various means available to school districts to offer or access AP courses, including online courses, and to annually communicate with high schools that offer AP courses in fewer than 5 subjects and inform them of the various options for making AP courses and other rigorous courses available to pupils who may

benefit from them. Requires the SPI to annually update information on the IB DP available on the CDE's website and to provide support to high schools that offer IB courses. Encouraged the Academic Senate for the CCCs, the Academic Senate of the CSU, and the Academic Senate of the UC to continue their efforts to adopt consistent systemwide guidelines for the acceptance and granting of credit for IB DP courses taken by students while they are in high school.

SB 553 (Hart, Chapter 83, Statutes of 1992) authorized school districts receiving economic impact aid funds to expend those funds to pay for all or part of the costs of AP examinations that are charged to economically disadvantaged pupils. Required the SPI, no later than June 30, 1995, to submit a report to the Legislature describing the effectiveness of that funding in increasing the number of economically disadvantaged pupils enrolled in AP courses who take and pass AP examinations.

SUPPORT

Fullerton Joint Union High School District
Inglewood Unified School District
Montebello Unified School District

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: SB 1263 **Hearing Date:** April 17, 2024
Author: Newman
Version: February 15, 2024
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Teacher credentialing: teaching performance assessments: repeal.

SUMMARY

This bill eliminates the requirement for a teacher preparation program leading to a preliminary multiple subject, single subject, or education specialist teaching credential to include a teaching performance assessment (TPA).

BACKGROUND

Existing law:

- 1) Requires the Commission on Teacher Credentialing (CTC) to establish standards for the issuance and renewal of multiple subject, single subject, or education specialist teaching credential including all of the following:
 - a) A baccalaureate degree or higher degree from a regionally accredited institution of higher education;
 - b) Demonstration of basic skills proficiency; and
 - c) Satisfactory completion of a program of professional preparation that has been accredited by the Committee on Accreditation on the basis of standards of program quality and effectiveness that have been adopted by the CTC. Programs must include a TPA that is aligned with the California Standards for the Teaching Profession.
- 2) Requires the CTC to adopt standards for the accreditation of postsecondary teacher preparation programs. Prescribes “clinical practice” as one of the CTC-adopted standards and requires that teaching credential candidates perform 600 hours of clinical practice throughout the candidate’s teacher preparation program.
- 3) Requires the CTC to award the following types of credentials to applicants whose preparation and competence satisfy its standards:
 - a) Basic teaching credentials for teaching in kindergarten, or any of grades 1 to 12, inclusive, in public schools in the state;
 - b) Credentials for teaching adult education classes and vocational education classes;

- c) Credentials for teaching specialties, including, but not necessarily limited to, bilingual education, early childhood education, and special education. The CTC may grant credentials to any candidate who concurrently meets the CTC's standards of preparation and competence for the preliminary basic teaching credential and the preliminary specialty credential; and
 - d) Credentials for school services, for positions including, but not necessarily limited to, administrators, school counselors, speech-language therapists, audiologists, school psychologists, library media teachers, supervisors of attendance, and school nurses.
- 4) Authorizes the CTC to issue a multiple or single subject teaching credential with a specified concentration in a particular subject based upon the depth of an applicant's preparation in an important subject of the school curriculum in order to ensure excellence in teaching in specific subjects.
 - 5) Authorizes the CTC to issue credentials for teaching specialties, including bilingual education, early childhood education, and special education (education specialist). Requires education specialist teaching credentials to be based upon a baccalaureate degree from an accredited institution, completion of a program of professional preparation, and standards that the CTC may establish.
 - 6) Requires, commencing July 1, 2008, a program of professional preparation to include a TPA that is aligned with the California Standards for the Teaching Profession and that is congruent with state content and performance standards for pupils adopted by the State Board of Education (SBE). In implementing this requirement, institutions or agencies may do the following:
 - a) Voluntarily develop a TPA for approval by the CTC. Approval of any locally developed performance assessment must be based on assessment quality standards adopted by the CTC, which shall encourage the use of alternative assessment methods including portfolios of teaching artifacts and practices; and
 - b) Participate in an assessment training program for assessors and implement the CTC developed assessment.
 - 7) Requires the CTC to implement the TPA in a manner that does not increase the number of assessments required for teacher credential candidates prepared in this state. A candidate shall be assessed during the normal term or duration of the preparation program of the candidate.
 - 8) Requires, subject to the availability of funds in the annual Budget Act, the CTC to perform all of the following duties with respect to the TPA:
 - a) Assemble and convene an expert panel to advise the CTC about performance standards and developmental scales for teaching credential candidates and the design, content, administration, and scoring of the

- assessment. At least one-third of the panel members must be classroom teachers in California public schools;
- b) Design, develop, and implement assessment standards and an institutional assessor training program for the sponsors of professional preparation programs to use if they choose to use the CTC developed assessment;
 - c) Establish a review panel to examine each assessment developed by an institution or agency in relation to the standards set by the CTC and advise the CTC regarding approval of each assessment system;
 - d) Initially and periodically analyze the validity of assessment content and the reliability of assessment scores;
 - e) Establish and implement appropriate standards for satisfactory performance in assessments;
 - f) Analyze possible sources of bias in the performance assessment and act promptly to eliminate any bias that is discovered;
 - g) Collect and analyze background information provided by candidates who participate in the performance assessment, and report and interpret the individual and aggregated results of the assessment;
 - h) Examine and revise, as necessary, the institutional accreditation system for the purpose of providing a strong assurance to teaching candidates that ongoing opportunities are available in each credential preparation program that is offered for candidates to acquire the knowledge, skills, and abilities measured by the assessment system; and
 - i) Ensure that the aggregated results of the assessment for groups of candidates who have completed a credential program are used as one source of information about the quality and effectiveness of that program.
- 9) Requires the CTC to ensure that each TPA is state-approved and aligned with the California Standards for the Teaching Profession and is consistently applied to candidates in similar preparation programs. To the maximum feasible extent, each TPA must be ongoing and blended into the preparation program, and must produce the following benefits for credential candidates, sponsors of preparation programs, and local educational agencies that employ program graduates:
- a) The TPA must be designed to provide formative assessment information during the preparation program for use by the candidate, instructors, and supervisors for the purpose of improving the teaching knowledge, skill, and ability of the candidate;
 - b) The TPA results must be reported so that they may serve as one basis for a recommendation by the program sponsor that the CTC award a teaching

- credential to a candidate who has successfully met the performance assessment standards; and
- c) The formative assessment information and the TPA results must be reported so that they may serve as one basis for the individual induction plan of the new teacher.
- 10) Requires the CTC to perform the following duties with respect to the Reading Instruction Competence Assessment (RICA):
- a) Develop, adopt, and administer the assessment;
 - b) Initially and periodically analyze the validity and reliability of the content of the assessment;
 - c) Establish and implement appropriate passing scores on the assessment;
 - d) Analyze possible sources of bias on the assessment;
 - e) Collect and analyze background information provided by first-time credential applicants who are not credentialed in any state who participate in the assessment;
 - f) Report and interpret individual and aggregated assessment results;
 - g) Convene a task force to advise the CTC on the design, content, and administration of the assessment, with not less than one-third of the members of the task force classroom teachers with recent experience in teaching reading in the early elementary grades; and
 - h) Prior to requiring successful passage of the assessment for the preliminary multiple subject teaching credential, certify that teacher education programs offer instruction in the knowledge, skills, and abilities required by the assessment.
- 11) Requires the CTC to adopt examinations and assessments to verify the subject matter knowledge and competence of candidates for single subject teaching credentials.
- 12) Requires the CTC to ensure, by July 1, 2025, that an approved TPA for a preliminary multiple subject credential and a preliminary education specialist credential assesses all candidates for competence in instruction in literacy, revises the definition of literacy instruction for purposes of teacher preparation.

ANALYSIS

This bill eliminates the requirement for a teacher preparation program leading to a preliminary multiple subject, single subject, or education specialist teaching credential to include a TPA.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The TPA, in its current form, has become an unduly onerous portfolio assessment which has the net consequence of detracting from teacher candidates’ ability to focus on applying the concepts and skills of teacher preparation coursework in real classrooms, supervised by mentor teachers during supervised clinical practice. While well intentioned, the demands currently placed upon teaching candidates in preparing for the TPA have the perverse impact of actually reducing the overall quality of teacher preparation by undermining the capacity of teacher candidates to focus on their clinical practice.

As a practical matter, the TPA and clinical practice assessments are effectively duplicative. Further, because of the barriers they represent to teaching candidates, recent data shows that the TPA is disproportionately discouraging teacher candidates of color, contributing to a reduction of diversity in the teaching profession. Studies show that aspiring teachers of color perceive the current TPA system as racially biased, and that their demands pose a major barrier to completing the credential and entering the profession. Moreover, there is no clear evidence that the requirement for TPAs contributes to either increased teacher effectiveness or teacher retention.

There is broad-based agreement that California needs to address its persistent teacher shortage. For the 2023-2024 school year, counties reported 24,795 estimated teacher hires needed to fill new or vacated positions. Concurrently, the existing educator pipeline is insufficient to meet demand, as evidenced by the fact that the most recent CTC Teacher Supply Report to the Legislature shows a 16.1% overall decline, to 16,491 credentials issued during the 2021-2022 school year.

- 2) ***Teaching Performance Assessments.*** According to the Legislative Analyst’s Office (LAO), during the 1990s, the Legislature became concerned with the coherence of the teacher credentialing system, as the state had added credential requirements incrementally over the years without comprehensive evaluation. At the request of the Legislature, the CTC convened a workgroup to review the state’s teacher credential requirements. The workgroup concluded that existing assessments varied considerably across preparation programs and often failed to provide a good measure of teachers’ preparation. At the same time, research and policy organizations such as the National Research Council and the National Board for Professional Teaching Standards were supporting the development of more authentic assessments of teacher candidates. In response, the Legislature required the CTC to develop a new assessment for all general education teachers, now known as the TPA.

As of 2008, California requires all teaching credential candidates to pass an assessment of their teaching performance. This is designed to measure the candidate’s knowledge, skills, and ability with relation to California’s Teaching Performance Expectations (TPEs), including demonstrating their ability to

appropriately instruct all students in the state's content standards. There are now three teaching performance assessment models available.

A report by the Center for American Progress, "*Evaluating Teacher Effectiveness: How Teacher Performance Assessments Can Measure and Improve Teaching*," (Darling-Hammond, 2010), notes that, compared to traditional assessments of teachers, "Performance assessments that measure what teachers actually do in the classroom, and which have been found to be related to later teacher effectiveness, are a much more potent tool for evaluating teachers' competence and readiness, as well as for supporting needed changes in teacher education...Such assessments have been found to be stronger predictors of teachers' contributions to student learning gains than traditional teacher tests."

- 3) ***Three Teacher Performance Assessment Models Currently.*** The CTC adopted TPAs are designed to measure a candidate's knowledge, skills and ability in relation to California's TPEs, including demonstrating their ability to appropriately instruct all students in the state's content standards. There are now three teaching performance assessment models available: the CalTPA developed by the CTC, the edTPA developed by the Stanford Center for Assessment, Learning, and Equity (SCALE), and the Fresno Assessment of Student Teaching (FAST) developed by CSU, Fresno.

Each of the three approved TPA models requires a candidate to complete performance tasks relating to subject-specific pedagogy, designing and implementing instruction and student assessment, video-recorded teaching, and reflecting on practice. Performance tasks must be completed within a site placement where the candidate is working with supervising teachers, master teachers, and students. Multiple-subject candidates must demonstrate their capacity to teach literacy and mathematics. Candidate performances are scored by trained assessors against multiple rubrics that describe levels of performance relative to each performance task. Each model must also meet and maintain specified standards of assessment reliability, validity, and fairness to candidates. Model sponsors of approved assessments annually report on candidate performance and this data is used to inform program accreditation.

According to the LAO, the evidence linking TPA performance and student outcomes is limited but positive. According to an analysis of the existing literature by the LAO, two small studies evaluated an earlier version of the TPA in California and found that—controlling for other factors—students assigned to teachers who had performed better on the TPA performed somewhat better on math and reading assessments. A third study from 2017 tracked a larger sample of teachers taking a version of the TPA in Washington and found similar results, with TPA scores having a relatively strong association with student performance in mathematics and a moderate association with performance in reading.

- 4) ***How does this bill impact the RICA transition required by recent legislation?*** Existing law, SB 488 (Rubio, Chapter 678, Statutes of 2021), requires the CTC to update its literacy and reading standards for the preparation of teaching candidates and their corresponding TPEs. Additionally, the CTC

must review teacher preparation programs and certify that they are providing instruction in the updated standards and TPEs, as well as to develop a new literacy performance assessment to replace the RICA. The RICA will be retired as of July 1, 2025, and will no longer be available. Candidates who do not pass either all three subtests of the written examination or the video performance assessment by July 1, 2025, will be required to instead pass the CTC-adopted TPA that includes literacy instruction.

Since the enactment of the RICA statute 25 years ago, the K-12 English Language Arts/English Language Development Framework was updated significantly and adopted by the SBE. These updates impact candidate preparation for teaching reading and developing literacy including for students identified as English learners (EL), as well as assessment of candidate competency in these areas. Additionally, the California Dyslexia Guidelines were published to address teaching reading to students with dyslexia. To meet the needs of all California students, it was necessary to update the program standards and TPEs for teacher preparation with respect to reading and literacy instruction, as well as corresponding candidate assessments. These updates are required by existing law.

By eliminating the TPA, this bill would result in teacher candidates continuing to be required to pass the RICA as a standalone assessment. The author should consider how to maintain the Legislature's commitment to eliminate the RICA.

- 5) ***Statewide data on the diversity of teacher preparation programs.*** According to the Learning Policy Institute's (LPI) March 2023 report *Educating Teachers in California*, which analyzed teacher credentialing program completer surveys, the number of Latino/a candidates has more than doubled between 2016–17 and 2020–21. As of 2020–21, 53% of survey respondents were teachers of color, compared to 39% in 2016–17. Nationally, just 27% of recent completers identified as people of color.

The LPI report further noted, “not all completers reported equal access to the preparation experiences associated with higher ratings of program effectiveness and more positive perceptions of preparedness. Notably, access to preservice clinical experiences (i.e., student teaching or residency programs) varied considerably by race/ethnicity and credential type. Only 46% of Black and 50% of Native American completers reported participating in student teaching or residencies, compared to at least two thirds of all other racial/ethnic groups. Fewer than one third of education specialists (i.e., special education teachers) participated in student teaching or residencies, as compared to about 7 in 10 multiple subject completers (i.e., elementary teachers) and single subject completers (i.e., secondary teachers). Education specialists were also more likely to report limited student teaching hours or low levels of clinical support from their TPPs.”

- 6) ***Arguments in support.*** The California Teachers Association, co-sponsors of this measure, writes, “The TPA is an onerous portfolio assessment that detracts from teacher candidates' ability to focus on applying the concepts and skills of

teacher preparation coursework in real classrooms supervised by mentor teachers during supervised clinical practice.”

“CTA conducted a survey of current teachers in Fall 2023 on their TPA experiences in teacher preparation. CTA presented findings to the CTC during the October 2023 meeting¹. Survey results indicated that:

- 78% of teachers *disagreed* or *strongly disagreed* that completing a Teacher Performance Assessment helped prepare them to meet the needs of students in California.
- 89% of teachers indicated that the TPA had a *negative* or *strong negative* impact on their personal life.
- 81% of teachers *agreed* or *strongly agreed* that the Teacher Performance Assessment should be eliminated.”

“Furthermore, the TPA measures Teacher Performance Expectations (TPEs) that are already measured through coursework and clinical practice during a candidate’s program. CTA believes that any assessment of candidates shall reflect current standards, subject matter and be non-duplicative. Candidates shall not be required to complete additional subject matter coursework if they have verified subject matter competence by examination. While no data exists to support the efficacy of the TPA as it relates to effective preparation, multiple sources identify the negative impact this has on teacher preparation and the disproportionate impact on teachers of color. CTA believes that any assessment of teacher candidates should be free of bias and that removing the TPA would increase the effectiveness of clinical practice and lead to a better prepared, more diverse teaching workforce.”

- 7) ***Arguments in opposition.*** The Education Trust – West writes, “Research on TPAs suggests that candidates’ performance is predictive of their students’ learning gains as measured by standardized test scores, and that TPAs are less likely to produce disparities in pass rates by teacher candidates’ race/ethnicity than traditional multiple choice exams (Darling-Hammond, 2010; Wilson, M., Hallam, P. J., Pecheone, R., & Moss, P. A., 2014; Goldhaber, D., Cowan, J., & Theobald, R., 2017). TPA portfolios collect evidence of teachers’ actual instruction through videotapes, curriculum plans, and samples of student work and learning, along with teacher commentaries explaining the basis for teachers’ decisions about instructional strategies. They are designed to assess teachers’ ability to plan instruction, teach diverse learners, assess student learning, and reflect on and improve their practice.

“We believe that rather than eliminating all performance assessments, the state can and should streamline and improve the administration and scoring of TPAs to ensure they are an additive, constructive experience for candidates, and that they do not have a disparate impact for candidates of color. Doing so is critical

for both addressing the state's shortage of teachers of color and providing all students with teachers who are fully prepared to teach.”

SUPPORT

California Teachers Association (co-sponsor)
California Faculty Association (co-sponsor)
California Charter Schools Association
California Federation of Teachers
Los Angeles County Office of Education

OPPOSITION

California Reading Coalition
California State PTA
Decoding Dyslexia CA
Families in Schools
The Education Trust - West
The Reading League California

-- END --