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EDUCATION



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AGENDA

Wednesday, July 5, 2023
9 a.m. -- 1021 O Street, Room 2100

MEASURES HEARD IN FILE ORDER

- | | | | |
|-----|---------|----------------|---|
| 1. | AB 252 | Holden | The College Athlete Protection Act. |
| 2. | AB 299 | Holden | Hazing: educational institutions: civil liability: resources. |
| *3. | AB 383 | Zbur | California Classified School Employee Teacher Credentialing Program: leave of absence for student teaching. |
| *4. | AB 438 | Blanca Rubio | Pupils with exceptional needs: individualized education programs: postsecondary goals and transition services. |
| 5. | AB 689 | Wendy Carrillo | Community colleges: enrollment and registration: incumbent health care workers. |
| 6. | AB 555 | Juan Carrillo | California state preschool programs: reimbursement amounts: adjustment factors. |
| 7. | AB 596 | Reyes | Early learning and care: rate reform. |
| 8. | AB 598 | Wicks | Sexual health education and human immunodeficiency virus (HIV) prevention education: school climate and safety: California Healthy Kids Survey. |
| 9. | AB 599 | Ward | Suspensions and expulsions: tobacco. |
| 10. | AB 607 | Kalra | Public postsecondary education: course materials. |
| 11. | AB 656 | McCarty | California State University: doctoral programs. |
| 12. | AB 672 | Jackson | Teacher credentialing: Teacher Credentialing Task Force. |
| 13. | AB 1078 | Jackson | Instructional materials and curriculum: diversity.(Urgency) |

*14.	AB 700	Grayson	California Firefighter Cancer Prevention and Research Program.
15.	AB 938	Muratsuchi	Education finance: local control funding formula: base grants: classified and certificated staff salaries.
16.	AB 1054	Berman	Pupil instruction: high schools: computer science education courses.
*17.	AB 1311	Soria	Public postsecondary education: allied health programs: assessment.
18.	AB 1393	Calderon	Student Aid Commission: California Dream Act: Food Support Pilot Program.

* Measures on consent.

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 252	Hearing Date:	July 5, 2023
Author:	Holden		
Version:	March 6, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: The College Athlete Protection Act.

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

SUMMARY

Establishes the College Athlete Protection (CAP) Act for the purpose of providing various rights, benefits, and protections to college athletes.

BACKGROUND

Existing Law:

Federal Law

- 1) Any coeducational Institution of Higher Education (IHE) that participates in Title IV, the federal student aid program, and has an intercollegiate athletics program, must comply with the Equity in Athletics Disclosure Act (EADA) by preparing an annual report, officially called *The Report on Athletic Program Participation Rates and Financial Support Data*. (34 Code of Federal Regulation (CFR) § 668.47)
- 2) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics. (34 CFR § 106.37)

State Law

Name, Image, and Likelihood (NIL) Provisions

- 3) A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation due to the use of the student's name, image, likeness, or athletic reputation. Earning a reward for using a student's name, image, likeness, or athletic reputation shall not affect the student's scholarship eligibility.
- 4) A postsecondary educational institution, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not provide a

prospective student-athlete with compensation in relation to the athlete's name, image, likeness, or athletic reputation.

- 5) A postsecondary educational institution, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not prevent a California student participating in intercollegiate athletics from obtaining professional representation in relation to contracts or legal matters, including, but not limited to, representation provided by athlete agents or legal representation provided by attorneys.
- 6) A scholarship from the postsecondary educational institution in which a student is enrolled that provides the student with the cost of attendance at that institution is not compensation for purposes of this section, and a scholarship shall not be revoked as a result of earning compensation or obtaining legal representation pursuant to this section.
- 7) A student-athlete shall not enter into a contract providing compensation to the athlete for the use of the athlete's name, image, likeness, or athletic reputation if a provision of the contract is in conflict with a provision of the athlete's team contract. A student-athlete who enters into a contract providing compensation to the athlete for the use of the athlete's name, image, likeness, or athletic reputation shall disclose the contract to an official of the institution to be designated by the institution. An institution asserting a conflict shall disclose to the athlete or the athlete's legal representation the relevant contractual provisions that are in conflict. (Education Code (EC) § 67456 et seq.)

Student-Athlete Bill of Rights

- 8) Requires an athletic program that does not renew an athletic scholarship of a student-athlete-athlete who suffers an incapacitating injury or illness resulting from his or her participation in the athletic program, and the IHE's medical staff determines that he or she is medically ineligible to participate in intercollegiate athletics, to provide an equivalent scholarship that, combined with the total duration of any previous athletic scholarship or scholarships received by the student-athlete, will be provided for a total of up to five academic years or until the student-athlete completes his or her undergraduate degree, whichever period is shorter.
- 9) Requires each athletic program to conduct a financial and life skills workshop for all its first-year and third-year student-athletes at the beginning of the academic year.
- 10) Requires an IHE to grant a student-athlete the same rights as other students concerning any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid.
- 11) Requires an athletic program to respond within seven business days with an answer to a student athlete's written request to transfer to another IHE. (EC § 67452 et seq.)

Degree Completion Fund

- 12) Establishes that an IHE may establish a degree completion fund in accordance with applicable rules and bylaws of the institution's governing body and applicable rules and bylaws of any athletic association of which the institution is a member. (EC § 67452.3)

ANALYSIS

Establishes the CAP Act for purposes of providing various rights, benefits, and protections to college athletes. Specifically, this bill:

Degree Completion Fund

- 1) Requires an IHE to establish a degree completion fund for its college athletes who receive athletic grants.
- 2) Specifies that an IHE must use degree completion funds to compensate each college athlete who receives an athletic grant at the institution.
- 3) Requires that a college athlete on the same intercollegiate athletics team at an institution of higher education during the same academic year will be designated an equal payment from that institution's degree completion fund for that academic year.
- 4) Specifies that all degree completion funds of up to \$25,000 must be paid to each college athlete for their participation on the intercollegiate athletics team in an academic year.
 - a) Commencing on or before March 15, 2024, and on or before every March 15 thereafter, payments described in 9) must be made in an amount based on the institution's revenue reported for the previous academic year.
- 5) Requires an institution to not use payment designations in its degree completion fund as a reason to reduce or cancel athletic grants provided to any college athlete.
- 6) Specifies that all degree completion fund payments above the amount determined pursuant to #9 designated for a college athlete must be paid within 60 days of the college athlete earning a baccalaureate degree or submitting proof, as determined by the CAP Panel, of having a severe medical condition that prevents the college athlete from completing a baccalaureate degree program.
 - a) All degree completion fund payments designated for a college athlete who transferred to another IHE or an out-of-state college or university must be paid within 60 days of the athlete earning a baccalaureate degree or submitting proof, as determined by the CAP Panel, of having a severe medical condition that prevents the athlete from completing a baccalaureate degree program.

- 7) Requires an IHE to accurately account its aggregate athletic grants and revenue. An institution must not undercount, overcount, or fail to accurately categorize its aggregate athletic grants or revenue.
 - a) The CAP Panel may audit an IHE's aggregate athletic grant and revenue accounting methods, materials, and information to ensure compliance, as specified. This audit may include review of the institution's aggregate athletic grant and revenue accounting methods reported by the institution in its previous revenue reports. This will be implemented only in a manner that protects the personally identifiable information of college athletes consistent with state and federal privacy laws.
- 8) Declares that all degree completion fund payments above the amount determined pursuant to 9) above designated for a college athlete will be forfeited if the college athlete does not complete a baccalaureate degree program within six years of full-time college enrollment or submit proof, as determined by the CAP Panel, of having a severe medical condition that prevents the college athlete from completing a baccalaureate degree program. All forfeited funds must be deposited in the institution's degree completion fund and used for degree completion fund payments to college athletes pursuant to this section.
- 9) In making annual degree completion fund payment designations, an IHE shall use all revenue reported for an academic year that exceeds all revenue for the 2021-22 academic year, as specified in a IHE's Equity in Athletics Disclosure Act (EADA) report and specifies an IHE does not have to pay any remaining fair market value compensation, as long as it satisfies 9) and 12).
- 10) Except as provided in 13) the institution shall use the difference in revenue calculated pursuant to 9), in its entirety, to make degree completion fund payment designations.
- 11) Requires an IHE to make, in aggregate for the academic year, one-half of the total amount of degree completion fund payment designations for its female college athletes, and one-half of the total amount of degree completion fund payment designations for its male college athletes.
- 12) Specifies for the portion allocated of the total amount allocated for men and women, the IHE must make degree completion fund payment designations for men and women college athletes on each intercollegiate athletics team who have not received fair market value compensation for the academic year. In the following manner:
 - a) Determine the percentage of the total fair market value compensation owed to men and women college athletes on each intercollegiate athletics team at the institution that represents the total fair market compensation owed to all college athletes at the institution, regardless of sport.
 - b) Ensure that men and women college athletes on the same intercollegiate athletics team, regardless of sport; collectively receive the percentage

determined pursuant to clause 12a) of the total amount designated for college athletes pursuant to 11).

- c) If the portion of the total amount allocated for men and women female college athletes pursuant to 11) exceeds the total aggregate fair market value compensation owed to all college athletes on a intercollegiate athletics teams at the institution, regardless of sport, the institution shall pay each of its athletes who receive an athletic grant an equal amount of the portion.
- 13) Except to comply with 12) and 19), inclusive, degree completion fund payment designations shall not result in any college athlete being designated more than fair market value compensation for any academic year.
 - 14) Notwithstanding 10), and IHE that gives fair market value to all of its male and female college athletes and complies with this section may use any remaining revenue for other purposes as determined by the institution.
 - 15) Authorizes an IHE to spend institutional funds on intercollegiate athletic expenses without the funds counting as revenue if, within the academic year, the institutional funds are exhausted or the institutional funds are unused and do not remain in an athletic team's or athletic program's budget and authorizes an institution to increase athletics spending for athletic program needs without including it in revenue directed to degree completion funds.
 - 16) Specifies the amount of funds that an institution paid for any athletic team's non regular capital expenses for the 2021-22 academic year shall be included as revenue for that academic year, even if the institution did not count the funds as revenue for that academic year.
 - 17) Specifies, notwithstanding 16), the amount of funds that the institution paid for any athletic team's expenses for the 2021–22 academic year shall be included as revenue for that academic year, even if the institution did not count the funds as revenue for that academic year.
 - a) Specifies that an institution may opt to pay CAP Program fees before using revenue described in 9) for degree completion fund payment designations for college athletes.
 - 18) Specifies that degree completion funds are the property of college athletes and not the property of IHE. IHEs will have a fiduciary duty to its college athletes to manage these funds.
 - 19) Establishes that, if an IHE deems it necessary, the institution must adjust the amounts of degree completion fund payment designations only to comply with Title IX financial aid proportionality comparisons in athletics, so long as all of the following conditions are met:
 - a) The aggregate total amount of degree completion fund payment designations made to the institution's college athletes is not reduced.

- b) The institution must comply with Title IX financial aid proportionality comparisons in athletics independent of degree completion fund payment designations.
- c) On or before March 15, 2024, and on or before every March 15 thereafter, the institution must publish on its internet website and submit to the CAP Panel a written explanation about why an adjustment made pursuant to this subdivision is necessary to comply with Title IX proportionality comparisons in athletics, and includes both of the following in this written explanation:
 - i) Published communications, determinations, and rulings by the Office for Civil Rights used as the basis for the adjustment, as applicable.
 - ii) The amount of funds in aggregate and per college athlete directed from college athletes in one sport to college athletes in another sport, the names of each sport involved in the adjustment, and the corresponding fair market value compensation paid to college athletes in each sport involved in the adjustment. This subparagraph shall be implemented only in a manner that protects the personally identifiable information of college athletes consistent with state and federal privacy laws.
- 20) Declares that degree completion fund payment designations or payments will not serve as evidence of an employment relationship.
- 21) Specifies that, within 15 days of making degree completion fund payment designations, each IHE will submit annually to the CAP Panel a list of all college athletes qualifying for a degree completion fund payment designation, each qualifying college athlete's intercollegiate team, the amount paid to each qualifying college athlete, and the aggregate amount paid to qualifying college athletes by team. This subdivision shall be implemented only in a manner that protects the personally identifiable information of college athletes consistent with state and federal privacy laws.
- 22) Prohibits an IHE from reducing any discretionary revenue during the academic year below the discretionary revenue reported for the 2021–22 academic year.
- 23) Prohibits an IHE from reducing any aggregate funds for any college athlete's academic, medical, mental health, athletic training, or nutritional support, eliminate roster slots on any intercollegiate athletics team, reduce aggregate athletic grant amounts, or eliminate any intercollegiate athletics sport entirely that existed during the 2021–22 academic year.
- 24) Specifies 22) and 23) do not apply to an IHE that is unable to generate, for an academic year, all revenue in an amount that meets or exceeds all revenue reported for the 2021–22 academic year due to war, civil unrest, fire, flood, or other unforeseen disaster or cause beyond the institution's control as determined by the CAP Panel.

- 25) Establishes that these provisions will apply only to an IHE with an intercollegiate sports team that participated in a National Collegiate Athletic Association (NCAA) Division I sport on or after January 1, 2022.

Required Notices

- 26) Establishes that an IHE will distribute a notice to each college athlete at the institution containing all of the following information:
- a) A college athlete's rights pursuant to Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.);
 - b) An individual notice stating: "All students have the right to report a sexual assault, without retaliation, to law enforcement, the office of the United States Department of Justice, the United State Department of Education's (USDE) Office for Civil Rights, (insert name of institution)'s mandated reporters, (insert name of institution)'s Title IX office, and the College Athlete Protection Program director.";
 - c) A college athlete's rights pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Sec. 1092(f));
 - d) A college athlete's rights, as specified; and,
 - e) Additional rights that the state affords specifically to college athletes.
- 27) Requires the notice distributed pursuant 26) above will contain sufficient information to enable a college athlete to file a complaint for a violation of any of the rights identified in the notice. This information must include, but is not limited to, all of the following:
- a) The telephone number used by the Office for Civil Rights for complaint reporting intake, and the telephone number of the Office for Civil Rights' regional enforcement office;
 - b) The internet website address of the Office for Civil Rights' online complaint form for Title IX complaint reporting;
 - c) The internet website address used by the United State Department of Education (USDE) for reporting violations of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act , as specified;
 - d) A list of the job classifications employed by the institution that are deemed mandated reporters, as specified, and the obligations of these mandated reporters;
 - e) The telephone number and internet website address for the CAP Program, once the program is operational pursuant to this chapter; and,

- f) The telephone number of the United States Department of Justice.
- 28) Specifies that an IHE will post on campus in conspicuous locations frequented by college athletes, including, but not limited to, the institution's athletic training facilities, the notice distributed pursuant to this section.
- 29) Requires that, upon the commencement of each academic year, the IHE will provide each college athlete a copy of the notice described in this section.

CAP Program

- 30) Establishes the CAP Program as a program in the Office of Planning and Research.
- 31) Specifies that the CAP Program will be administered by the CAP Panel. The CAP Panel will be housed in the Office of Planning and Research.
- 32) Establishes the 21-member CAP Panel shall be appointed as follows:
 - a) Eleven members appointed by the Governor;
 - b) Five members appointed by the Speaker of the Assembly; and,
 - c) Five members appointed by the Senate Committee on Rules.
- 33) Specifies that the 21-member CAP Panel will consist of at least four former college athletes with experience in college athlete protection advocacy.
- 34) Specifies that CAP Panel members will be voluntary positions that receive per diem and paid travel accommodations, as determined by the CAP Program director. One member will be appointed by a majority vote of the CAP Panel's members to serve as chairperson of the CAP Panel.
- 35) Requires the Office of Planning and Research to hire and establish compensation for a CAP Program director. The CAP Program director will be a full-time position and serve a six-year term that may be renewed with no term limits. The CAP Program director will hire additional staff to assist in the implementation and enforcement of this chapter. The CAP Program director, within 10 days of being hired, will initiate staff hiring activities with the goal of completing hiring activities by April 15, 2024. Additionally:
 - a) The CAP Program director will provide CAP Panel members with the information necessary to fulfill their duties pursuant to this chapter;
 - b) The CAP Panel will consult with the CAP Program director when establishing CAP Program regulations, standards, and policies pursuant to this chapter; and,

- c) The CAP Program director may engage with intercollegiate athletics stakeholders, including state and federal legislators and agencies, to provide information and encourage policies and action to support the implementation, operation, and expansion of college athlete rights and protections pursuant to this chapter.
- 36) Specifies that a CAP Panel member on the initial 21-member board shall serve a four-year, five-year, or six-year term, as determined by the appointing authority. Additionally:
- a) It is the intent of the Legislature that the 21-member CAP Panel's members serve staggered terms;
 - b) All subsequent appointments made after the initial 21-member CAP Panel is appointed will be six-year terms with no term limits; and,
 - c) A CAP Panel member and the CAP Program director may be reappointed to their position or appointed to a new position as specified.
- 37) Specifies that a CAP Panel member and the CAP Program director must not have served, within five years of being appointed as a CAP Panel member or hired as the CAP Program director, respectively, as an affiliated medical personnel, employee, or member of a governing body of an IHE, an out-of-state college or university that has an intercollegiate sports program, an intercollegiate sports conference, or an intercollegiate sports association.
- 38) Requires the racial, ethnic, gender, and geographic diversity of California to be considered by the appointing authority when appointing CAP Panel members.
- 39) Specifies that the CAP Panel will consist of members who shall serve on the following CAP Subpanels, according to their expertise:
- a) The CAP Health and Safety Subpanel, which shall consist of all of the following:
 - i) One member with expertise in sports medicine and traumatic brain injury;
 - ii) One member with expertise in athletic training or physical therapy in sports;
 - iii) One member with expertise in mental health;
 - iv) One member with expertise in workplace health and safety compliance and investigations;
 - v) One member with expertise in sexual misconduct investigations; and,
 - vi) Two members who are former college athletes with experience in athlete health and safety issues.
 - b) The CAP Recruiting Transparency Subpanel, which shall consist of all of the following:

- i) One member with expertise in contract law;
 - ii) One member with expertise in college sports recruiting;
 - iii) One member with expertise in college athlete publicity rights law; and,
 - iv) One member who is a former college athlete with experience in the recruiting process.
- c) The CAP Certification Subpanel, which shall consist of all of the following:
- i) One member with expertise in sports agent certification;
 - ii) One member with expertise in financial advising standards;
 - iii) One member with expertise in marketing standards; and,
 - iv) One member who is a former college athlete with experience in agreements related to CAP certification duties.
- d) The General CAP Subpanel, which shall consist of all of the following:
- i) One member with expertise in health care administration, medical claims, and the federal Health Insurance Portability and Accountability Act of 1996, as specified;
 - ii) One member with expertise in compliance with Title IX in athletics;
 - iii) One member who is a certified public accountant with expertise in corporate financial audits and corporate compliance investigations;
 - iv) One member with expertise in arbitration;
 - v) One member with expertise in grievance and appeals processes; and,
 - vi) One member with expertise in producing educational materials.
- 40) Establishes that the CAP Panel will have all of the following enforcement duties and powers:
- a) Receive, track, and investigate complaints regarding reported violations, as specified;
 - b) Issue subpoenas, if necessary, to obtain information necessary to carry out its duties;
 - c) Require an IHE and out-of-state college or university, as specified, to provide athletic grants, make payments for college athlete medical coverage and

expenses, and provide other remedies that the CAP Panel deems necessary to ensure compliance with this chapter;

- d) Refer individuals, IHEs, and out-of-state colleges and universities that are subject to this chapter who do not comply with a CAP Panel penalty or remedy imposed as specified to the Attorney General for prosecution, as appropriate;
 - i) Establishes that the Attorney General will have the authority to prosecute individuals and entities that do not comply with a CAP Panel penalty or remedy, as appropriate.
 - e) Determine the best practice guidelines, health and safety standards, policies, or other informational materials that may benefit high school athletes, high school sports programs, and the California Interscholastic Federation, and make them available and easily accessible to the public;
 - f) At its discretion, implement collaborative and cost-reduction efforts with other states, local governments, intercollegiate sports conferences, intercollegiate sports associations, or other stakeholders to help protect the well-being of intercollegiate athletes in other states;
 - g) Hold quarterly meetings;
 - h) Distribute, on or before January 15, 2025, and each year thereafter, an annual report to each IHE, intercollegiate athletic conference, athletic association, and the Legislature, as specified, on the state of college athlete protections established pursuant to this chapter;
 - i) Communicate with the Legislature about ways to improve these provisions; and,
 - j) Upon appropriation by the Legislature, use funds in the CAP Fund to execute its duties and powers.
- 41) Specifies that, in addition to any other remedy or penalty authorized by law, individuals who violate this chapter may be subject to remedies and penalties established pursuant to regulations adopted by the CAP Panel. These regulations will include a system to appeal the CAP Panel's rulings. Penalties and remedies established by the CAP Panel may include any, or any combination, of the following:
- a) Training to help prevent future violations;
 - b) Temporary or permanent prohibition from being involved in intercollegiate athletics at any institution of higher education;
 - c) Other penalties and remedies imposed by the CAP Panel; and,
 - d) The CAP Panel shall consider all of the following factors when imposing penalties and remedies for a violation of this chapter:

- i) The number and duration of violations;
- ii) Whether the violation was the result of an intentional or negligent action; and,
- iii) The nature and extent of harm caused by the violation.

Health and Safety Standards, CAP Health and Safety Subpanel

- 42) Requires an IHE to meet the health and safety standards that are developed, published, adopted, and enforced by the CAP Health and Safety Subpanel established as specified. In developing the health and safety standards, the CAP Health and Safety Subpanel must do all of the following:
- a) Consult with athletic associations, the University of California (UC), the California State University (CSU), and the athlete health and safety advocacy community;
 - b) Consider existing health and safety guidelines of relevant entities, including, but not limited to, the NCAA, intercollegiate athletic conferences, professional sports leagues, and the National Athletic Trainers' Association; and,
 - c) Develop health and safety standards to prevent serious sports-related injuries, abuse, health conditions, and death, including, but not limited to, those related to traumatic brain injury, sexual harassment and abuse, athlete mistreatment, interpersonal violence, mental health, heat illnesses, sickle cell trait, rhabdomyolysis, asthma, cardiac health, weight management, and pain management.
- 43) Specifies that all reports of suspected health and safety violations at an IHE that occur on or after January 1, 2023, but before the CAP Health and Safety Subpanel adopts the health and safety standards pursuant to this section, will be submitted to the Department of Justice. The Department of Justice must forward the reports of suspected health and safety violations to the CAP Program director once the CAP Health and Safety Subpanel commences enforcing the health and safety standards adopted as specified.
- a) Requires, within 90 days of implementation of the CAP Health and Safety Subpanel's health and safety standards developed, published, and adopted pursuant to 42) above, an IHE to comply with all of the following:
 - i) Inform its athletic program employees and affiliated medical personnel of their responsibilities established pursuant to the standards;
 - ii) Inform college athletes of their rights and protections established pursuant to the standards, and inform college athletes of their right to report suspected violations of the standards to the athletic program personnel of their choice, the Attorney General, and, once the CAP Health and Safety

Subpanel commences enforcing the standards adopted pursuant to this section, the CAP Program director; and,

- iii) Designate at least one employee to oversee compliance with this section and to serve as a point of contact for the CAP Health and Safety Subpanel and submit to the CAP Health and Safety Subpanel the point of contact's email address, telephone number, and mailing address. If the institution of higher education fails to designate the point of contact for the CAP Health and Safety Subpanel, the institution's athletic director shall serve as the point of contact.
 - b) Notwithstanding 43 a) above, the CAP Health and Safety Subpanel may require IHE to comply with the health and safety standards earlier than 90 days after they are adopted if the CAP Health and Safety Subpanel determines, in its discretion, that such compliance is important to prevent great harm to college athletes.
- 44) Specifies that the CAP Health and Safety Subpanel will have all of the following duties and powers:
- a) Require transparency from IHEs on injury treatment options for college athletes;
 - b) Provide up-to-date information about sports-related health risks;
 - c) Ensure that physician, physical therapy, and athletic training records for all treatments of a college athlete by athletic program personnel in the course of the college athlete's participation in an athletic program are maintained for a period of 10 years after the college athlete leaves the athletic program. These records shall be provided to the college athlete or former college athlete in a timely manner upon request;
 - d) Ensure college athletes, athletic program personnel, and affiliated medical personnel are informed about their rights and responsibilities as specified;
 - e) Prevent deceptive or fraudulent practices that harm college athletes;
 - f) Calibrate mandates in consideration of athletic program size and resources when it deems it appropriate or necessary;
 - g) Require assistance from IHE to help survey college athletes and athletic program personnel, as necessary, under the CAP Program;
 - h) Conduct site visits and audits of athletic departments, as necessary, to verify compliance as specified;
 - i) Maintain and make publicly available on its internet website a list of individuals who are banned as specified from being involved in intercollegiate athletics at institutions of higher education; and,

- j) Adopt regulations to implement and enforce this section.
- 45) Specifies that all athletic program personnel, including employees, coaches, and affiliated medical personnel, must report suspected violations of this section to the president or chancellor of the institution, the athletic director of the institution, and the CAP Program director.
- 46) Specifies that an individual shall be banned for life from being involved in intercollegiate athletics at any IHE if the individual has been found by the CAP Health and Safety Subpanel or a court of law to have done any of the following:
- a) Caused a life-threatening medical condition, sexual abuse, or death due to noncompliance with a health and safety standard adopted as specified;
 - b) Caused a life-threatening medical condition, sexual abuse, or death by failing to address noncompliance with a health and safety standard adopted pursuant to this section;
 - c) Threatened or retaliated against a college athlete or any individual or entity that reported noncompliance with a standard adopted pursuant to this section that caused a life-threatening medical condition, sexual abuse, or death; and,
 - d) Obstructed or knowingly provided false information related to an investigation of noncompliance with a health and safety standard adopted pursuant to this section that caused a life-threatening medical condition, sexual abuse, or death.
- 47) Requires that, before a ban may be imposed in 46) above, the individual will be provided adequate notice and an opportunity for an administrative hearing conducted by an administrative law judge at which the individual shall have the right to defend themselves against any allegation of a violation as specified.
- 48) Requires any individual or entity designated by an IHE to investigate allegations of a violation of these provisions that knowingly omits evidence, conceals or obscures wrongdoing, undermines an investigation, or fails to carry out the responsibilities required by this section may be subject to a penalty imposed by the CAP Health and Safety Subpanel. Additionally:
- a) Before a penalty may be imposed as specified, the individual or entity must be provided adequate notice and an opportunity for an administrative hearing conducted by an administrative law judge at which the individual or entity shall have the right to defend themselves against any allegation of a violation as specified.
- 49) Provides that, except as determined by a college athlete, affiliated medical personnel will have the autonomous, unchallengeable authority to determine medical management and return-to-play decisions for the college athlete. Coaches and athletic program personnel who are not affiliated medical personnel must not give the college athlete medical advice or attempt to influence or disregard affiliated medical personnel decisions.

- 50) Requires that affiliated medical personnel will be supervised and held accountable to comply with the health and safety standards adopted pursuant to this section by an institution of higher education's office or department that is independent of the institution's athletic department.

Medical Expenses

- 51) Requires an IHE that reports \$20,000,000 or more in annual revenue to the USDE will be financially responsible for the out-of-pocket sports-related medical expenses of each college athlete at the institution, and during the two-year period beginning on the date on which the college athlete officially becomes a former college athlete.
- a) 50) above will not apply to a college athlete who transfers to another IHE or out-of-state higher education institution and participates on an intercollegiate athletics team at that institution; and,
 - b) 50) above will not apply to a college athlete's medical expenses for medical conditions unrelated to the college athlete's intercollegiate sports participation that arise after the expiration of the college athlete's intercollegiate athletics eligibility.
- 52) Requires an IHE that reports \$50,000,000 or more in annual revenue to the USDE to comply with both of the following:
- a) Offer nationally portable primary medical insurance to each college athlete who is enrolled at the institution. This insurance will be paid for by the institution. The institution must not discourage a college athlete from accepting this insurance; and,
 - b) Pay the out-of-pocket sports-related medical expenses of each college athlete at the institution, and during the four-year period beginning on the date the college athlete officially becomes a former college athlete.
 - i) 51) above will not apply to a college athlete that transfers to another IHE or out-of-state college or university and participates on an intercollegiate athletics team at that institution; and,
 - ii) 51) above will not apply to a college athlete's medical expenses for medical conditions unrelated to the college athlete's intercollegiate sports participation that arise after the expiration of the college athlete's intercollegiate athletics eligibility.
- 53) Establishes that, if a college athlete at an IHE that is responsible for the college athlete's medical expenses, as specified, chooses to receive medical care that is not provided as specified or is not otherwise provided or paid for by the institution, the institution will offer to the college athlete to pay an amount that is the lesser of the following:

- a) The out-of-pocket expenses for that medical care; and,
 - b) The amount the institution would have paid if the college athlete had received the medical care provided or paid for by the institution.
- 54) Requires an IHE to pay for a college athlete to obtain an independent second opinion on an athletic program-related injury or medical condition endured by the college athlete. Additionally:
- a) IHE personnel and affiliated medical personnel must not withhold a college athlete's medical or athletic training records if the college athlete requests that those records be released to obtain an independent second opinion as specified, or otherwise impede a college athlete's right to obtain an independent second opinion.
- 55) Requires that, no later than three days after the end of a college athlete's team season in the final year of the college athlete's intercollegiate athletics eligibility, or in the case of a transfer, no later than three days after the institution's receipt of a college athlete's notice of intent to transfer to another college or university, an institution of higher education must provide the college athlete notice of, and an opportunity to undergo, a physical examination within or independent of the institution for the purpose of diagnosing an athletic program-related injury or medical condition.
- a) Institution of higher education personnel and affiliated medical personnel must not discourage a college athlete or former college athlete from obtaining a physical examination; and,
 - b) A former college athlete will be provided no less than 60 days to complete a physical examination.

Title IX Compliance Evaluation

- 56) Requires that, on or before July 1 of each year, an IHE must comply with both of the following:
- a) Complete an evaluation of its compliance with Title IX in athletics and the Office for Civil Rights' Title IX in athletics regulations. The evaluation must include an aggregate analysis to determine all of the following:
 - i) Whether financial aid is provided on a substantially proportional basis to the number of the institution's male and female college athletes;
 - ii) Whether the institution's male and female college athletes receive equivalent nonfinancial aid athletic treatment, benefits, and opportunities;
 - iii) Whether the interests and abilities of the institution's male and female college athletes are equally effectively accommodated. Evaluation as specified will include measures of the institution's performance on each part

of the three-part test described in the Office for Civil Rights' Title IX in athletics regulations published on December 11, 1979; and,

- iv) The institution's determination about whether it is in compliance with Title IX in athletics and the specific indicators that provide evidence of its compliance or noncompliance.
 - b) Publish the evaluation on a publicly accessible internet website of the institution.
- 57) Requires that, at the beginning of the evaluation published pursuant to 55) above, the institution shall include the following statement: "To submit a Title IX complaint, you may contact" (contact information of the Office for Civil Rights and the institution's Title IX coordinator) and state the appropriate contact information of the Office for Civil Rights and the institution's Title IX coordinator.
- 58) Requires that an individual who is determined by the CAP Panel in an administrative hearing to have knowingly refused to comply with these provisions, or knowingly provided misleading information or knowingly omitted information that created an inaccuracy in an evaluation will be banned from being involved in intercollegiate athletics at any institution of higher education.
- a) Before a ban may be imposed, an individual must be provided adequate notice and an opportunity for an administrative hearing conducted by an administrative law judge to defend themselves against any allegation of a violation as specified.

Six year athletic grants, punishment for program reduction

- 59) Requires an IHE with an intercollegiate sports team that participated in a NCAA Division I sport on or after January 1, 2022, or becomes a member of a NCAA Division I sport thereafter, and that provides a college athlete with an athletic grant to provide the college athlete with an athletic grant for each subsequent year in which the college athlete is enrolled at the institution for up to six academic years of total full-time college attendance, or until the college athlete receives a baccalaureate degree from the institution, whichever occurs first. The athletic grant must be provided regardless of the college athlete's lack of participation due to injury or poor athletic performance on an intercollegiate athletics team at the institution.
- a) The amount of an athletic grant provided to a college athlete each subsequent award year will be no less than the sum of the amount of the athletic grant provided to the college athlete for the previous year plus the amount of any increase in the cost of attendance at the institution from the previous year to the subsequent award year.
- 60) Specifies that a college athlete who transfers to an IHE will receive an athletic grant in an amount determined pursuant to 59) above for up to one academic year beyond the college athlete's remaining intercollegiate athletics eligibility in which

the college athlete is enrolled at the institution, or until the college athlete receives a baccalaureate degree from the institution, whichever occurs first. Additionally:

- a) Unless a college athlete is granted a leave of absence in accordance with the IHE's leave of absence policies that apply to the general student body, 59) above will only apply to a college athlete who is enrolled as a full-time student for each regular academic term of an award year;
 - b) 59) above will not apply to a college athlete who provides a written notice of voluntary withdrawal from an intercollegiate athletics team at the institution, or who fails to consistently participate in mandatory team athletics activities for nonmedical reasons after having been fully informed that their participation in those activities is mandatory; and,
 - c) 59) above will not apply to a college athlete who meets any of the following:
 - i) Is found by the IHE to have committed academic fraud or other misconduct that would ordinarily result in expulsion;
 - ii) Earns a grade point average of less than the grade point average required for the college athlete to maintain intercollegiate athletics eligibility for two or more semesters;
 - iii) Fails to meet intercollegiate athletic association progress toward degree completion requirements; or,
 - iv) Is found guilty of a criminal act by a court.
- 61) Specifies 59) and 60) only applies to an IHE with an intercollegiate sports team that participated in an NCAA Division I sports on or after January 1, 2022
- 62) Specifies that an individual employed by or volunteering for an athletic program at an IHE will not do either of the following:
- a) Attempt to discourage or in any way punish a college athlete from selecting a course or an academic major unless it prevents the college athlete from intercollegiate athletic association progress towards baccalaureate or postgraduate degree completion; and,
 - b) Punish, reduce intercollegiate athletics eligibility, or otherwise retaliate against a college athlete based on the college athlete's selection of any course, academic major, or baccalaureate or postgraduate degree program at the institution.
- 63) Requires an individual employed by an athletic program at an IHE to not interfere with or discourage any college athlete from securing employment or internships, participating in student groups or events, or serving as a volunteer so long as those activities do not interfere with mandatory class time, examination periods, or the athletic program's mandatory team activities.

- 64) Specifies that an IHE must not comply with any athletic association's or athletic conference's policy that does not count completed high school financial education and personal finance coursework toward athletic eligibility standards for incoming college athletes.

Recruiting Transparency

- 65) Requires an IHE or an out-of-state college or university conducting college athlete recruiting activities in the state shall submit, as determined by the CAP Recruiting Transparency Subpanel, all of the following information to the CAP Recruiting Transparency Subpanel:
- a) A complete list of companies and industries that the institution prohibits a prospective college athlete from entering into an NIL agreement with as a college athlete or intercollegiate athlete;
 - b) Whether or not the IHE or out-of-state college or university may interfere with or otherwise attempt to influence a prospective college athlete's, college athlete's, or intercollegiate athlete's choice of athlete representation;
 - c) Whether or not the IHE or out-of-state college or university may limit a prospective athlete's, college athlete's, or intercollegiate athlete's representation to NIL activities; and,
 - d) Whether or not the IHE or out-of-state college or university receives any payment or benefit from an individual or entity in exchange for granting the individual or entity access to their college athletes or intercollegiate athletes for any NIL-related purpose.
- 66) Requires that the CAP Recruiting Transparency Subpanel must solicit the information described in 65) above and post information obtained on a publicly accessible internet website for prospective college athletes, college athletes, and intercollegiate athletes. The information described must be regularly updated.
- 67) Specifies that an IHE will only use a document created by the CAP Recruiting Transparency Subpanel to offer an athletic grant or intercollegiate athletics participation opportunity to a prospective college athlete. An out-of-state college or university offering an intercollegiate athletics grant or intercollegiate athletics participation opportunity to a California resident will only use a document created by the CAP Recruiting Transparency Subpanel to offer an intercollegiate athletics grant or intercollegiate athletics participation opportunity to a California resident. A document developed as specified may be annually updated by the CAP Recruiting Transparency Subpanel and must include, but is not limited to, all of the following disclosures:
- a) The amount of intercollegiate sports grants to be offered to the prospective college athlete, relative to the most recent cost of attendance at the institution, for each academic year of the prospective athlete's intercollegiate athletics eligibility;

- b) The total amount of possible annual education-related compensation allowable in accordance with the *United States Supreme Court decision in National Collegiate Athletic Association v. Alston (2021) 141 S.Ct. 2141* and the annual amount of education-related compensation to be offered to the prospective college athlete at the institution throughout the prospective college athlete's intercollegiate athletics eligibility;
 - c) The amount of an intercollegiate sports grant, if any, that will be provided to assist the prospective college athlete with undergraduate and graduate school degree completion at the institution following the expiration of the college athlete's intercollegiate athletics eligibility;
 - d) The percentage of comprehensive medical coverage, including any minimum required coverage to participate in intercollegiate athletics and enroll as a student at the institution, that will be paid for by the institution throughout the college athlete's intercollegiate athletics eligibility;
 - e) The percentage of any out-of-pocket sports-related medical expenses, including deductibles, copays, and coinsurance, that will be paid by the institution during the college athlete's intercollegiate athletics eligibility, and the duration for which those expenses will be covered after the prospective athlete's intercollegiate athletics eligibility expires. The percentage of out-of-pocket sports-related medical expenses covered by the institution's in-network and out-of-network services shall be stated on the CAP Panel's internet website pursuant to this section;
 - f) Whether or not the institution will pay for a disability insurance policy for the college athlete in order to cover any future loss of earnings by the athlete due to a sports-related injury or medical condition, and any limits to that policy's benefits or coverage, including the maximum possible benefits based on similarly situated college athletes;
 - g) A list of all colleges and universities, if any, that the institution will not allow the athlete to freely transfer to once the agreement to attend the institution is executed; and,
 - h) The disclosures described in 66) above, as determined by the CAP Recruiting Transparency Subpanel, at the beginning of the first page of a document provided to a college athlete pursuant to this subdivision.
- 68) Specifies that this section does not prohibit an IHE or out-of-state college or university this is subject to this section from providing protections or benefits that exceed those required.

CAP Certification Subpanel

- 69) Requires the CAP Certification Subpanel established as specified to certify an individual or entity to provide intercollegiate athletics agent, marketing, and financial advising services to college athletes.

- 70) Specifies that, no later than six months after the launch of the CAP Certification Subpanel's certification operations, an individual or entity will not provide intercollegiate athletics agent, marketing, or financial advising services to college athletes without the CAP Certification Subpanel's certified approval or receipt of other certification to provide those services established under law.
- 71) Requires the CAP Certification Subpanel to develop and adopt standards for it to do all of the following:
- a) Certify all of the following:
 - i) College athlete agents;
 - ii) Agencies and entities that employ college athlete agents;
 - iii) Attorneys that represent college athletes in NIL contracts. This does not replace or preempt any other state or local regulation of attorneys in the state;
 - iv) Individuals and entities that provide financial advising or marketing services to college athletes. This does not replace or preempt any federal, state, or local regulation of financial advising or marketing services in the state;
 - b) Revoke certifications provided pursuant to 71a) above; and,
 - c) Protect college athletes from unfair fees and conditions for intercollegiate athletics agent, marketing, and financial advising services.
- 72) Specifies that the CAP Certification Subpanel may assess certification fees, certification renewal fees, fines, and penalties on individuals and entities that do not comply with the standards developed and adopted pursuant 71) above. Fees assessed by the CAP Certification Subpanel pursuant to this paragraph shall not exceed the reasonable regulatory costs incurred by the CAP Certification Subpanel incident to issuing certifications, performing investigations, inspections, and audits related to certification, and the administrative enforcement and adjudication of the certification process.
- a) The CAP Certification Subpanel must develop an appeals process for an individual or entity to challenge a certification denial or revocation or any fee, fine, or penalty levied against the individual or entity; and,
 - b) Fees and fines collected must be deposited in the CAP Fund as specified.
- 73) Specifies that the CAP Certification Subpanel will not adopt a standard that requires an individual to have a baccalaureate degree, an associate's degree, or a graduate degree to provide athletic agency, marketing, or financial advising services to college athletes.

- 74) Establishes that, notwithstanding any other provision, the CAP Certification Subpanel may authorize individuals and entities who have college athlete representation certifications issued by other states or entities to operate as college athlete representatives without obtaining certification from the CAP Certification Subpanel or paying certification fees assessed by the CAP Certification Subpanel. Additionally:
- a) The CAP Certification Subpanel may enter into collaborative college athlete certification program agreements with other states or entities; and,
 - b) To prevent conflicts of interest, the CAP Certification Subpanel will not certify college athlete representation provided by an IHE, an out-of-state college or university, an intercollegiate athletic conference, or an athletic association.
- 75) Requires the CAP Certification Subpanel shall promulgate regulations for purposes of implementing and enforcing this section, as necessary.

CAP Panel IHE Fees

- 76) Requires that, on or before January 15, 2024, and annually thereafter, each IHE that was a member of the NCAA on or after January 1, 2022, must pay an annual fee to the Office of Planning and Research, in an amount determined by the CAP Panel pursuant to 77) below, to cover the reasonable regulatory costs of the CAP Program. The annual fees collected pursuant to this section shall not exceed seven million dollars (\$7,000,000) in aggregate per year. The CAP Panel may increase the annual fee limit to account for inflation. The annual fees shall be deposited in the CAP Fund as specified.
- 77) Specifies that the CAP Panel shall base the annual fees on each institution's total athletics revenue in the most recently published report that was submitted pursuant to the federal EADA to the USDE. The CAP Panel must establish the annual fees pursuant to all of the following requirements, and may adjust these fees, without exceeding the annual aggregate limit determined as specified:
- a) IHEs with athletic revenue of less than \$2,499,999 shall each pay an annual fee of up to \$100;
 - b) IHEs with athletic revenue between \$2,500,000 and \$19,999,999, inclusive, will each pay an annual fee of up to 0.01 percent of their total athletics revenue from the previous year;
 - c) IHEs with athletic revenue between \$20,000,000 and \$29,999,999, inclusive, will each pay an annual fee of up to 0.1% of their total athletics revenue from the previous year;
 - d) IHEs with athletic revenue between \$30,000,000 and \$59,999,999, inclusive, will each pay an annual fee of up to 0.3% of their total athletics revenue from the previous year;

- e) IHEs with athletic revenue of at least \$60,000,000 will each pay an annual fee of up to 1.3% of their total athletics revenue from the previous year; and,
 - f) Two-year institutions of higher education shall each pay an annual fee of up to one \$100.
- 78) Specifies that, notwithstanding 76) and 77) above, for the first year in which an annual fee is assessed on IHEs, an IHE's annual fee shall be the maximum amount that may be assessed to the institution. Additionally,
- a) If the total amount of annual fees collected exceeds the reasonable regulatory costs of the CAP Program, up to \$7,000,000, the CAP Program director shall return from the fund, upon appropriation by the Legislature, one-half of the annual fee paid by institutions of higher education pursuant to the following priority schedule until the total amount exceeding the reasonable regulatory costs of the CAP Program, up to seven million dollars (\$7,000,000), is returned:
 - i) Institutions described in 77a) and 77f) shall receive first priority;
 - ii) Institutions described in 77b) shall receive second priority;
 - iii) Institutions described in 77c) shall receive third priority;
 - iv) Institutions described in 77d) shall receive forth priority; and,
 - v) Institutions described in 77e) shall receive fifth priority;
 - b) It is the intent of the Legislature that the CAP Program director return annual fees pursuant to this paragraph within 60 days of being hired.

Financial workshops

- 79) Requires an IHE to administer a financial and life skills development workshop program. An IHE will require each college athlete at the institution to attend the financial and life skills development workshop program during the college athlete's first and third year of participation in an athletics program at the institution.
- 80) Specifies that a program developed pursuant to this section will include, but is not limited to, information on both of the following:
- a) The rights of college athletes, as specified; and,
 - b) State and federal tax information, including NIL-related taxes, time management skills, personal budgeting, debt management, credit management, and interest rates information.
- 81) Requires a program developed as specified will not include any marketing, advertising, referral, or solicitation by providers of commercial products or services.

Penalty Exemptions For College Athletes

- 82) An IHE will not uphold any rule, requirement, standard, or other limitation that prevents a college athlete at the institution from fully participating in intercollegiate athletics without penalty for any of the following:
- a) For receiving food, shelter, medical expenses, or medical or disability insurance from any source;
 - b) For receiving payment to cover expenses, direct provisions, or in-kind benefits from any source for purposes of transportation, room, board, and incidentals at college, or for purposes of meeting with legislators, providing testimony, or meeting with government agencies regarding intercollegiate athletics; and,
 - c) For a college athlete's family member or friend receiving payment, direct provisions, or in-kind benefits from any source for transportation, room, board, and incidentals to support the college athlete during any period in which the college athlete is addressing a physical or mental health concern.

Retaliation

- 83) Requires that an IHE and the institution's employees, coaches, and affiliated medical personnel will not retaliate against a college athlete for filing a complaint or reporting a violation of a college athlete's rights as specified.
- 84) For purposes of this chapter, "retaliation" includes all of the following:
- a) A reduction in or loss of playing time that is not justified by objective measures of athletic performance or compliance with team or the institution of higher education's policies that do not conflict with this chapter or any federal or state laws;
 - b) A reduction in or loss of any education benefits, including athletic grants, merit-based scholarships, or any other compensation;
 - c) A reduction in or loss of any meal benefits provided to the college athlete;
 - d) A reduction in or loss of any housing benefits provided to the college athlete, including the relocation of the college athlete's housing owned by IHE;
 - e) A reduction in or loss of athletics or team communications, academic support or records, access to training facilities, or medical treatment;
 - f) Pressure to not file a complaint or to withdraw a complaint; and,
 - g) Threats, ridicule, or physical punishment.

CAP Fund

- 85) Establishes the CAP Fund. The CAP Panel will administer the CAP Fund. The CAP Fund will serve as the repository of all moneys appropriated or collected pursuant to this chapter, except as specified. Moneys in the fund may be used,

upon appropriation by the Legislature, by the CAP Panel or a CAP Subpanel for purposes of implementing and enforcing this chapter. Up to 5 percent of moneys in the CAP Fund, unless otherwise encumbered, may be used, upon appropriation by the Legislature, by the CAP Panel or a CAP Subpanel for administrative costs of implementing and enforcing these provisions.

Broad Regulatory Authority

- 86) Authorizes the CAP Panel to promulgate regulations for purposes of implementing and enforcing this chapter, as the CAP Panel deems appropriate or necessary.

Enforcement provision

- 87) Specifies that the Act not limit the enforcement authority of any state or federal agency or shield violators from liability.

Severability

- 88) Declares that the provisions of the Act are severable. If any provision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Repeals elements of current law

- 89) Repeals sections of current law pertaining to the degree completion fund, a notice of student rights, and retaliation.

Reimbursement

- 90) If the Commission on State Mandates determines that this Act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Definitions

- 91) Establishes the following definitions for the CAP Act:
- a) "Affiliated medical personnel" means individuals who provide medical, rehabilitation, or athletic training diagnoses, opinions, or services to college athletes, in collaboration with an IHE. "Affiliated medical personnel" include, but are not limited to, physicians, mental health professionals, physical therapists, and athletic trainers. Individuals do not have to receive compensation from an institution of higher education to be affiliated medical personnel;
 - b) "Aggregate athletic grants" means the total amount of athletic grants that an IHE annually reports pursuant to the federal EADA to the USDE for each intercollegiate athletics team at the institution. "Aggregate athletic grants" shall not include any difference in athletic grant amounts based on cost of

attendance disparities between an institution's instate or out-of-state college athletes;

- c) "Athletic association" means any organization that is responsible for governing intercollegiate athletic programs;
- d) "Athletic grant" means an athletics scholarship or grant that an institution of higher education pays to a college athlete to cover a portion or all of the institution's cost of attendance for a full-time, in-state, on-campus undergraduate student determined pursuant to the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1087II). An athletic grant shall not exceed the institution's cost of attendance.;
- e) "Athletic program" means an intercollegiate athletic program at an IHE;
- f) "CAP Fund" means the Fund established as specified;
- g) "CAP Panel" means the Panel established as specified;
- h) "CAP Program" means the Program established as specified;
- i) "College athlete" means a student who is enrolled at an IHE and is listed as a member of an intercollegiate athletics team at the institution. A student's participation in club or intramural sports at an institution does not meet the definition of college athlete;
- j) "Fair market value compensation" means an amount of compensation for each college athlete who receives an athletic grant that is determined annually by subtracting the intercollegiate athletic team's aggregate athletic grants from one-half of the intercollegiate athletic team's revenue and dividing that difference by the number of athletic grants provided to college athletes on that team;
- k) "IHE" or "institution" means any campus of the UC, the CSU, the California Community Colleges (CCC), an independent IHE, as defined in Section 66010, or a private postsecondary educational institution, as defined in Section 94858, that maintains an athletic program;
- l) "Intercollegiate athlete" means a California resident who is enrolled at an out-of-state college or university and is listed as a member of an intercollegiate athletics team at the out-of-state college or university. A student's participation in club or intramural sports at an out-of-state college or university does not meet the definition of intercollegiate athlete;
- m) "NCAA" means the National Collegiate Athletic Association;
- n) "NIL" means the use of a college athlete's name, image, and likeness;
- o) "Office for Civil Rights" means the Office for Civil Rights within the USDE;

- p) “Revenue” means annual intercollegiate athletics revenue as calculated and reported pursuant to the federal EADA by an IHE to the USDE “Revenue” includes intercollegiate athletics revenue paid directly by an intercollegiate athletic conference, an athletic association, or a source designated by an IHE, an intercollegiate athletic conference, or an athletic association to cover any athletic program expense or to compensate a college athlete for participating in intercollegiate athletics at the institution;
- q) “All revenue” includes revenue that is not allocated by sport pursuant to federal EADA reporting standards;
- r) “Institutional Funds” means the amount of an IHE’s revenue that is not derived from any intercollegiate athletics source for an academic year that exceeds the amount of its revenue that did not derive from any intercollegiate athletics source reported for the 2021–22 academic year; and
- s) “Title IX” means Title IX of the federal Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

Legislative findings

- 92) Makes findings and declarations related to increasing protections for college athletes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “There is a tremendous need for AB 252 because California’s college athletes are governed by athletic associations that do not enforce health and safety standards to prevent serious injury, abuse, and death; and impose rules that have violated antitrust laws and have caused athletes economic harm. College athletes’ athletic time demands result in unacceptably low federal graduation rates among Black college athletes that produce the most athletic revenue, there is a lack of transparency and accountability regarding important athletic program policies for college athletes and recruits, and there is a need to certify athlete agent representatives to help prevent college athletes from bad actors. College athletes are often put in harm’s way as the institutions they represent prioritize winning over athlete safety. Coaches are incentivized to secure victories as it can lead to job stability and salary increments, while athletic trainers are often driven by the fear of being fired if they raise concerns that could potentially impact the team’s performance. This misplaced emphasis on winning over athlete well-being is a concerning trend that requires immediate attention and resolution. It is an ongoing hazard to allow universities to police the treatment of their athletes when the universities’ negligence and mistreatment are primary forces in harming the well-being of so many athletes.”
- 2) ***The California Student Athlete’s Bill of Rights (SABR).*** Before starting, it is essential to highlight current benefits and protections specified in state law. Several protections provided for California student-athletes are contained in the SABR (EC 67452 and 67453) are limited to universities that receive, on average, at least \$10 million in annual income from media rights for intercollegiate athletics. This number

is a minority of California colleges and universities and has traditionally only included UC Berkeley, Stanford, the University of Southern California (USC), and UC Los Angeles. The rapid increase in athletics media rights deals – and the lack of inflation growth built into current law – means that other universities with robust athletics programs might also soon fall under these specific provisions of SABR.

It is important to note that earlier this Legislative year, this committee heard a similar bill, SB 661 (Bradford, 2023), that removed the \$10 million media rights for intercollegiate athletics threshold to allow all student-athletes to be afforded the benefits listed below. SB 661 passed the committee unanimously with no opposition.

Specifically, these SABR provisions require an intercollegiate athletic program at any campus of the UC, CSU, or private four-year university in California to provide to students whose athletic scholarship is not renewed an equivalent scholarship (when combined with the total duration of any previous athletic or other scholarship received by the student) for a total of at least five years or until the student completes his or her undergraduate degree, whichever period is shorter.

The law also requires athletic programs to promptly approve a qualifying student athlete's written request to transfer to another institution without actively or passively imposing any restrictions or condition. Implementation must include granting other institutions permission to contact the student athlete and waiving residency requirements, as permitted by athletic association rules.

The SABR also requires an athletic program to be responsible for any and all medical expenses of its student athletes resulting from their participation in the athletic program, irrespective of whether the student athlete is still in school, has graduated, or is no longer enrolled in the school, so long as the medical expenses result from the student athlete's participation in the athletic program, and to adopt and implement guidelines to prevent, assess, and treat sports-related concussions and dehydration, and exercise and supervision guidelines for any student athlete identified with potentially life-threatening health conditions who participates in an athletic program.

Colleges must also grant a student-athlete the same rights as other students with regard to any and all matters related to possible adverse or disciplinary actions, including actions involving his or her participation in the athletic program.

- 3) ***Alston v. National Collegiate Athletic Association (NCAA)***. In *Alston v. NCAA*, the athletes challenged the NCAA compensation limits as reducing competition among colleges and universities as to what those schools would otherwise provide the athletes. Given this restriction on competition, the NCAA relied on its longstanding position that the uniqueness of its product – the status of student-athletes as amateurs – required antitrust deference and pointed for support to the 1984 decision in *NCAA v. Board of Regents*. Specifically, the NCAA's procompetitive justification for the status quo (whereby the NCAA limits athlete compensation tied to academics and athletics and primarily prohibits athlete monetization of NIL rights) was that the survival of the *product* of college athletics depends on such restrictions by the NCAA. It reasoned that intercollegiate athletics differentiates itself from professional sports chiefly through the amateur status of its athletes; therefore,

diminishing the purity of amateurism through direct athlete payment—even for educational expenses—would render intercollegiate athletics obsolete.

The *Alston* decision rejected this argument, holding that the *Board of Regents* decision was inapplicable to questions of athlete compensation and that the decision's oft-cited commentary that the NCAA enjoys "ample latitude" under federal antitrust law was mere dicta that could not insulate the NCAA from antitrust scrutiny. Specifically, the Court found that the NCAA had failed to show any economic analysis of how or why the consumer market for college sports might be irrevocably destroyed by teenage athletes receiving unrestrained educational benefits. The Court noted, in contrast, that the *Alston* plaintiffs could show the opposite—namely, that the popularity of college sports had *increased* in the years following increased allowances in educational benefits allocation.

Justice Gorsuch found that by limiting education-related compensation that college athletes can receive from their schools, the NCAA violated Section 1 of the Sherman Act, which prohibits any "contract, combination, or conspiracy in restraint of trade or commerce." The Court reached this conclusion by affirming the lower court's application of the "rule of reason" – a judicial doctrine of antitrust law.

The Supreme Court unanimously ruled in Alston v. NCAA that the NCAA violated anti-trust law and that the NCAA was not legally allowed to limit any education-related payments to students.

- 4) **Name, Image, and Likeliness.** On September 30, 2019, California became the first state to introduce and enact legislation to prohibit IHE, amateur athletic associations and athletic conferences, and any other organization with authority over intercollegiate athletics from preventing student-athletes from earning compensation in connection with the use of the athlete's name, image, and likeness (see EC § 67456 et seq). California began a nationwide conversation and initiative to address primarily NCAA bylaws that have historically prohibited student-athletes from using or permitting others to use their NIL to earn compensation or promote the athlete's athletic skills and abilities.

The popular phrasing - NIL - refers to what is legally defined as "publicity rights." Publicity rights are the property rights associated with the personality and identity of an individual. These rights enable an individual to control the commercial use of their identity. The public image of a celebrity or athlete is of immense value and can produce significant amounts of money for the individual celebrity or athlete. The State of California protects publicity rights both through statute and common law. California Civil Code § 3344 covers a person's name, image, signature, photograph, and likeness. California courts use a "readily identifiable" test to determine if some characteristic or indicia of identity would fall into one of these five categories. Thus, if an individual is readily identifiable by the user's representation of identity, it would be subject to the provisions of § 3344. California jurisprudence on publicity rights is well-developed, frequently relied upon, and cited by courts outside California.

Whether a student-athlete posts products on their social media, signs autographs, teach camps, or promotes a local business it is the decision of a student-athlete to use their name image and likeness.

- 5) ***The Equity In Athletics Disclosure Act.*** The [EADA](#) (34 CFR § 668.4) requires IHE to disclose information about their varsity teams and the financial resources and personnel the school dedicates to those teams. The EADA Report must be published by October 15 each year and made available upon request to students, prospective students, and the public.

Revenues: The October 15th report requires separate revenues for Football, Men's Basketball, Women's Basketball, All Men's teams except Football and Basketball, All Women's teams except Basketball, and all sports combined. Revenues for All Men's teams except Football and Basketball and All Women's teams except Basketball are not collected web-based data collection.

“Revenues” as defined in EADA are revenues attributable to intercollegiate athletic activities. This includes revenues from appearance guarantees and options, an athletic conference, tournament or bowl games, concessions, contributions from alumni and others, institutional support, program advertising and sales, radio and television, royalties, signage and other sponsorships, sports camps, state or other government support, student activity fees, ticket and luxury box sales, and any other revenues attributable to intercollegiate athletic activities.

Expenses: The October 15th report requires separate expenses for Football, Men's Basketball, Women's Basketball, All Men's teams except Football and Basketball, All Women's teams except Basketball, and all sports combined. Expenses for All Men's teams except Football and Basketball and All Women's teams except Basketball are not collected in the web-based data collection.

“Expenses” as defined in EADA are expenses attributable to intercollegiate athletic activities. This includes appearance guarantees and options, athletically related student aid, contract services, equipment, fundraising activities, operating expenses, promotional activities, recruiting expenses, salaries and benefits, supplies, travel, and other expenses attributable to intercollegiate athletics activities.

“Revenue Not Allocated by Sport” as defined by EADA include revenues not attributable to a particular sport or sports. These funds can be earned revenue or institutional support. Earned revenue is derived from various sources such as: alumni contributions to the athletic department not targeted to a particular sport or sports, investment interest income, athletic conference money, radio and advertising sales, royalties, signage or other sponsorships, and any other earned revenue not attributable to a team (e.g., fundraising activities). Revenues should also include institutional, state or other government support that is used to pay for athletic director's, assistant athletic director's, department support staff, and trainers salaries, bonuses and benefits, general administrative overhead, conference and NCAA dues, costs for teams for which there were no participants (e.g., start-up or discontinued teams)

— Total Expenses by Team

Varsity Teams	Men's Teams	Women's Teams	Total
Basketball	\$2,000,411	\$1,515,233	\$3,515,644
Football	\$5,680,853	N/A	\$5,680,853
Total Expenses of all Sports, Except Football and Basketball, Combined	\$3,632,324	\$6,237,908	\$9,870,232
Total Expenses Men's and Women's Teams	\$11,313,588	\$7,753,141	\$19,066,729
Not Allocated by Gender/Sport	N/A	N/A	\$15,937,919
Grand Total Expenses	N/A	N/A	\$35,004,648

— Total Revenues by Team

Varsity Teams	Men's Teams	Women's Teams	Total
Basketball	\$2,000,411	\$1,515,233	\$3,515,644
Football	\$5,680,853	N/A	\$5,680,853
Total Revenues of all Sports, Except Football and Basketball, Combined	\$3,632,324	\$6,237,908	\$9,870,232
Total Revenues Men's and Women's Teams	\$11,313,588	\$7,753,141	\$19,066,729
Not Allocated by Gender/Sport	N/A	N/A	\$15,937,919
Grand Total for all Teams (includes by team and not allocated by gender/sport)	N/A	N/A	\$35,004,648
CAVEAT			

Revenues do not match our Consolidated Financial Statements because of the nature of this report. Revenues normally Not Allocated by Gender/Sport were distributed the individual sports to have Revenues match Expenditures as required by this report.

NOTE: The graphic above represents the California State University, Sacramento's revenue and expenses as provided in their 2021-22 EADA report.

Is EADA Accurate? While the EADA provides a snapshot of an IHE's expenses and revenue, this information is not disaggregated into individual line items and, therefore difficult to differentiate between the revenue generated from the athletic conferences, tournament or bowl games, concessions, and ticket sales, from others, such as alumni contributions, student activity fees, and state or other government support. Moreover, the report does not separately demonstrate revenue generated in other sports, such as track and field, soccer, tennis, etc. Sports other than basketball and football are located under "Total Revenue of all Sports, Except Football and Basketball, combined"

Further, per EADA's [guidelines](#), "Grand Total Revenues must be equal to or greater than your Grand Total Expenses." This means that an IHE can only be shown as being cost-neutral or revenue generate, even if the IHE did not generate revenue. This can be shown in the graphic above.

This bill will use an IHE's EADA report to determine if new revenue has been generated and aligns the definition of revenue with EADA. The committee may consider whether the data in an IHE's EADA is sufficient to determine an IHE's athletic department's revenue considering that revenue includes 1) alumni contributions, student activity fees, and state or other government support; 2) does not outline revenue made by other sports other than basketball and football; and 3) cannot show if an IHE's athletic department absorbed cost.

- 6) ***What Is a Degree Completion Fund?*** A Degree Completion Fund is a benefit that IHE can offer to student-athletes after they have exhausted their four years of athletic eligibility and no longer receive an athletic grant. A degree completion fund recognizes that a now former student-athlete may need to remain in college for additional time to complete their degree. A degree completion fund essentially serves as an equivalent scholarship to help former student athletes pay for college to help complete their degree. The duration of a degree completion in which it is eligible to a student-athlete varies from institution-to-institution and athletic conferences.

AB 252 (Holden) recasts and expands upon the degree completion fund established in current law by AB 1573 (Holden), Chapter 382, Statutes of 2019. As noted in the Assembly Higher Education Analysis, “when AB 1573 was moving through the process, the Degree Completion Fund was instituted, in part, to allow California to comply with new NCAA Bylaws creating such funds for former basketball student-athletes. The bylaw, now known as [Bylaw 15.01.5.2.1](#), specifies that “an institution that provides athletically related financial aid to basketball student-athletes shall provide, at a minimum, tuition and fees, and course-related books to a former basketball student-athlete who requests financial aid to complete his or her first baccalaureate degree, provided:

- 1) The former student-athlete received athletically related financial aid while previously enrolled at the institution.
- 2) Fewer than 10 years have elapsed since the former student-athlete's departure from the institution.
- 3) The former student-athlete's most recent enrollment as a full-time student occurred at the institution.
- 4) The former student-athlete was previously enrolled as a full-time student at the institution for a minimum of two academic years (four semesters or six quarters).
- 5) The former student-athlete meets all institutional admissions and financial aid requirements.
- 6) The former student-athlete has exhausted other available degree completion funding options (e.g., funds from a professional league or contract).
- 7) The former student-athlete is in good academic standing at the institution and meets NCAA and institutional progress-toward-degree requirements. This requirement applies to initial and continuing eligibility for degree completion funds.”

This bill allows eligible student-athletes to earn up to \$25,000 annually [see Analysis 4)]. Any amount over \$25,000 will be held by the IHE until the students graduates [see Analysis 6)]. The committee may wish to consider whether this bill deviates from original meaning and purpose of a degree completion fund and renders the

degree completion fund establish by AB 1573 (Holden), Chapter 382, Statutes of 2019 unnecessary.

- 7) ***NIL and this Bill:*** Before continuing, it is essential to note that NIL and this bill, regarding student-athlete compensation, are not the same and are distinct.

Who Is Eligible To Be Compensated Under NIL and This Bill? Under NIL, all student-athletes (no matter the division or association) can use their name image and likeness.

Under this bill, the provisions specify that only scholarship athletes participating in Division NCAA I sports [see Analysis 1) & 25)], who meet fair market value, are eligible to receive degree completion funds. This bill excludes nonscholarship athletes (walk-ons) who participate in an NCAA Division I sport and all athletes in Division II, III, and community college athletics.

How Are Student-Athletes Compensated Under NIL and This Bill? Under NIL, student-athletes are compensated by the business or organization they have entered into contract with to post products on social media, teach camps, or promote a local business.

Under this bill, an IHE revenue, as reported in their 2021-22 EADA report, would serve as their base year [see Analysis 4)]. Any revenue generated beyond the base year in any given EADA reporting year is considered new revenue that is first prioritized to compensate student-athletes [see Analysis 11)]. The total amount that is reserved to compensate student-athletes by calculating the fair market value. This is calculated by subtracting 50% of the new revenue from the total aggregate of both men's and women's athletic grants [see Analysis 91j)]. After performing the calculation, if there is a remaining balance, that amount is then owed to all student-athletes [see Analysis 10)]. Of the owed amount, 50% is reserved for men's teams, and 50% is reserved for women's teams [see Analysis 11)]. The bill then proposes the 50% for both men's and women's be dispensed equally to all players as specified [see Analysis 12, inclusive)].

If the IHE does not have to pay any remaining fair market value compensation owed to a student-athlete into a degree completion fund so long as the funds are exhausted and in compliance with Title IX.

Is The New Revenue Really Split 50/50 Among Men's and Women's Athletes? As defined in this bill, an "athletic grant" is a "an athletics scholarship or grant that an IHE pays to a college athlete to cover a portion or all of the institution's cost of attendance for a full-time, in-state, on-campus undergraduate student determined pursuant to the federal Higher Education Act of 1965." [see Analysis 91 j)] Further, the bill specifies that "if an institution of higher education deems it necessary, the institution shall adjust the amounts of degree completion fund payment designations to comply with Title IX financial aid proportionality comparisons in athletics." [see Analysis 19 inclusive)].

With regard to athletics, Title IX requires female and male college athletes to receive athletics scholarship dollars proportional to their participation. Regarding compensation under Title IX, Title IX does not expressly address compensation.

Subpart D of Title 34 CFR § 106.37 expressly addresses Title IX's application to the provision of athletic scholarships by stating, "To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics" (34 CFR § 106.37 (c)). For example, if 45% of the athletes at a college are female and 55% male, 45% of the total amount of athletic scholarship funding the college grants should go to female athletes and 55% to male athletes.

While the bill proposes a 50/50 split, compliance with Title IX would require an IHE to split the new revenue generated in accordance with the ratio of an IHE team.

The 2021-22 Base Year Does Not Account For Inflation. This bill establishes an IHE's athletic revenue, as identified in their 2021-22 EADA report, as their base year [see Analysis 9)]. Any new revenue generated over the base year, upon calculating the fair market value, goes to student-athlete. While an IHE athletic revenue and expense may fluctuate from year-to-year, an IHE does not base adjust over time to account for inflation, therefore assuming that the base is sufficient to maintain an IHE athletic department's operation. The bill specifies that an IHE "shall not reduce any discretionary revenue during the academic year below the discretionary revenue reported for the 2021–22 academic year and any aggregate funds for any college athlete's academic, medical, mental health, athletic training, or nutritional support, eliminate roster slots on any intercollegiate athletics team, reduce aggregate athletic grant amounts, or eliminate any intercollegiate athletics sport entirely that existed during the 2021–22 academic year." [see Analysis 22) & 23].

The committee may wish to consider if using an institution of higher education's 2021-22 EADA report as a base year may harm athletic programs, as this bill does not allow the base to be adjusted for inflation.

What Is the Fair Market Value (FMV) of a Student-Athlete? As specified in the bill, FMV is 50% of the new revenue generated over the 2021-22 base year [see Analysis 91sj)]. According to the Assembly Education Committee Analysis, "revenue share varies greatly based on the sport. For example, while athletes in the National Basketball Association and Major League Baseball receive close to 50%, fighters in the United Fighting Championship receive 16-20%, while athletes in the Women's National Basketball Association receive approximately 25%."

The committee may wish to consider if 50% is the appropriate FMV of a college athlete player and whether the FMV of the National Basketball Association or Major League Baseball should be seen as the exception rather than the average.

- 8) ***Intercollegiate Athletics: A Combination of Different Funding Sources.*** Athletic departments finance their programs using a variety of different revenue sources. Student fees or institutional subsidies (from tuition, state appropriations, endowments, or other revenue-generating activities on campus) often support even the most extensive NCAA Division I college sports programs. A 2013 study published by the Delta Project at the American Research Institute found that only Football Bowl Subdivision (FBS) teams (i.e., Rose Bowl, Sugar Bowl, Fiesta Bowl, etc.) generate more revenue than expenses incurred. The study, [Academic](#)

Spending Versus Athletic Spending: Who Wins?, finds that “even among the largest FBS programs, student fees and institutional subsidies typically provided between 4 percent and 14 percent of total athletic revenues.”

The study goes on to mention that “Without access to television contracts and large stadiums with sizable ticket sales revenue, the budgets at smaller Football Championship Subdivision (FCS) and Division I Non-Football (DI-NF) subdivisions are heavily subsidized by student fees, institutional support, and alumni donations. FCS programs are more likely to rely on institutional support. At the same time, DI-NF schools rely on student fees to fund much of their budget.”

The study concluded that in 2010, “more than 80 percent of the budget at the typical FBS colleges came from “*generated*” revenues, such as ticket sales, conference payouts, and donations. In contrast, more than 70 percent of athletic budgets in the smaller FCS and DI-NF programs came from revenues “*allocated*” by the university; this athletic subsidy includes money from student fees, institutional support, and government appropriations.”

- 9) ***Bolstering Or Making It Difficult To Comply With Title IX?*** Title IX is a Federal civil rights law. It prohibits schools that receive Federal funding from discriminating based on sex in their programs or activities. The Department’s Title IX regulations include requirements for how schools must comply with Title IX, including in their athletic programs.

Three-pronged Test. The Title IX regulations require schools to provide equal opportunity based on sex. This requirement applies to schools’ athletic programs, including club, intramural, and intercollegiate teams. Equal opportunity in college and university athletic programs is measured by the three-pronged test, in which a schools can demonstrate compliance by showing any one of three criteria:

- Test One – proportionality; provide intercollegiate or interscholastic participation opportunities for women and men at rates that are proportionate to their respective rates of enrollment; or
- Test Two – continued program expansion for the underrepresented sex; show that opportunities have been added for the underrepresented sex (nearly always girls and women) as their interests and abilities have developed and evolved; or
- Test Three – full accommodation of the underrepresented sex; fully accommodate the underrepresented sex by offering every team for which there is sufficient interest and ability for a viable team, and sufficient competition in the geographic areas where the institution normally competes.

Does The Inability to Manage Rosters Make It Difficult To Use Test One? At the collegiate level, meeting test one means that participation opportunities are proportionate to the full-time undergraduate enrollment. if women are 52% of the full-time undergraduate students, then 52% of the intercollegiate athletics participants should be women. This bill prohibits an IHE from eliminating roster slots on any intercollegiate athletics team, in addition to reducing any aggregate funds for any

college athlete's academic, medical, mental health, athletic training, or nutritional support, aggregate athletic grant amounts, or eliminating any intercollegiate athletics sport entirely that existed during the 2021–22 academic year.

This bill prohibits an IHE from eliminating roster slots that existed during the 2021–22 academic year [see Analysis 22]]. The committee may wish to consider if more flexibility should be built-in to allow IHE to have the option to comply with test one.

Does The Inability to Eliminate Programs Discourage Expansion (Test Two)? Test two applies only if students of one sex are underrepresented. An IHE can meet test two by showing that it has added opportunities for women as their interests in different sports develop. This can mean either adding a women's team or teams or adding opportunities on existing teams.

This bill prohibits an IHE from eliminating any intercollegiate athletics sport entirely that existed during the 2021–22 academic year [see Analysis 23j)].. As new sports, emerge popularity and participation sway, it may be difficult for an IHE to establish a new sport while managing existing sports that may have lost interest but must maintain as required by this bill. The committee may wish to consider whether it is more appropriate to eliminate a sport, only if the IHE has plans to adopt a new sport.

- 10) **College Athlete Protection Panel: New Body with Broad Regulatory and Fee Authority.** As established by this bill, the CAP Panel, located within the Office of Planning and Research, would include a 21-member panel (11 members appointed by the Governor and five members appointed by the Senate and Assembly each) to create and distribute to every IHE with an intercollegiate athletic program best practices to minimize injuries, develop guidelines and mandates, perform compliance inspections, exercise subpoena power, investigate complaints, and issue penalties.

Expertise of The Panel Members: This bill requires that several specified areas of expertise be considered when appointing members to the panel and provides that no two members are to have the same expertise [see Analysis 32) - 39), inclusive]. However, this bill does not actually require the members of the panel to have any of the specified expertise.

Should this bill specifically require each panel member to hold expertise in one of the specified areas, with no two members having the same area of expertise?

This bill does not provide for personnel of any IHE to be included as panel members, [see Analysis 32) – 39), inclusive]. *Should the 21-member panel membership include at least a minimal representation from IHEs?*

Is it sufficient to allow representatives of IHEs to participate in each advisory board that the panel may establish?

Penalties: This bill authorizes the panel to impose penalties upon IHEs or its personnel, including civil penalties, temporary or permanent prohibition from employment at IHEs, or other penalties as determined by the panel [see Analysis 46), 47), & 71)].

Is it appropriate for an appointed panel of individuals who may not be trained in adjudicating complaints of violations of law and impose potentially serious penalties?

The panel is specifically authorized to temporarily or permanently prohibit an individual from employment at an IHE [see Analysis 46) & 47)]. Many athletic personnel, such as coaches, are faculty or have a contract with the employing IHE.

It is unclear how an appointed panel can have authority over the employment decisions of IHEs. Instead, should the panel be authorized to recommend to the employing IHE that the individual be temporarily or permanently prohibited from being employed?

Regulations: This bill requires the panel to adopt regulations to implement the provisions of this bill [see Analysis 85)]. *Is it appropriate for an appointed panel to adopt regulations?*

- 11) **NCAA – Increased Benefits For Division I Athletes Beginning August 2024.** In April, the Board of Directors unanimously adopted [new rules](#) for all Division I schools that will require increased support for college athletes. The benefits, often referred to as the "holistic student-athlete benefits model," were supported by the Division I Council earlier this month and were originally recommended by the Transformation Committee in January. All Division I members who do not do so already will be required to do the following:
- a) Provide medical coverage for athletically related injuries for at least two years after graduation.
 - b) Cover out-of-pocket medical expenses (copayments, deductibles, etc.) during a student-athlete's playing career.
 - c) Attest that they provide mental health services and support consistent with the NCAA's mental health best practices.
 - d) Attest that they follow concussion management protocols in line with the NCAA Concussion Safety Protocol Checklist.
 - e) Offer degree completion funds for up to 10 years after a college athlete's eligibility concludes, if that college athlete was previously on full scholarship or received financial aid in a head count sport.
 - f) Provide the same scholarship protections already required of autonomy conferences.
 - g) Attest that they provide academic support services in line with NCAA rules.
 - h) Attest that they provide career counseling for current and former college athletes and life skills development across a range of topics, including at a minimum:
 - i) Mental health.

- j) Strength and conditioning.
- k) Nutrition.
- l) Name, image, and likeness opportunities.
- m) Financial literacy.
- n) Career preparation.
- o) Transfer requirements
- p) Diversity, equity, inclusion, and belonging.
- q) Sexual violence prevention.

The requirements take effect August 2024. Schools can begin offering these benefits at any time.

- 12) **Argument In Opposition.** According to the Women’s Sport Foundation, “We write today to urge you to oppose AB 252. We feel it poses very real concerns for gender equity and broad-based sports offerings in this country.

AB 252 seeks to:

- Funnel sports programs’ revenue to the student-athlete with “fair market value” as defined by the bill,
- Create a Degree Completion Fund to distribute additional payments to student-athletes after graduation (within six years)
- Provide student athletes with additional healthcare benefits and protections, and
- Create a College Athlete Protection Panel to oversee and regulate the bill.

Although several amendments have been are in AB 252 in an attempt to address gender equity concerns in the original bill, these fall short.

The Arms Race has Stunted Investment in Women’s Sports

Despite the milestone celebration of the 50th anniversary of Title IX last year, we know far too many schools and institutions are out of compliance with this law. Our country’s current collegiate sports model needs reform. For too long, the system has allowed unchecked growth, creating an “arms race” among many schools and an inequitable investment in football and men’s basketball programs, with women’s sports and men’s Olympic sports often serving as an afterthought. The current arms race has done nothing to expand broad-based sports offerings. In fact, between 1988-2016, NCAA schools saw a net gain in the number of teams offered, with 594 added in Division II and 751 added in Division III, however, at the Division I level

where the arms race is pervasive, schools saw a net loss of 330 men's teams in Division I (Wilson, 2017)

Although this bill seeks to prohibit schools from cutting sports and roster spots, the reality is that if schools don't have the budget to fund sports, they will cut sports. We cannot be naïve to that that schools will not find ways around this provision. If this were the case, we know from history that women's sports and men's Olympic sports would be among the first to be cut.

Limiting Growth of Women's Sports

One needs to look no further than the NCAA Gender Equity Review and the Media & Sponsorship Addendum to see that women's sports have too long been undervalued. As is currently structured, women's marquee championships are bundled as part of a package deal which has been woefully undervalued in media negotiations. Despite this, women's sports continue to see unprecedented growth, for example, the 2022 NCAA Women's Basketball Championship averaged 9.2 million viewers (12.6 million peak) and was the most watched college basketball game to date. We caution you that AB 252's structure could do very little to protect women's sports offerings and instead would stifle the growth potential of women's sports

Title IX

Amendments were introduced into the current bill version, seemingly to address gender equity concerns raised regarding its previous iteration, unfortunately, these amendments still fall short. Title IX regulations are based on the premise of equity and proportionality. AB252 now dictates a 50/50 split of degree completion funds between men and women athletes. This comma, however, is a comma. That does not mean payments will be gender equitable, period. On average would make up to 60% of undergraduate enrollment, and for schools complying with prong one of the three-part test, their women student-athletes would also like to be very close to that same proportion. A rudimentary 50/50 split of funds does not address the representation of women in our colleges and universities and would likely shortchange women at many institutions.

Though there are many points of view on the future of college sports, we can all agree that change and evolution is needed, however, a disjointed state by state solution is not the answer. College sports are in need of reform, but must be create that change and a broad federal level top of mind"

- 13) **Argument in Support.** According to the California Labor Federation, "The California Labor Federation supports AB 252 (Holden), which will provide critically important rights, benefits, and protections to college athletes. Far too many college athletes needlessly suffer serious injury, abuse, and even death as a result of their grueling work. Inadequately enforced—or nonexistent—health and safety standards, unjust compensation policies, and burdensome athletic time demands can combine to create a toxic and dangerous environment that can particularly harm Black college athletes, many of whom are from low-income homes. These Black college athletes make up the majority of revenue for sport athletes yet, suffer some of the lowest graduation rates. And although Title IX—federal law that sought to ensure gender equity in education settings—has been in place for 50 years, a clear lack of Title IX

compliance in athletics programs persists across many colleges. Heightening the need to address these concerns are the significant state funds and income tax exemptions California colleges receive. We strongly believe the state of California's role in funding these programs creates a public duty to address such harms. AB 252 will introduce more strictly enforced health and safety standards, more equitable athletic revenue share with athletes, improved Title IX compliance transparency, and a sports-related medical expense benefit for athletes, among other reforms. These changes will take major steps towards guaranteeing a safer working environment for these vulnerable young athletes. For these reasons, we urge you to vote "AYE" on AB 252 (Holden) when it comes before you in the Senate Education Committee for Wednesday, July 5, 2023"

14) Related Legislation

SB 661 (Bradford, 2023) Expands the rights that student athletes who attend an IHE, as defined, and removes the requirement on IHE, to rely exclusively on revenue derived from media to defray any costs accrued from affording these benefits to student athletes. *This bill is Assembly Appropriations Committee.*

SB 1401 (Bradford, 2022) would have required postsecondary institutions to establish degree completion funds for their student-athletes that consider the revenues generated by the sport and the amount of athletic scholarship aid provided to athletes participating. *This bill was held in Senate Appropriations.*

SB 26 (Skinner), Chapter 159, Statutes of 2021, expanded the existing authority for a collegiate student-athlete to receive compensation also to include compensation earned from the use of the student's athletic reputation and moves up the implementation date of existing statutes relative to compensation earned from the use of a student athlete's NIL.

AB 1573 (Holden), Chapter 382, Statutes of 2019, added three provisions of law designed to support and protect student-athletes rights at higher learning institutions. Expressly, the bill: 1) authorizes schools to establish degree completion funds; 2) directs schools to develop, post, and disseminate specified information regarding existing student-athlete rights; and 3) prohibits schools from retaliating against student-athletes who report violations of student-athletes rights.

SB 206 (Skinner), Chapter 383, Statutes of 2019, allows, commencing on January 1, 2023, college student-athletes to earn compensation for using their NIL (athletic endorsements). This bill allows student-athletes to obtain professional legal representation about their college athletics, such as that provided by a sports agent. This bill protects student-athletes who elect to engage in the compensation and representation activities described therein.

SB 1525 (Padilla) Chapter 625, Statutes of 2012, enacted a SABR and placed specified requirements on collegiate athletic programs commencing with the 2013-14 academic year and ending January 1, 2021.

SUPPORT

OPPOSITION

Academic Senate of The California State University
Association of Independent California Colleges & Universities
Big Sky Conference
California State University
Community College League of California
Stanford University
Team USA Athletes' Commission
U.S. Ski & Snowboard
United States Olympic & Paralympic Committee
University of California
University of Southern California
USA Artistic Swimming
USA Swimming
USA Swimming Athletes' Advisory Council
USA Track & Field
USA Volleyball
USA Water Polo
USA Wrestling
Women's Sports Foundation

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 299
Author: Holden
Version: July 3, 2023
Urgency: No
Consultant: Lynn Lorber

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: Hazing: educational institutions: civil liability: resources.

SUMMARY

This bill 1) authorizes, beginning January 1, 2025, a person against whom hazing is directed to bring a civil action for injury or damages against a public or private educational institution of higher education if the institution has direct involvement in, or knew or reasonably should have known of the hazing practices; and, 2) requires the California Department of Education (CDE) to post on its website a model anti-hazing policy and resources on hazing prevention for professional development and increasing awareness.

BACKGROUND

Existing law:

Criminal and civil provisions related to hazing

- 1) Provides that it is unlawful to engage in hazing, as defined. Existing law makes any violation that does not result in death or serious bodily injury punishable as a misdemeanor, and makes any violation that results in death or serious bodily injury punishable as a misdemeanor or a felony. (Penal Code § 245.6.)
- 2) Defines “hazing” for purposes of the above to mean any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other educational institution in this state. Specifies that “hazing” does not include customary athletic events or school-sanctioned events. (Penal Code § 245.6 (b).)
- 3) Authorizes a victim of hazing to bring a civil action against any person who participates in the hazing, or any organization to which the student is seeking membership whose agents or officers authorized, requested, commanded, participated in, or ratified the hazing. (Penal Code § 245.6 (e).)

Policies and responses to hazing in K-12 schools, colleges and universities

- 4) Includes hazing as grounds for suspension or expulsion from grades K-12. (Education Code (EC) § 48900.)

- 5) Requires institutions of higher education to adopt a policy that requires fraternities and sororities seeking campus recognition to submit annual reports that contain specified information on the sorority's or fraternity's members and their conduct. Existing law requires the college or university to a) suspend campus recognition of any sorority or fraternity that does not comply with the reporting requirements, and b) compile, maintain, and post the collected information into a publicly accessible report, as specified. (EC § 66310 et seq.)
- 6) Requires the governing board of each community college district, the Trustees of the California State University (CSU), the Regents of the University of California (UC), and the governing boards of independent postsecondary education institutions receiving public funds for student financial assistance to require the appropriate officials at each campus to compile records of all occurrences reported to the campus of, and arrests for, crimes that are committed on campus that involve violence, hate violence, theft, destruction of property, illegal drugs, or alcohol intoxication. (EC § 67380)
- 7) Requests the Trustees of the CSU, the Regents of the UC, and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior and, if the institution expends funds to support activities related to campus climate, as defined, to adopt and publish the above-described policies. (EC § 66302)

ANALYSIS

This bill:

Civil action related to hazing in higher education

- 1) Authorizes, beginning January 1, 2025, a person against whom hazing is directed to commence a civil action for injury or damages against any participants in the hazing or the organization and against any educational institution for the hazing practices of the organization involving one or more students if both of the following apply:
 - a) The educational institution has direct involvement in, or knew or in the exercise of ordinary care reasonably should have known of, the hazing practices of the organization.
 - b) At the time of the alleged hazing incident, the organization involved in the hazing is affiliated with the educational institution.
- 2) Provides that an educational institution that “reasonably should have known of the hazing practices of the organization” includes an educational institution that unreasonably fails to proactively prevent, discover, or stop the hazing practices of the organization.

Determining “unreasonably fails to proactively prevent, discover, or stop” hazing

- 3) Authorizes, for purposes of determining whether an educational institution “unreasonably fails to proactively prevent, discover, or stop the hazing practices of the organization,” consideration to be given to the extent that the institution, at the time of the alleged hazing incident, had each of the following measures in place:
- a) Adoption and distribution of a written anti-hazing policy consisting of rules and procedures for hazing prevention, intervention, and discipline, including all of the following:
 - i) Prohibition on hazing.
 - ii) Notice of how violations will be enforced.
 - iii) Requirements for the reporting of potential hazing.
 - iv) Examples of unacceptable activities and behaviors.
 - v) Required education and training, as described in (c) at the top of page # 4.
 - vi) Annual distribution of the policy by means other than online posting.
 - vii) Designation of at least one employee to oversee the implementation of the anti-hazing policy.
 - viii) Posting the anti-hazing policy online in a readily accessible and prominent location on the educational institution’s internet website in a manner that is easily accessible to the public.
 - b) Implementation of an anti-hazing investigation, enforcement, and reporting program that includes all of the following:
 - i) Gathering confidential data about student experiences with hazing with affiliated student organizations.
 - ii) Incorporation of the data gathered to build or refine institution-specific hazing prevention strategies.
 - iii) A process for diligently investigating and responding to reports of hazing in a timely manner.
 - iv) Documentation of investigations.
 - v) Enforcing hazing violations with appropriate penalties, including fines, withholding diplomas or transcripts, discipline such as probation, suspension, or dismissal, and rescission of permission for an affiliated student organization to operate on campus property or be affiliated with the educational institution.

- vi) Reporting of hazing incidents to law enforcement or other appropriate third parties when applicable.
 - vii) Annual reporting online in a readily accessible and prominent location on the institution's internet website on past hazing violations without disclosing personal identifying information of students.
- c) Implementation of an institution-wide anti-hazing education and training program that does all of the following:
- i) Aligns with the educational institution having a primary concern for student safety.
 - ii) Reinforces that all students, faculty, and staff are responsible for following reporting procedures when they notice hazing.
 - iii) Requires training on anti-hazing policies, early intervention, reporting, and creating a safe school environment.

Damages and other cause of action

- 4) Authorizes a civil action brought pursuant to this bill or Section 245.6 of the Penal Code to seek damages for emotional injuries as a component of actual damages, in addition to any other remedies available under law, including, but not limited to, damages for bodily injury or harm.
- 5) Specifies that this bill does not prohibit or limit any other potential cause of action under any other law that is available to a person against whom hazing is directed.

Resources for K-12 schools

- 6) Requires, by July 1, 2024, CDE to make available on its website both of the following:
 - a) A model anti-hazing policy for local educational agencies.
 - b) Resources on hazing prevention for professional development purposes and for increasing awareness among students, school staff, and community members of the dangers of hazing.
- 7) Encourages schools to use the resources made available by CDE for professional development purposes and for increasing awareness among students, school staff, and community members of the dangers of hazing.

Definitions

- 8) Includes the following definitions:
 - a) "Affiliated" means currently recognized or sanctioned by the educational institution, but excludes an organization that had previously been recognized or

sanctioned by the educational institution but has subsequently had that recognition or sanction withdrawn.

- b) “Educational institution” means a public or private institution of higher education in California, including the officers, employees, or governing bodies of the institution.
- a) Hazing” means a method of initiation or pre-initiation into a student organization or student body that is likely to cause serious bodily injury to a former, current, or prospective student of an educational institution. This bill excludes customary athletic events or school-sanctioned events from the definition of “hazing.”
- b) “School” means a public or private school in the state maintaining kindergarten or any of grades 1 to 12.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Hazing is a clearly detrimental practice that California has been characteristically taken seriously through legislation. Despite this, we have seen an influx of dangerous hazing practices within these organizations, and a lackluster effort on the part of many institutions to address it in a preventative manner. In its most tragic cases, hazing is often directly responsible for the death or serious injury of a young student. However, the ramifications of this practice extend far beyond for its survivors, undermining their self-esteem and impacting their psychological wellbeing.

“This bill allows for civil action to be brought against an educational institution of higher education for an instance of hazing in which one or more students were involved if that educational institution knew or should have known of the dangerous hazing practices of an affiliated organization. In doing so, we hold the educational institutions who promote participation in and benefit from these organizations responsible for the consequences they may bring to students. Additionally, AB 299 requires the Department of Education to make available on their website a model anti-hazing policy and resources on hazing prevention in an effort to address hazing instances occurring at the K-12 level.

“This responsibility will incentivize institutions to bolster their oversight and preventative measures as they pertain to hazing. It keeps California on its path of addressing hazing practices in our state, and allows us to work with educational institutions and organizations to prioritize students’ safety.”

- 2) ***Affiliated organizations.*** This bill references a) currently recognized or sanctioned by the educational institution in definition of “affiliated”; b) a student organization or student body in the definition of “hazing.” “Affiliated organizations” include not only sororities and fraternities, but also includes service clubs, sports clubs and other special-interest and affinity groups focusing on issues such as sustainability and environmental awareness, social issues, military service, and performance arts. Therefore, this bill applies to all public and private institutions of higher education, including community colleges.

- 3) ***Extends civil liability to universities and their employees.*** Existing law allows for a civil action to be brought against the participant or organization involved in the hazing; however, educational institutions with knowledge of the hazing currently cannot be held liable. This bill provides that an educational institution that “reasonably should have known of the hazing practices of the organization” includes an educational institution that unreasonably fails to proactively prevent, discover, or stop the hazing practices of the organization. The standard of “reasonably should have known” was considered by the Senate Judiciary Committee during its June 27, 2023 hearing of this bill. *Should colleges and universities be liable for organizations they officially recognize, if they reasonably should have known of hazing practices? Is it realistic that colleges and universities are that aware of hazing activities?*

The author committed to taking further amendments when this bill was heard in the Senate Judiciary Committee on June 27, 2023. Specifically, the author agreed to create elements for a cause of action and establish an affirmative defense (e.g. if institutions of higher education take specified actions to prevent and/or respond to incidents of hazing, those factors shall, rather than may, be considered when determining whether the institution is liable).

Due to timing, these amendments should be taken in the Senate Appropriations Committee.

- 4) ***How will institutions of higher education respond?*** This bill creates civil liability for a public or private institution of higher education by a person harmed by hazing from an organization affiliated with the educational institution when the institution “knew or reasonably should have known” of the hazing. Will institutions of higher education comply with the requirements in this bill, or will they stop recognizing affiliated organizations?

As noted in the Senate Judiciary Committee analysis, AB 299 sets out a clear path for universities with affiliated sororities and fraternities on their campuses to shield their liability: the implementation of robust anti-hazing policies and programs aimed at prohibiting, investigating, punishing, and educating and training on hazing.

- 5) ***Report on sororities and fraternities.*** AB 524 (Rodriguez) Chapter 268, Statutes of 2022, established the Campus-Recognized Sorority and Fraternity Transparency Act, which requires each institution of higher education to include in the institution’s requirements for campus recognition of a campus-recognized sorority or fraternity a requirement that the sorority or fraternity submit to the institution on or before July 1, 2023, and annually thereafter, specified information concerning the sorority’s or fraternity’s members and their conduct or face suspension. The annual report is to include the number of citations, or disciplinary actions taken, relating to misconduct at a chapter house or sanctioned event; the definition of “misconduct” specifically includes hazing.
- 6) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill would impose the following costs:
- a) Unknown, though potentially significant, ongoing General Fund costs to public universities to pay for damages or to follow other court enforcements resulting

from this bill.

- b) Potential one-time and ongoing General Fund costs to public universities, potentially in the low millions of dollars, to adopt certain policies and practices put forth in the bill.
- c) Unknown, though potentially significant, ongoing Proposition 98 General Fund costs to public colleges to pay for damages or to follow other court enforcements resulting from this bill.
- d) Potential one-time and ongoing Proposition 98 General Fund costs to public colleges, potentially in the millions of dollars, to adopt certain policies and practices put forth in the bill.

SUPPORT

Consumer Attorneys of California

OPPOSITION

Association of Community College Administrators
Community College League of California
Public Risk Innovation, Solutions, and Management

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 383

Hearing Date: July 5, 2023

Author: Zbur

Version: May 18, 2023

Urgency: No

Fiscal: Yes

Consultant: Ian Johnson

Subject: California Classified School Employee Teacher Credentialing Program: leave of absence for student teaching.

SUMMARY

This bill requires classified employees to be granted a paid leave of absence to complete their required student teaching hours as part of the Classified School Employee Teacher Credentialing Program (CSETCP).

BACKGROUND

Existing law:

- 1) Establishes the CSETCP for recruiting classified school employees to participate in a program designed to encourage them to enroll in teacher training programs and to provide instructional service as teachers in the public schools. (Education Code (EC) 44393)
- 2) Requires the Commission on Teacher Credentialing (CTC) to issue a request for proposals to all school districts, charter schools, and county offices of education (COE) in the state in order to solicit applications for funding. Requires the criteria adopted by the CTC for the selection of school districts, charter schools, or COE to participate in the program to include all of the following:
 - a) The extent to which the applicant demonstrates the capacity and willingness to accommodate the participation of classified school employees in teacher training programs conducted at institutions of higher education (IHE) or a local educational agency (LEA);
 - b) The extent to which the applicant's plan for the implementation of its recruitment program involves the active participation of one or more local campuses of the participating IHE in the development of coursework and teaching programs for participating classified school employees. Each selected applicant shall be required to enter into a written articulation agreement with the participating campuses of the IHE;
 - c) The extent to which the applicant's plan for recruitment attempts to meet the demand for bilingual cross-cultural teachers and teachers in shortage areas in transitional kindergarten, kindergarten, and grades 1 to 12, inclusive;

- d) The extent to which a developmentally sequenced series of job descriptions leads from an entry-level classified school employee position to an entry-level teaching position in that school district, charter school, or COE; and
 - e) The extent to which the applicant's plan for recruitment attempts to meet its own specific teacher needs. (EC 44393)
- 3) Requires an applicant that is selected to participate to provide information about the program to all eligible classified school employees in the school district, charter school, or COE and assistance to each classified school employee it recruits under the program regarding admission to a teacher training program. (EC 44393)
- 4) Requires applicants to require participants to satisfy both of the following requirements before participating in the program:
- a) Pass a criminal background check; and
 - b) Provide verification of specified postsecondary study.
- 5) Requires an applicant to certify that it has received a commitment from each participant that he or she will accomplish all of the following:
- a) Graduate from an IHE under the program with a bachelor's degree;
 - b) Complete all of the requirements for, and obtain, a multiple subject, single subject, or education specialist teaching credential; and
 - c) Complete one school year of classroom instruction in the school district, charter school, or COE for each year that he or she receives assistance for books, fees, and tuition while attending an IHE under the program. (EC 44393)
- 6) Requires the CTC, on or before January 1 of each year, to report to the Legislature regarding the status of the program, including, but not limited to, the number of classified school employees recruited, the academic progress of the classified school employees recruited, the number of classified school employees recruited who are subsequently employed as teachers in the public schools, the degree to which the applicant meets the teacher shortage needs of the school district, charter school, or COE, and the ethnic and racial composition of the participants in the program. (EC 44393)

ANALYSIS

This bill:

- 1) Requires, upon appropriation, as part of the CSETCP, classified employees to be granted a leave of absence to complete their required student teaching hours and receive wages and benefits during the leave of absence.
- 2) Requires a classified employee participating in CSETCP to reimburse these costs to an LEA if the employee does not complete a teacher training program or honor a commitment to teach at the LEA after completing a teacher training program.
- 3) Specifies the grant administrator, the CTC, is to use CSETCP grant funds to pay LEAs to provide the wage replacement and benefits.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “AB 383 will help improve California schools and address the ongoing teacher shortage by strengthening the pipeline for our valued classified school staff who wish to enter the teaching profession. The bill will ensure that participants in specified teacher training programs are given the time, funding, and coverage for living expenses that they need to complete the program and obtain a teaching credential.”
- 2) ***Classified School Employee Teacher Credentialing Program background.*** According to the CTC, the Legislature approved a combined total of \$45 million for two separate rounds of funding for the CSETCP—\$20 million in 2016 and an additional \$25 million in 2017. This grant program provides up to \$4,000 per participant, per year, for up to five years. The LEAs that successfully applied to this competitive grant program use these funds to support tuition, fees, books, and related services for participating classified staff; they may also use some of this funding for program administrative purposes. This state grant funding has provided for 2,250 annual participant slots (1,010 slots for Round One, and 1,240 slots for Round Two). The program is designed to address the state's teacher shortages in math, science, special education, and bilingual education, and provide those classified school employees who are familiar with and already working in school settings an opportunity and incentive to complete their undergraduate education and teacher preparation to become a credentialed California teacher.
- 3) ***2022 CSETCP report.*** The CTC completed their evaluation and report to the Legislature on the CSETCP in December 2022. The report identifies several successes including the diversity of the teacher candidates in the program and the large number of teacher candidates earning an education specialist credential. The report also identifies several challenges for the program participants, including the difficulty of maintaining a full time job, sometimes multiple jobs, and completing the teacher preparation program. Since the program's inception in 2016-17, the largest racial/ethnic group of classified employees recruited are Hispanic or Latinx (42%), followed by White participants (30%). Of the total 10,088 participants enrolled in program to date, 5.7% percent identified as Black or African American, and 6.37% identified as Asian.

One participating school district reported, "The Classified Program is helping our district address the acute shortage of teachers in special education. Last year, a participant earned a Multiple Subject credential and was offered a full-time teaching position. This program also addresses our district's goals of increased hiring and retaining teachers representing historically underrepresented communities. The participant who earned the credential is African American. We are proud that 50% of our program participants identify as African American and 33% are Hispanic/Latino."

- 4) ***Arguments in support.*** The California Federation of Teachers states, "While this program has been a success for many candidates, barriers exist to ensure that it is fully utilized. Current law prohibits candidates from receiving living expenses or requiring employers to provide unpaid time for candidates participating in this program. Further, the restrictions on programs have prevented students from being able to utilize some of the state's best teacher preparation programs. Consequently, these barriers prevent potential candidates from enrolling in the program and enrolled candidates from completion. This bill would address these barriers for candidates to complete the program. The bill requires that candidates in the program can take an unpaid leave of absence to complete required internship hours, may receive living expenses while enrolled."

SUPPORT

American Federation of State, County and Municipal Employees
California School Employees Association
California Teachers Association
Los Angeles County Office of Education

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 438
Author: Blanca Rubio
Version: June 19, 2023
Urgency: No
Consultant: Ian Johnson

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: Pupils with exceptional needs: individualized education programs: postsecondary goals and transition services.

SUMMARY

This bill changes the point at which postsecondary transition planning for students with exceptional needs begins from age 16 to when the student enters grade 9, effective July 1, 2025.

BACKGROUND

Existing federal law:

- 1) The federal Individuals with Disabilities Education Act (IDEA) defines transition services to mean a coordinated set of activities for a child with a disability that:
 - a) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; and
 - b) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests, and includes:
 - i) Instruction;
 - ii) Related services;
 - iii) Community experiences;
 - iv) The development of employment and other post-school adult living objectives; and
 - v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

- 2) States that transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.
- 3) Requires that, beginning not later than the first individualized education program (IEP) in effect when the child is 16, and updated annually thereafter, the IEP include:
 - a) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;
 - b) The transition services (including courses of study) needed to assist the child in reaching those goals; and
 - c) Beginning not later than one year before the child reaches the age of majority under state law, a statement that the child has been informed of the child's rights, if any, that will transfer to the child on reaching the age of majority. (20 U.S.C. § 1400, Sec. 300.43)
- 4) Requires that a child with a disability, at age 16, be invited to attend the child's IEP team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.
- 5) Requires that, if the child does not attend the IEP team meeting other steps are taken to ensure that the child's preferences and interests are considered.

Existing state law:

- 1) Restates the transition planning requirements of IDEA, and adds "or younger if determined appropriate by the IEP team" to the description of the age at which transition planning is required to begin. (Education Code (EC) 56341.5)
- 2) States that planning for transition from school to postsecondary environments should begin in the school system well before the student leaves the system. (EC 56460)
- 3) Establishes the Project Workability program, which provides instruction and experiences that reinforce core curriculum concepts and skills leading to gainful employment. Authorizes the California Department of Education (CDE) to award grants to school districts, county offices of education (COEs), state special schools, and charter schools, and nonpublic, nonsectarian schools. Requires that Project Workability grant applications include the following elements: recruitment, assessment, counseling, pre-employment skills training, vocational training, student wages for try-out employment, placement in unsubsidized employment, other assistance with transition to a quality adult life, and utilization of an interdisciplinary advisory committee to enhance project goals. (EC 56470)

ANALYSIS

This bill:

- 1) Requires, effective July 1, 2025, that a student's IEP include the following information commencing with the first IEP after a student enters grade 9:
 - a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and
 - b) The transition services, including courses of study, needed to assist the pupil in reaching those goals.
- 2) Lowers the age at which a student would be required to be invited to an IEP team meeting if the purpose of the meeting is the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "For many youth with autism and other disabilities, the transition to adulthood begins with an Individualized Education Plan (IEP). However, California does not require planning to begin until age 16, when many students are half way complete with high school. As a result, the state is not providing students who have been identified as having a disability with the essential time needed to develop the appropriate skills for adult life, and the time for schools, parents, and service providers to develop meaningful individualized transition plans. California must catch up to other states, over half of whom start transition IEP's at 14 years of age, if we want to be an education leader again."
- 2) ***Age of transition planning for students with disabilities.*** Federal law requires that, beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, the IEP include a postsecondary transition plan. State law restates the federal requirement to begin transition planning at 16, and in addition states, "or younger if determined appropriate by the IEP team." Federal law also requires that students be invited to IEP team meetings at which postsecondary goals are discussed.

According to the CDE, there are 128,172 students with disabilities ages 14 and 15 enrolled in the 2022-23 school year. This provides an estimate of the number of additional students to whom an earlier transition planning requirement would apply.

- 3) ***Most states start transition planning at age 14.*** A review of the age of transition planning among U.S. states and territories (Suk, 2020) found that 29 of 56 states and U.S. territories begin transition planning at age 14. According to survey data reported by the GAO, about 32% of school districts begin transition planning when students are 14. At least one California school district, the Los

Angeles Unified School District, begins transition planning for all students with IEPs at age 14.

- 4) ***IEP template workgroup recommends lowering transition planning age to 14.*** SB 75 (Committee on Budget), Chapter 51, Statutes of 2019, required the CDE to convene a workgroup to design a state standardized IEP template. The workgroup was comprised of representatives of the CDE, the Department of Rehabilitation (DOR), the Department of Developmental Services (DDS), LEAs, special education local plan areas (SELPAs), legislative staff, and relevant state and national policy experts.

The workgroup report, published in October, 2021, made 25 recommendations to improve the IEP process in California and ensure that IEPs are designed to improve student outcomes, capture student needs, and inform learning strategies that support instruction that is aligned to state standards and provided in the general education setting whenever possible.

The workgroup noted the need for the IEP template to specifically and explicitly document transition planning for the many transitions that occur throughout a child's entire public education experience. The workgroup also recognized that secondary transition planning is often focused on the goals for the student after they have exited school and neglects to focus on the needed transition supports to finish school and achieve the goal of receiving a high school diploma.

The workgroup report recommended that state law be revised to lower the required age for postsecondary transition planning from 16 to 14. The report noted that this is consistent with existing law which states "planning for transition from school to postsecondary environments should begin in the school system well before the student leaves the system."

The report also noted that the recommendation to move the required transition planning age from 16 to 14 was not a unanimous recommendation of the workgroup. Some members expressed concern that this would create additional burden for teachers and case managers.

- 5) ***Arguments in support.*** Autism Speaks writes, "The growing number of youth with autism would benefit from an earlier start in developing the appropriate goals, plans and skills for adult life. Additional planning and implementation years would enhance the ability of students' IEP teams to create and implement robust and meaningful transition plans and activities such as paid work opportunities/apprenticeships/internships, preparation for post-secondary education and/or programs, housing, etc. This earlier planning is supported by a US Government Accountability Office Report 'Youth with Autism, Federal Agencies Should Take Additional Action to Support Transition-Age-Youth,' which found that for many autistic youth, starting transition planning at 16 may be too late."

SUPPORT

Autism Speaks (Sponsor)
California Alliance of Child and Family Services
California Association of School Psychologists
California School Boards Association
Center for Autism and Related Disorders
East Bay Legislative Coalition

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 689	Hearing Date:	July 5, 2023
Author:	Wendy Carrillo		
Version:	March 23, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Community colleges: enrollment and registration: incumbent health care workers.

SUMMARY

This bill requires a California Community Colleges (CCC), beginning in the 2024-2025 academic year, to set aside 15% of slots in its impacted courses and programs for incumbent health care employees. The bill also requires a CCC to provide priority registration to incumbent health care employees when enrolling in CCC courses and programs.

BACKGROUND

Existing law:

- 1) Establishes the California Community Colleges (CCC) under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in California. The CCC shall be comprised of CCC districts. (Education Code (EC) § 70900).
- 2) Authorizes the California State University (CSU) and each CCC district, and requests the University of California (UC) to offer priority registration for any existing or former member of the State Guard or a former member of the Armed Forces of the United States who is a California resident and has been honorably discharged, as defined. (EC § 66025.8).
- 3) Authorizes the CSU and each CCC district, and requests the UC to offer priority registration to foster youth, former foster youth, homeless youth, or formerly homeless youth, as defined. (EC § 66025.9)
- 4) Requires each CCC district to offer priority registration to students eligible for disabled student programs and services, students eligible for extended opportunity programs and services, students receiving CalWORKS, and students who receive Tribal Temporary Assistance for Needy Families (TANF), as defined. (EC § 66025.91 and § 66025.92)
- 5) Requires, beginning no later than July 1, 2023, each campus of the CSU, and each campus within a CCC district, and requests each campus of the UC to offer priority registration to student parents. (EC § 66025.81)

- 6) Authorizes a CCC registered nursing program that determines that the number of applicants that the program exceeds its capacity to admit students through the administration of multi-criteria screening process, random selection process or a blended combination of random selection and multi-criteria screening process. Current law requires a CCC that elects to use a multicriteria screening process to evaluate applicants to apply those measures in accordance with all of the following:
- a) The criteria applied in a multicriteria screening process will include, but is not limited to:
 - i) Academic degrees or diplomas, held by an applicant.
 - ii) Grade-point average in relevant coursework.
 - iii) Any relevant work or volunteer experience.
 - iv) Life experiences or special circumstances of the applicants as defined.
 - v) Proficiency in advance level coursework in languages other than English, as defined.
 - b) Additional criteria such as a personal interview, a personal statement, a letter of recommendation, or a number of repetitions of prerequisite classes may be included but are not required.
 - c) Additional criteria may include the use of a diagnostic test. (EC § 78261.5 (a) and (b))
- 7) Requires a CCC that uses a multicriteria screening process to report its nursing program admission policies to the Chancellor annually, in writing. The policy will include how each criteria is factored into the college's decision in terms of admission.
- 8) Repeals provisions related to the authorization for a community colleges to admit students using the methods described above on January 1, 2025, unless another statute extends the date. (EC § 78261.5)

ANALYSIS

This bill:

- 1) Requires, commencing with the 2024-25 academic year, a CCC with a limited enrollment course or program to ensure that at least 15 percent of admitted students, but no less than 3 students per incoming cohort, in the course or program are incumbent health care workers.
- 2) Requires, commencing with the 2024–25 academic year, that an impacted CCC registered nursing program described have at least 15 percent of the admitted

students, but no less than 3 students per incoming cohort, be incumbent health care workers and:

- a) Modifies the multi-criteria screening process authorized in current law for impacted nursing programs to ensure slots are set aside for incumbent health care workers, other students seeking admittance are subject to a random selection process.
- 3) States that a CCC is not required to admit any incumbent health care worker into a limited enrollment course or program, including impacted nursing programs, if they would otherwise be ineligible for admittance into the course or program.
- 4) Deems a community college's limited enrollment course or program, including impacted nursing programs, in compliance with the 15 percent but no less than 3 students admittance requirement if the CCC does not receive a sufficient number of incumbent health care workers who apply for admittance into the course or program.
- 5) Requires, commencing with the 2024-25 academic year, that a CCC that administers a priority enrollment system grant registration priority to students who are incumbent health care workers, as prescribed.
- 6) Defines various terms for purposes of the bill, including:
 - a) "Limited enrollment course or program," to mean a course or programs that are limited to students meeting pre-requisites and co-requisites, limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructions, funding limitations, the constraints of regional planning, or legal requirements, as specified in regulations.
 - b) "Incumbent health care," workers to mean a worker who meets all of the following requirements:
 - i) The worker is paid to work in a health care facility to directly or indirectly care for or assist patients. This may include, but is not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, and persons not directly involved in patient care, such as clerical, dietary, environmental services, laundry, security, maintenance, engineering and facilities management, administrative, and billing personnel.
 - ii) The worker has an established employment history with the health care facility for 6 months or more.
 - iii) The worker meets the necessary pre-requisites and co-requisites pursuant to regulations.

STAFF COMMENTS

- 1) **Need for the bill.** “California is in a health care workforce crisis. Even before to the COVID-19, California faced a shortage of trained health care employees. In January 2020, Future Health conservatively estimated a shortage of 500,000 allied health employees by 2024. In the aftermath of the pandemic, this workforce shortage has only grown worse. And it is not limited to the allied health professions. According to a recent study by UCSF, California had a deficit of 40,000 registered nurses in 2021, and that number has likely only grown.

These shortages disproportionately impact disadvantaged communities throughout California. Fortunately, there are potential solutions to the state’s health care workforce crisis. One of the most promising areas is in training incumbent workers, which would enable the existing workforce to advance in their careers to earn a higher wage. In health care, this could include training a licensed vocational nurse to become a registered nurse or training an orderly to become a phlebotomist.

Unfortunately, the current method of assigning slots within impacted programs at California’s community colleges limits incumbent worker training in the health care industry. This is why I authored AB 689.”

- 2) **Is this the appropriate solution?** This bill attempts to address the health care workforce crisis by setting aside slots in impacted community college courses. However, this bill does not increase the number of spaces available rather it limits open slots. The bill’s provisions apply to any person who is paid to work in a health care facility, ranging from physicians to security personnel. Courses or programs do not have to be health-related in order for an incumbent health care worker to receive the benefit provided under this bill. Any impacted course or program, including, for example, a course in criminal justice or history, would have to set aside 15 percent of slots for an incumbent health care worker. Further, the bill is silent on addressing issues affecting course or program impaction, such as the availability of instructors, funding, or facility limitations. *If it is the goal of the bill to expand the workforce, is it an effective policy to limit the number of slots available for other students who wish to enroll in the same course or program? How would such a policy impact the overall goal of increasing the number of health care graduates? Would requiring community colleges to reserve 15 percent of limited slots for incumbent health care workers signal that certain groups of students are less worthy of those slots or career path? The committee may wish to consider whether this policy may have unintended consequences, such as discouraging potential students from pursuing a career in health care? Rather than limit the number of slots available to the general student population, why not expand programs or course offerings throughout the system to serve any student who wishes to enroll in those programs?*
- 3) **Slippery slope.** As outlined in the Master Plan for Higher Education and by state statute, the CCCs are designated to have an open admission policy and bear the most extensive responsibility for lower-division undergraduate instruction. Its

three primary areas of mission include education leading to associate degrees and university transfer, career technical education, and basic skills. The community colleges admit any student capable of benefiting from instruction. It is the largest and most diverse system of higher education in the country, with over 69 percent of CCC students coming from diverse ethnic backgrounds and 47 percent of students receiving financial aid to cover tuition fees. The CCC Chancellor's Office's most recent report (May 2023) on basic needs services concludes that basic needs security remains the top need identified by students that impacts their equitable enrollment, persistence, and completion. It is evident that CCCs serve a vulnerable population within the state and have a critical role in ensuring their academic success. *This bill would establish a statutory precedent for setting aside slots within CCCs for specific groups of students based on their employment; it is likely that in future years other worthy groups will request a similar benefit. If the Legislature continues down this path, it could jeopardize the open access mission of the community colleges by limiting the number of open spaces available to the general student population.*

- 4) **Priority registration.** Priority registration decisions are made at the campus level at each segment. The process allows specific students access to classes ahead of the general student population. For example, continuing students generally are allowed to enroll in courses before new students enroll. As such, students who have priority registration status have an advantage over other students.

In addition to priority registration granted by the campuses, existing law requires the CCCs to grant priority enrollment to the following students:

- a) Current and former foster youth.
- b) Until January 1, 2020, homeless youth.
- c) Any member or former member of the Armed Forces of the United States, and who is a resident of California, who has received an honorable discharge, a general discharge, or an other than honorable discharge, and to any member or former member of the State Military Reserve, for any academic term attended at one of these institutions for four academic years after he or she has left state or federal active duty, which he or she shall use within 15 years of leaving state or federal active duty.
- d) Any student who is a CalWORKs or Tribal TANF recipient.
- e) Students in the CCC Extended Opportunity Programs and Services program, and disabled students who are determined to be eligible for disabled student programs and services.

This bill adds incumbent health care workers to this list of groups for which priority registration must be granted. The Committee may wish to consider at what point priority becomes overprescribed.

- 5) **Other options that address program impactation.** To address workforce shortages, previous budgetary and policy efforts aimed to boost enrollment capacity, build educational pipeline programs to improve time to degree, or expand programs and student assistance. The 2015 Budget Act included funding to strengthen enrollment capacity and student assistance for the CCC nursing program, resulting in increased enrollment and lower attrition rates. Furthermore, in response to concerns about managing limited enrollment slots within high-demand nursing programs and student retention, current law established by AB 1559 (Berryhill, Chapter 712, Statutes of 2007) requires CCCs that elect to use a multi-criteria screening process to evaluate applicants for admission to nursing programs on specified criteria. Those criteria may relate to the academic performance, work or volunteer experience, foreign language skills, life experiences, and special circumstances of the applicant. AB 1559 authorizes a CCC registered nursing program using a multi-criteria screening process to use an approved diagnostic assessment tool before, during, or after the multi-criteria screening process. It authorized a college to admit students through a random selection process or a multi-criteria screening process. This bill would allow incumbent health care workers to bypass the evaluation process in current law, established by AB 1559.
- 6) **Amendments.** The author has agreed to the amending the bill as follows:
- Clarify that the 15% set aside only applies to healthcare programs, not all impacted programs.
 - Clarify that incumbent healthcare workers will get first shot at the 15% of set aside slots. If those slots are not filled by incumbent healthcare workers within 10 days of opening enrollment then they can be opened up to everyone.
 - Add a 10-year sunset.
 - Increase time in employment from 6 months to a 1 year.

7) **Related legislation**

AB 1311 (Soria, 2023) requires the Legislative Analyst's Office (LAO) to conduct an assessment, on or before January 1, 2025, evaluating the efficacy of existing programs in allied health jointly offered between campuses of the CCC, CSU, and UC. AB 1311 is set to be heard at the same hearing as this bill.

AB 1695 (Gipson, 2023) establishes the Nursing Pathway Pilot program in high schools to create pathways toward associate degrees in nursing at California Community Colleges. AB 1695 was heard and approved by this committee on June 28, 2023.

AB 255 (Alanis, 2023) requires by July 1, 2024, for CCC districts and the CSU and request the UC to grant priority registration to students employed as first responders, including paramedics and emergency medical technicians. AB 255

was approved on consent by this committee on June 21, 2023 and is currently pending in Senate Appropriations Committee.

SUPPORT

California Hospital Association (Co-Sponsor)
California Association of Public Hospitals & Health Systems
CaliforniaHealth+Advocates
Community Clinic Association of Los Angeles County

OPPOSITION

Community College League of California

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 555
Author: Juan Carrillo
Version: May 1, 2023
Urgency: No
Consultant: Lynn Lorber

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: California state preschool programs: reimbursement amounts: adjustment factors.

SUMMARY

This bill increases priority for the enrollment of three-year olds in state preschool programs by giving equal priority to three-and four-year olds, extends specified adjustment factors to part-day state preschool programs, and provides that state preschool programs serving children who meet the criteria for more than one adjustment factor may be reimbursed based on each adjustment factor met.

BACKGROUND

Existing law:

- 1) Establishes the “Early Education Act” to provide an inclusive and cost-effective preschool program that provides high-quality learning experiences, coordinated services, and referrals for families to access health and social-emotional support services through full- and part-day programs and provides that all families have equitable access to a high-quality preschool program, regardless of race or ethnic status, cultural, religious, or linguistic background, family composition, or children with exceptional needs. (Education Code (EC) § 8200 et seq.)
- 2) Defines “California state preschool program” as programs that offer part-day and/or full-day educational programs for eligible three- and four-year-old children, and authorizes these programs to be offered by a public, private, or proprietary agency, and operated in childcare centers or family childcare homes operating through a family childcare home education network. (EC § 8205)
- 3) Requires the Superintendent of Public Instruction to administer all state preschool programs, and requires these programs to include part-day and full-day age and developmentally appropriate programs that are designed to facilitate the transition to kindergarten for three- and four-year old children and that provide early learning and care, health services, social services, nutritional services, parent education and parent participation, evaluation, and staff development. (EC § 8207)
- 4) Defines “three-year-old children” as children who will have their third birthday on or before December 1 of the fiscal year in which they are enrolled in a state preschool program. Children who have their third birthday on or after December

2 of the fiscal year, may be enrolled in a state preschool program on or after their third birthday. (EC § 8205)

Priority for enrollment

- 5) Establishes priority for enrollment in *part-day* state preschool as follows:
 - a) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused, or exploited and for whom there is a written referral from a legal, medical, or social service agency.
 - b) The second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold.
 - c) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.
 - d) The fourth priority shall be given to eligible three-year-old children.
 - e) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the eligibility income threshold.
 - f) After all otherwise eligible children have been enrolled in the first through fifth priority categories, as described in paragraphs (1) to (5), inclusive, the contractor may enroll the children in the following order:
 - i) A California preschool program site operating within the attendance boundaries of a qualified free and reduced priced meals school, in accordance with Section 8217, may enroll any three- or four-year-old children whose families reside within the attendance boundary of the qualified elementary school. These children shall, to the extent possible, be enrolled by lowest to highest income according to the most recent schedule of income ceiling eligibility table.
 - ii) Children enrolling in the California state preschool program to provide expanded learning and care to transitional kindergarten or kindergarten students. (EC § 8210)
- 6) Establishes priority for enrollment in *full-day* state preschool as follows:
 - a) The first priority for services shall be given to three-year-old or four-year-old children who are recipients of child protective services or who are at risk of being neglected, abused or exploited upon written referral from a legal, medical, or social service agency.

- b) The second priority for services shall be given to all three- and four-year-old children with exceptional needs from families with incomes below the income eligibility threshold.
- c) The third priority for services shall be given to eligible four-year-old children who are not enrolled in a state-funded transitional kindergarten program.
- d) The fourth priority shall be given to eligible three-year-old children.
- e) The fifth priority, after all otherwise eligible children have been enrolled, shall be children from families whose income is no more than 15 percent above the income eligibility threshold.
- f) After all otherwise eligible children have been enrolled in the first through fifth priority categories, the contractor may enroll the children in the following order:
 - i) Three- and four-year-old children from families that meet eligibility criteria.
 - ii) For California state preschool program sites operating within the attendance boundaries of a qualified free and reduced priced meals school, the contractor may enroll any three- and four-year-old children whose families reside within the attendance boundary of the qualified school without establishing eligibility or a need for services. (EC § 8211)

Reimbursement rates

- 7) Requires the Standard Reimbursement Rate (SRR) beginning July 1, 2021, for *full-day* state preschool to be \$12,968, and \$5,621 for *part-day* state preschool, and beginning January 1, 2022, contractors receiving the SRR be reimbursed at the greater of the 75th percentile of the 2018 regional market rate survey, or the contract reimbursement amount as of December 31, 2021, as increased by the cost-of-living adjustment. (EC § 8242)
- 8) Requires the reimbursement rates for *full-day* state preschool to be adjusted by the following reimbursement factors:
 - a) Prior to January 1, 2022, providers serving children between 4 to 6.5 hours per day, the reimbursement factor is 75 percent of the SRR.
 - b) Prior to January 1, 2022, providers serving children between 6.5 to 10.5 hours per day, the reimbursement factor is 100 percent of the SRR.
 - c) For providers serving children for 10.5 hours or more per day, the reimbursement factor is 118 percent of the SRR. (EC § 8245)

- 9) Requires the reimbursement rates for state preschool contracting agencies, for the 2022–23 fiscal year only, to be reimbursed 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less. (EC § 8245.5)

Adjustment factors

- 10) Requires, for *full-day* state preschool, a contractor's child-days of enrollment to be multiplied by specified adjustment factors to reflect the additional expense of serving full-day preschool children meeting the following criteria:
- a) For children with exceptional needs, including children with severe disabilities, the adjustment factor is 2.40;
 - b) For children at risk of neglect, abuse, or exploitation, the adjustment factor is 1.1;
 - c) For dual language learner children, the adjustment factor is 1.2;
 - d) When early childhood mental health consultation services are provided, the adjustment factor is 1.1; and,
 - e) For children 47 months or younger, the adjustment factor is 1.8. (EC § 8244)
- 11) Limits adjustment factors for *part-day* state preschool to those for children with exceptional needs, early mental health consultation, and children 47 months and younger. (EC § 8244)
- 12) Requires that state preschool contractors be reimbursed for services based upon the lesser of the following:
- a) The maximum reimbursable amount as stated in the annual preschool contract; or
 - b) The net reimbursable program costs; or
 - c) The product of the adjusted child days of enrollment for certified children, times the contract rate per child day of enrollment, times the actual percentage of attendance plus 5%, but in no case to exceed 100% of enrollment. (California Code of Regulations, Title 5, § 17812)

ANALYSIS

This bill increases priority for the enrollment of three-year olds in state preschool programs by giving equal priority to three-and four-year olds, extends specified adjustment factors to part-day state preschool programs, and provides that state preschool programs serving children who meet the criteria for more than one adjustment factor may be reimbursed based on each adjustment factor met. Specifically, this bill:

Priority for enrollment

- 1) Requires a contracting agency serving part-day and full-day state preschool programs to give equal priority to serving three-and four-year olds by adding three-year olds to the third priority category, and deletes the requirement that three-year olds be given the fourth priority when considering enrollment.

Reimbursement rates

- 2) Codifies a modified version of existing regulations relative to reimbursements to provide that, beginning July 1, 2024, state preschool contractors be reimbursed the lesser of the following:
 - a) The maximum reimbursable amount stated in the contract.
 - b) Net reimbursable program costs.
 - c) The product of the adjusted child days of enrollment for certified children times the contract rate. This bill excludes existing regulatory language that adjusts this provision by the actual percentage of attendance plus 5 percent, thereby basing the reimbursement upon enrollment rather than attendance.
- 3) Deletes 2022 budget language that authorizes the California Department of Education (CDE) to issue temporary rate increases that exceed the SRR and reimbursement rate supplements

Adjustment factors

- 4) Extends existing adjustment factors provided to *full-day* programs to also apply to *part-day* state preschool programs for children at risk of neglect, abuse, or exploitation, or who are dual language learners.
- 5) Authorizes *full-day* and *part-day* state preschool programs that serve children who meet more than one of the criteria for adjustment factors to be reimbursed using more than one adjustment factor.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In 2021–22, California only served 8.5 percent of the over 300,000 eligible three-year-olds in the CSPP. Assembly Bill 555 will increase access and expand opportunities for children in the California State Preschool Program (CSPP) by removing barriers that programs face in serving three-year olds and children who require multiple additional supports, while strengthening system coherence and stability for CSPP programs as they recover from the pandemic and support California’s children and families to not only recover, but to thrive.

“Research shows the critical importance of access to preschool programs for all

children, but particularly Black, Hispanic/Latino, American Indian, and other children of color, as well as multilingual learners, children with disabilities and children experiencing poverty. The provisions in this bill are critical to ensuring systemic supports so that these children can experience the long-term benefits of access to two years of preschool.

“As the early education field and educational system recover from the pandemic, now is a critical time to ensure these systems are structured to adapt to change. It is critical to remove barriers to access in this critical transition period so that we can provide the much needed support so working parents can meaningfully participate in the workforce and sustain their families.”

- 2) ***Why change priority for three-year-olds?*** This bill attempts to help ensure that state preschool programs and providers are not negatively affected by the expansion of transitional kindergarten to include all four-year olds. The concern is that preschool programs will lose four-year old children to transitional kindergarten. This bill supports state preschool programs by ensuring that programs are not required to wait to enroll eligible three-year old children until they have enrolled all eligible four-year old children first. State preschool programs will be able to enroll children from the lowest income families first, regardless of whether they are three- or four-years old.

AB 116 (Committee on Budget, 2023) and SB 116 (Committee on Budget and Fiscal Review, 2023), early learning and care budget trailer bills, currently include the change in priority for three-year olds. *The author may wish to consider removing this provision should it remain in the trailer bill.*

- 3) ***California serves only a portion of children eligible for early learning programs.*** As notes in the Assembly Education Committee analysis, in 2021-22, there were 620,000 three- and four-year old children who were income eligible for subsidized early learning programs, but only a fraction are currently served by federal or state funded programs, as shown below:

Age	Total population	Eligible for CSPP	Served in CSPP - % of eligible	Estimated # served in TK	Estimated # Served in Head Start	Est. % of eligible children unserved
3-year olds	498,416	303,603	8.5%	n/a	19,017	85%
4-year olds	507,294	316,917	21.5%	75,465	18,820	49%

Source: CDE, February 2023

- 4) ***Reimbursement rates.*** This bill codifies a modified version of existing regulations relative to reimbursements to allow state preschool programs to be reimbursed based upon enrollment rather than attendance. This provision is consistent with covid-era relief that was provided to state preschool and other early learning and care programs, which have since expired.

AB 110 (Committee on Budget) Chapter 4, Statutes of 2023 authorizes a temporary rate increase that exceeds the SRR; this bill strikes that provision and is therefore in conflict with a recently-enacted budget bill. **Staff recommends an amendment** to re-establish the provision in this bill, as follows:

On page 8, after line 12, insert **“(2) Commencing July 1, 2022, subject to available funding, the department may issue temporary rate increases to contractors that exceed the rates specified in paragraph (1) and the reimbursement rate supplements described in Section 51 of Chapter 571 of the Statutes of 2022.”**

- 5) **Adjustment factors.** Existing law provides additional funding via adjustment factors for state preschool programs that serve children who have additional needs, but provides adjustment factors for fewer types of needs for part-day programs than for full-day programs. This bill extends all adjustment factors to part-day state preschool programs, as well as allow both full- and part-day programs that serve children who meet more than one of the criteria for adjustment factors to be reimbursed using more than one adjustment factor.
- 6) **Fiscal impact.** According to the Assembly Appropriations Committee, CDE estimates costs as follows:
 - a) Potential reduction in savings to the state (General Fund/Prop 98) of an unknown amount due to removing priority for four-year old children.
 - b) Potential loss of savings to the state of an unknown amount to the extent funding contractors based on enrollment rather than attendance incentivizes contractors to enroll more children and earn more of their contracts than they currently are.
 - c) Estimated costs of \$134.4 million (General Fund/Prop 98/federal funds) to allow part-day contractors to claim all adjustment factors and to allow all contractors to claim multiple adjustment factors, to the extent the state allocates additional funding to support the increase in reimbursement that would result. If the state does not allocate funding, there would be no cost to the state, but could result in fewer children served.

Additionally, this provision could generate costs to contractors who are earning their contracts, if the state does not allocate additional funding for the increase in reimbursement.
 - d) Administrative costs of \$69,000 in fiscal year (FY) 2023-24, and \$67,000 in FY 2024-25 to CDE's Early Education Division for a one quarter-time position and operating expenses and equipment.
- 7) **Related legislation**

AB 596 (Reyes, 2023) a) requires the California Department of Social Services (CDSS), in collaboration with CDE, to develop and implement an alternative

reimbursement rate setting methodology with specified characteristics for child care and development programs and state preschool programs by the 2027–28 fiscal year; b) requires reimbursement for child care and state preschool providers to be based on program enrollment rather than attendance records; requires CDSS, in collaboration with CDE, to develop an equitable sliding scale for child care and state preschool family fees, and prohibits family fees from being collected until the new fee scale is established. AB 596 is scheduled to be heard by this committee on July 5, 2023.

SB 380 (Limón, 2023) is nearly identical to AB 596, and is pending in the Assembly Education Committee.

AB 51 (Bonta, 2023) among other things, increases the income ceilings and adds area median income as a criteria for meeting income eligibility for subsidized child care and state preschool. AB 51 is pending in the Senate Human Services Committee.

SUPPORT

Children's Bureau of Southern California
Early Edge California
EveryChild California
Los Angeles County Office of Education
Los Angeles Unified School District
Mission Child Care Consortium Inc.
Riverside County Superintendent of Schools

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 596
Author: Reyes
Version: May 1, 2023
Urgency: No
Consultant: Lynn Lorber

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: Early learning and care: rate reform.

SUMMARY

This bill 1) increases reimbursements to state preschools, general child care, and alternative payment providers; 2) requires the California Department of Social Services (DSS), in collaboration with the California Department of Education (CDE), to develop, and requires DSS and CDE to implement an alternative methodology for calculating subsidy payment rates for child care services and state preschool program services; 3) requires DSS, in consultation with CDE, to develop an equitable sliding scale for the payment of family fees; and, 4) prohibits family fees from being collected until the new equitable sliding scale is established and implemented.

BACKGROUND

Existing law:

Reimbursement rates

- 1) Requires DSS and CDE to implement a reimbursement system plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service. (Education Code (EC) § 8242 and Welfare and Institutions Code (WIC) § 10280)
- 2) Requires the reimbursement rates for full-day state preschool to be adjusted by the following reimbursement factors:
 - a) Prior to January 1, 2022, providers serving children between 4 to 6.5 hours per day, the reimbursement factor is 75 percent of the Standard Reimbursement Rate (SRR; see # 4 below).
 - b) Prior to January 1, 2022, providers serving children between 6.5 to 10.5 hours per day, the reimbursement factor is 100 percent of the SRR.
 - c) For providers serving children for 10.5 hours or more per day, the reimbursement factor is 118 percent of the SRR. (EC § 8245)
- 3) Requires the reimbursement rates for state preschool contracting agencies, for the 2022–23 fiscal year only, to be reimbursed 100 percent of the contract maximum

reimbursable amount or net reimbursable program costs, whichever is less. (EC § 8245.5)

- 4) Establishes, beginning July 1, 2021, the SRR to be \$12,888 and requires, beginning with the 2022-23 fiscal year, that the SRR be increased by the cost-of-living adjustment granted by the Legislature. (WIC § 10280(b))
- 5) Requires the cost of child care services for recipients of the California Work Opportunity and Responsibility to Kids Program (CalWORKs) be governed by regional market rates and defines “regional market rate” as care costing no more than 1.5 market standard deviations above the mean cost of care for that region. (WIC § 10374.5(a))
- 6) Establishes, beginning January 1, 2022, the Regional Market Rate (RMR) ceilings at the greater of: the 75th percentile of the 2018 RMR survey for that region; or, the RMR ceiling that existed in that region on December 31, 2021. (WIC § 10374.5(b)(2))
- 7) Requires, beginning January 1, 2022, contractors who, as of December 31, 2021, received the SRR to be reimbursed at the greater of the following: the 75th percentile of the 2018 RMR survey; or, the contract per-child reimbursement amount as of December 31, 2021. (WIC § 10280(c)(1))
- 8) Requires the Governor and the Child Care Providers Union to establish a Joint Labor Management Committee (JLMC) to develop recommendations for a single reimbursement rate structure that addresses quality standards for equity and accessibility while supporting positive learning and developmental outcomes for children. (WIC § 10280.2(a))
- 9) Requires DSS, in consultation with CDE, to convene a working group separate from the JLMC to assess the methodology for establishing reimbursement rates and the existing quality standards for child care and development and preschool programs, as specified. (WIC § 10280.2(b))

Family fees

- 10) Requires parent fees paid for the state preschool program to be used to pay reasonable and necessary costs for providing additional services and further specifies how parent fees for all state subsidized early childhood services and state preschool can be used and assessed by the Superintendent of Public Instruction (SPI) in conjunction with DSS, as specified. (EC § 8242 and § 8252 et seq.)
- 11) Requires DSS, in consultation with CDE, to establish a fee schedule for families using preschool and child care and development services, and requires families to be assessed a single flat monthly fee for all state-subsidized services based on income, certified family need for full-time or part-time care, and enrollment (families fees shall not be based on actual attendance). (WIC § 10290)
- 12) Requires DSS to design the new family fee schedule based on the most recent census data available on state median family income in the past 12 months,

adjusted for family size, and prohibits the revised fees from exceeding 10 percent of the family's monthly income. (WIC § 10290)

- 13) Prohibits family fees from being collected for the 2021-22 and 2022-23 fiscal years, and, further, requires, during the 2022-23 fiscal year, contractors to reimburse subsidized child care providers for the full amount of the certificate or voucher without deducting family fees. (WIC § 10290)

ANALYSIS

This bill:

Reimbursement rate

- 1) Extends a portion of covid-era relief by requiring:
- a) State preschool program contracting agencies to be reimbursed 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less.
 - b) State preschool family child care home education network providers to be reimbursed based on the maximum certified hours of care for all families, regardless of attendance.
 - c) Alternative payment program providers, including license-exempt providers, to be reimbursed based on the maximum certified hours of care, regardless of attendance.
 - d) Contracting agencies operating a general child care and development program (general child care) be reimbursed 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less.

New alternative methodology

- 2) Requires DSS, in collaboration with CDE, to develop, and requires DSS and CDE to implement an alternative methodology for calculating subsidy payment rates for child care services and state preschool program services, in accordance with both of the following:
- a) Require the alternative methodology to build on the recommendations of the working group and be aligned with the recommendations of the JLMC (see comment # 6 on page # 7).
 - b) Require the alternative methodology to use a cost estimation model that includes all of the following:
 - i) Program models will meet the current statutory and regulatory requirements for each program.

- ii) Staff salaries and benefits.
 - iii) Training and professional development.
 - iv) Curricula and supplies.
 - v) Group size and ratios.
 - vi) Enrollment levels.
 - vii) Facilities and other costs.
 - viii) Family engagement.
- 3) Requires DSS to develop an interim transition plan, if necessary, for DSS and CDE to implement the alternative methodology by increasing the various rates from their current level to the alternative methodology level over time as funds are appropriated for these purposes in the annual Budget Act.
 - 4) Requires DSS and CDE to fully implement the alternative methodology beginning in the 2027–28 fiscal year, no sooner than 30 days after notification in writing to the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or their designee, determines is appropriate. This bill requires CDE to implement the alternative methodology (for state preschool programs) once it has notified the Legislature in writing that it has adopted the alternative methodology.
 - 5) Sunsets the current reimbursement system once the alternative methodology has been adopted by DSS and CDE.
 - 6) Requires any funding provided in the Budget Act of 2023 to increase reimbursement rates to be distributed using the interim transition plan, if it has been developed, until the alternative methodology is adopted.
 - 7) Requires funding and subsidy payments to be based on enrollment of certified children with the contract rates set using the alternative methodology.
 - 8) Requires DSS, in collaboration with CDE, to review and update the alternative methodology every three years.
 - 9) Requires DSS, in collaboration with CDE, to seek preapproval from the United States Department of Health and Human Services to amend the state's current Child Care and Development Fund State Plan to change its current methodology for determining child care and development and preschool subsidy payment rates to an alternative methodology.
 - 10) Requires the application for preapproval to be submitted no sooner than 30 days after notification in writing to the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint

committee, or their designee, determines is appropriate.

Family fees

- 11) Requires DSS, in consultation with CDE, to develop an equitable sliding scale for the payment of family fees.
- 12) Prohibits family fees from being collected until the new equitable sliding scale is established and implemented.

General

- 13) States legislative intent that this bill implement the recommendations of the workgroup to create a new reimbursement rate structure for child care and development and preschool programs.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “AB 596 will help child care providers and families by transitioning providers to a single subsidy payment rate structure for early learning and child care programs, suspending family fees until an equitable sliding scale for family fees is established, and ensuring providers are paid based on enrollment rather than attendance. California has been subsidizing the true cost of childcare by paying the early learning and childcare workforce low wages and expecting families to pay high family fees for subsidized childcare programs. We need to make child care more affordable to families and ensure that child care providers receive a dignified wage that allows them to keep their doors open. With prices skyrocketing, families cannot afford another bill, and we must suspend family fees until an equitable sliding scale for family fees can be established. AB 596 supports a new way to pay child care providers based on the real cost of care and provides relief to families.”
- 2) ***Increases rates now.*** This bill extends a portion of covid-era relief by requiring that
 - a) state preschool program contracting agencies be reimbursed 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less;
 - b) state preschool family child care home education network providers be reimbursed based on the maximum certified hours of care for all families, regardless of attendance;
 - c) alternative payment program providers, including license-exempt providers, to be reimbursed based on the maximum certified hours of care, regardless of attendance; and,
 - d) contracting agencies operating a general child care and development program (general child care) be reimbursed 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less.

Covid-era hold harmless policies and additional financial relief expired June 30, 2023. Beginning July 1, 2023, rates will once again based on attendance rather than enrollment or contract maximums. However, AB 116 (Committee on Budget, 2023) provide additional temporary relief, through September 30, 2023, by requiring that contracting agencies operating a state preschool program, migrant child care program, general child care program, family child care home education network

programs, or child care services for children with special needs program be reimbursed at 100 percent of the contract maximum reimbursable amount or net reimbursable program costs, whichever is less. AB 116 passed the Legislature and is awaiting the Governor's action.

- 3) ***Establishes new way to calculate rates.*** Providers of early learning and care are reimbursed either based on the RMR or SRR: alternative payment programs are reimbursed using the RMR while child care programs and preschool programs that contract directly with DSS or CDE are reimbursed using the SRR.

The RMR varies based on the county in which the child is served. The RMR Survey measures a sample of prices charged by licensed child care providers and paid by parents within a given child care market region. The RMR survey is administered every two to three years, and provides "rate ceilings" based on provider setting and the age of the child for all 58 California counties. The rate ceiling is the highest payment a provider can receive from the state for the care of a child. Beginning in 2022, the RMR was set to the 75th percentile of the 2018 RMR survey for that region; or, the RMR ceiling that existed in that region on December 31, 2021.

The SRR is set in statute (currently \$12,888 plus a cost-of-living adjustment) and has typically been adjusted for factors such as the age of the child or disability status, but not on geographic cost factors.

Neither the RMR nor the SRR fully account for the actual cost of providing care to children. This bill requires the development and implementation of an alternative methodology for calculating subsidy payment rates. This bill requires funding and reimbursements to be based on enrollment (not attendance) of certified children with the contract rates set using the alternative methodology.

Committee staff notes that the requirement to develop and implement an alternative methodology for calculating reimbursement rates is included in AB 116 (Committee on Budget, 2023), which was passed by the Legislature and is awaiting the Governor's action. *The author may wish to consider removing this provision should AB 116 become law.*

- 4) ***Family Fees.*** The federal Child Care and Development Fund (CCDF) is an aggregate of several funding sources that is distributed in block grants by the federal government to the states. States receiving CCDF funds must prepare and submit to the federal government a plan detailing how these funds will be allocated and expended. States are also required to establish a sliding fee scale for families that receive child care services supported by federal funds. As such, some parents pay a fee to help cover the costs of needed care. These family fees are assessed based on income and family size, but cannot be based on the cost of care or amount of subsidy payment that a family receives. Current law permits, at the state's discretion, family fees to be waived for families who meet certain criteria, including families that have an income at or below the federal poverty level (currently \$24,860 for a family of three).

Prior to 2021, families with children enrolled in subsidized child care or state preschool were required to pay a fee to the providers. Existing law prohibits family

fees from being collected for the 2021-22 and 2022-23 fiscal years, due to the pandemic. AB 116 (Committee on Budget, 2023) prohibits a family fee from being charged or assessed to a family with an adjusted monthly family income before 75 percent of the state median family income. AB 116 passed the Legislature and is awaiting the Governor's action.

Although family fees are being waived for 2022–23, state preschool contractors are still required to calculate and assess the applicable family fee at initial certification and recertification as usual. According to CDE, this requirement is to ensure that contractors report the correct family fee amount(s) that are being waived and that families are aware of the updated fee that will be applicable July 1, 2023. Under the 2023 schedule these fees can range from \$0-\$700 per month depending on the above criteria.

This bill requires the development of an equitable sliding scale for the payment of family fees and prohibits the collection of family fees until a new sliding scale is implemented.

- 5) ***Temporary relief in the Budget expiring.*** In response to the COVID-19 pandemic, the 2020-2021 and 2021-22 Budget Acts made numerous investments in child care and state preschool by utilizing state and federal funds to provide: temporary emergency vouchers; cleaning supplies and personal protective equipment; temporary supplemental rates to providers; one-time funding for infrastructure grants for the building of new facilities or renovation, repair, or expansion of existing facilities; a suspension of family fee contributions for subsidized child care; and increased reimbursement flexibility for providers accepting vouchers. The 2022-23 Budget Act through AB 210 (Committee on Budget), Chapter 62, Statutes of 2022 also continued some of the investments made during the height of the pandemic, including, but not limited to: providing child care providers with additional stipends; increasing subsidized child care program access to 145,000 slots; and continuing the hold harmless policies for both contract and voucher based care providers; and family fee waivers for state subsidized child care programs and state preschool programs through June 30, 2023. Beginning on July 1, 2023 these provisions will cease and all providers will go back to pre-pandemic reimbursement policies.

- 6) ***Rate and Quality Workgroup, and Joint Labor Management Committee.*** Existing law requires the Governor and the Child Care Providers Union to establish a JLMC to develop recommendations for a single reimbursement rate structure that addresses quality standards for equity and accessibility while supporting positive learning and developmental outcomes for children.

Existing law requires DSS, in consultation with CDE, to convene a working group separate from the JLMC, to assess the methodology for establishing reimbursement rates and the existing quality standards for child care and development and preschool programs, as specified.

In 2022, DSS, in consultation with CDE, convened a working group to assess the methodology for establishing reimbursement rates and existing quality standards for subsidized child care and preschool programs. The Rate and Quality Workgroup recommendations relating to specified topics were provided to the JLMC, the

Department of Finance, and the Joint Legislative Budget Committee in August 2022. [https://cdss.ca.gov/Portals/9/CalWORKs/CCT/CCDD/Rate%20and%20Quality%20Stakeholder%20Workgroup%20Report_August%202022_FINAL%20ADA%20\(2\).pdf?ver=2022-08-24-081240-333](https://cdss.ca.gov/Portals/9/CalWORKs/CCT/CCDD/Rate%20and%20Quality%20Stakeholder%20Workgroup%20Report_August%202022_FINAL%20ADA%20(2).pdf?ver=2022-08-24-081240-333)

The Rate and Quality JLMC Joint Presentation for a Single Rate Structure Alternative Methodology proposal summary dated November 14, 2022, in part, states “This document summarizes the parties’ agreed upon approach to a single rate structure (inclusive of the agreed upon alternative methodology) and offers metrics for assisting with determining base rate setting. The single rate structure includes: a) an alternative methodology that considers a cost estimation model; b) base rates; c) incentives/enhancement rate setting metrics; and, d) evaluation of the rate structure. ... The alternative methodology will include a cost model. The single rate structure will be used to establish a base rate for different program settings.” Additionally, the proposal’s base rate metrics will include current state and federal requirements, equity, cost estimation and process metrics. <https://cdss.ca.gov/Portals/9/CalWORKs/CCT/CCDD/2022.11.14%20Single%20Rate%20Proposal.pdf>

The Governor’s 2023 Budget proposal acknowledged the above workgroup activities and noted “the state will rely on the presented approach as it continues to develop a single rate structure... [and] will continue to work with CCPU to negotiate a successor agreement to the current agreement expiring June 30, 2023.” AB 116 (Committee on Budget, 2023) include legislative intent that any adjustments in the 2023–24 fiscal year and the 2024–25 fiscal years related to reimbursement will be subject to a ratified agreement, and subject to future legislation providing for appropriations related to the budget bill. AB 116 passed the Legislature and is awaiting the Governor’s action.

- 7) **Fiscal impact.** According to the Assembly Appropriations Committee, CDE estimates the following:
- a) Unknown costs for rate increases from transitioning to the alternative rate methodology. CDE indicates these costs are difficult to calculate and will depend on the amount of funding the Legislature provides for the alternative methodology and how DSS allocates the intermediate rate increase under the transition methodology this bill requires DSS to adopt.
 - b) Total costs of approximately \$30.8 million annually (\$16.3 million in Proposition 98 and \$14.5 million of non-Proposition 98 funding) for waiving family fees. CDE indicates funding will be necessary to cover the cost of waived family fees.
 - c) General Fund (GF) costs of \$1.821 million in FY 2024-25, \$1.816 million in FY 2025-26 for state administration. This includes an estimated \$1.5 million for an external contractor to support the workgroup needed to develop the new equitable sliding fee scale.
 - d) Ongoing GF costs of \$316,000 annually, beginning in FY 2026-27, for staff to support the ongoing workload, once the workgroup is complete and the equitable scale for the payment of family fees is developed and implemented.

- e) Potentially significant GF costs of an unknown amount for CDSS-administered programs related to rate increases, waiving family fees, and state administration

8) Related legislation

SB 380 (Limón, 2023) is nearly identical to this bill, and is scheduled to be heard by the Assembly Education Committee on July 12, 2023.

SUPPORT

Child Care Resource Center (Co-Sponsor)
Children Now (Co-Sponsor)
EveryChild California (Co-Sponsor)
Parent Voices California (Co-Sponsor)
Alameda County Office of Education
Allies for Every Child
American Association of University Women - California
American Federation of State, County, and Municipal Employees
California African American Chamber of Commerce
California Alternative Payment Program Association
California Association for The Education of Young Children
California Family Child Care Network
California Family Resource Association
California Work & Family Coalition
Catalyst California
Child Abuse Prevention Center
Child Action, Inc.
Child Care Law Center
Children's Institute
City and County of San Francisco
City and County of San Francisco Department of Early Childhood
County of San Diego
County of Santa Clara
Early Edge California
EdVoice
Equal Rights Advocates
Everychild Foundation
First 5 LA
Head Start California
Hoover Intergenerational Care
Kidango
LA Best Babies Network
Los Angeles County Office of Education
Mission Child Care Consortium Inc.
National Council of Jewish Women-California
Public Counsel
Regional Economic Association Leaders Coalition
Riverside County Public K-12 School District Superintendents
Riverside County Superintendent of Schools

San Bernardino County District Advocates for Better Schools
Santa Clara County Office of Education
Santa Clara County School Boards Association
Silicon Valley Community Foundation
Small Business Majority
The Education Trust - West
The San Diego Foundation
Unite-LA
United Ways of California

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 598

Hearing Date: July 5, 2023

Author: Wicks

Version: April 18, 2023

Urgency: No

Fiscal: Yes

Consultant: Kordell Hampton

Subject: Sexual health education and human immunodeficiency virus (HIV) prevention education: school climate and safety: California Healthy Kids Survey.

SUMMARY

This bill requires local educational agencies (LEAs) and charter schools to provide students participating in comprehensive sexual health education to receive physical or digital resources, and administer the California Healthy Kids Survey (CHKS) in specified grades, related to sexual and reproductive health.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Establishes the California Healthy Youth Act (CHYA), which requires LEAs defined as school districts, charter schools, county boards of education, county superintendents of schools, and the California Schools for the Deaf and for the Blind – hereafter referred to as “LEA”, to provide comprehensive sexual health and HIV prevention instruction to all students in grades seven to twelve, at least once in middle school and once in high school. (EC § 51933)
- 2) Requires that pupils in grades seven to twelve, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school. (EC § 51934)
- 3) Requires that the instruction and related instructional materials be, among other things:
 - a) Age appropriate.
 - b) Medically accurate and objective.
 - c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.

- e) Accessible to pupils with disabilities. (EC § 51934)
- 4) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade seven using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)
- 5) 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)
- 6) 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)
- 7) Prohibits a school district from requiring active parental consent ("opt-in") for sexual health education for pupils of any grade. (EC § 51938)
- 8) 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)

ANALYSIS

This bill requires LEAs and charter schools to provide students participating in comprehensive sexual health education to receive physical or digital resources, and administer the CHKS in specified grades, related to sexual and reproductive health. Specifically, this bill:

- 1) Requires LEAs and charter schools to provide students participating in comprehensive sexual health education to receive physical or digital resources.
- 2) Requires the CDE to ensure that the CHKS includes questions about sexual and reproductive health care as a core module for pupils in grades seven, nine, and eleven and for those questions only to be administered to students in grades seven, nine, and eleven.
- 3) Requires LEAs, after CDE has modified the CHKS to include questions about sexual and reproductive health, to provide notices to parents about the CHKS, consistent with existing law to students in grades five, seven, nine, eleven.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Comprehensive sex education has a positive impact on young people’s sexual and reproductive health, enhancing their ability to make safe and informed decisions. But absent from most schools is curriculum ensuring that youth are connected to reproductive care for all pregnancy outcomes, even in states like California where abortion is legal.

Our cultural aversion to discussing abortion and educating our youth about comprehensive care diminishes their ability to make fully informed choices, and to exercise their right to legal, accessible abortion if they so choose.

We must ensure that all communities have access to medically accurate, honest, inclusive, and complete information about abortion services available in our state. Not only should California educate students about abortion, but it must ensure its students know how to access this care.

AB 598 updates sex education requirements in schools to include more information about reproductive care, including abortion, helps connect youth to local resources in their communities. To help inform policymakers and educators, it also requires school districts to participate in the California Healthy Kids Survey, with questions administered to grades 7, 9, and 11 about abortion and reproductive health.”

- 2) ***California Healthy Youth Act.*** The CHYA took effect in 2003 and was originally known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Initially, the act authorized 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. Beginning 2019, AB 2601 (Weber, 2018) required charter schools to provide that same instruction.
- 3) ***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. Existing law has always required that all comprehensive sexual health education be age-appropriate, medically accurate, and objective – regardless of grade.

According to the CDE, “in elementary school it is permissible to teach knowledge and skills related to comprehensive sexual health and HIV prevention education in grades kindergarten through grade six, inclusive. All instruction and materials in grades Kindergarten–six must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades seven–twelve may be also be included in an age-appropriate way in earlier grades.”

- 4) ***Opting Out: Parental Discretion and CHYA.*** From its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of part, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians are able to exercise this right by informing the LEA in writing of their decision.
- 5) ***California Healthy Kids Survey.*** The CHKS is an anonymous, confidential survey of school climate and safety, student wellness, and youth resiliency. It is administered to students at grades five, seven, nine, and eleven. It enables schools and communities to collect and analyze data regarding local youth health risks and behaviors, school connectedness, school climate, protective factors, and school violence. The CHKS is part of a comprehensive data-driven decision-making process on improving school climate and student learning environment for overall school improvements.

The CHKS is a companion tool to the California School Staff Survey (CSSS) for staff and the California School Parent Survey (CSPS) for parents. Together, they form the California School Climate, Health, and Learning Survey (Cal-SCHLS) System.

At the heart of the CHKS is a research-based core module that provides valid indicators to promote student engagement and achievement, safety, positive development, health, and overall well being. In addition, there are supplementary modules to choose from at the secondary school level that ask detailed questions on specific topics. These include more in-depth questions on school climate; resiliency and youth development; social emotional health and learning; mental health; tobacco use; alcohol and other drug use; safety/violence; physical health; sexual behavior; after school activities; gang awareness; lesbian, gay, bisexual, and transgender school experiences; and military connected school. Districts can also customize their questions in a custom module targeting topics of local interest.

- 6) ***Opting Out: Parental Discretion and CHKS.*** As noted above, current law requires, for students in grades seven through eleven that parents have the right to excuse their children from a survey through a passive consent (“opt-out”) process. School districts are prohibited from requiring an active parental consent (“opt-in”) process for surveys in grades seven through eleven. Current law also requires that parents or guardians be notified in writing that a survey is to be administered, given

the opportunity to review the survey if they wish, notified of their right to excuse their child from the survey, and informed that in order to excuse their child they must state their request in writing to the school district.

For students in kindergarten through grade six, current law requires that no survey containing any questions about the student's personal beliefs or practices in sex, family life, morality, and religion, or any questions about those of their parents, may be given unless the parent or guardian is notified in writing that this survey is to be administered, and they provide written permission ("opt in," or active parental consent) for the student to take it.

7) **Related Legislation**

AB 2601 (Weber), Chapter 495, Statutes of 2018, extends to charter schools the requirement to provide instruction on comprehensive sexual health and HIV prevention.

AB 1868 (Cunningham), Chapter 428, Statutes of 2018, authorizes school districts to provide instruction, as part of the CHYA, on the potential risks and consequences of creating and sharing sexually-suggestive or explicit materials through cell phones, social networking sites, computer networks, or other digital media.

AB 329 (Weber), Chapter 398, Statutes of 2015, requires schools to provide comprehensive sexual health education in grades seven-twelve, and modified the content of instruction on sexual health education and HIV prevention.

SUPPORT

American College of Obstetricians and Gynecologists District 1X
Attorney General Rob Bonta
California Nurse Midwives Association
California Teachers Association
Los Angeles County Office of Education
Naral Pro-Choice California
San Francisco City Attorney's Office

OPPOSITION

California Catholic Conference
5 Individuals

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 599	Hearing Date:	July 5, 2023
Author:	Ward		
Version:	March 28, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Suspensions and expulsions: tobacco.

SUMMARY

This bill prohibits a pupil from being suspended or expelled from school for possessing or using tobacco or nicotine products beginning July 1, 2025. This bill also requires the California Department of Education (CDE) to develop and make available a model policy for a public health approach to addressing student possession and use of drugs on school property by July 1, 2025.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) A pupil shall not be suspended from school or recommended for expulsion unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. (EC 48900 (h))
- 2) Authorizes a pupil to possess or use tobacco or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel if the pupil has their own prescription product. (EC 48900 (h))
- 3) Requires no school to permit the smoking or use of a tobacco product by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees. (EC 48901(a))
- 4) Requires the governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking. (EC 48901(b))
- 5) Requires the CDE to collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies (LEAs)

apply for state and federal drug, alcohol, and tobacco education funds. (EC 51269(a))

- 6) When adopting instructional materials for use in the schools, governing boards shall include only instructional materials that accurately portray both of the following, whenever appropriate:
 - a) Humanity's place in ecological systems and the necessity for protecting our environment.
 - b) The effects on the human system of using tobacco, alcohol, and narcotics and restricted dangerous drugs and other dangerous substances. (EC 60041)

Business and Profession (BPC)

- 7) Specifies that a "Tobacco product" does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose and means any of the following:
 - a) Product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.
 - b) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
 - c) Any component, part, or accessory of a tobacco product, whether or not sold separately.
- 8) Defines "smoking" to mean inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor in any manner or in any form or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

ANALYSIS

This bill prohibits a pupil from being suspended or expelled from school for possessing or using tobacco or nicotine products beginning July 1, 2025. This bill also requires the CDE to develop and make available a model policy for a public health approach to addressing student possession and use of drugs on school property by July 1, 2025. Specifically, this bill:

Prohibiting Suspension and Expulsion: Tobacco Products and Related Uses

- 1) Removes the ability for a pupil to be suspended or expelled from school for possessing or using tobacco or nicotine from the list of suspension and expulsion list beginning July 1, 2025.
- 2) Prohibits a charter school from suspending and expelling pupils in kindergarten or any of grades 1 to 12, solely on the basis of having possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, vaping products, and betel beginning July 1, 2025.
- 3) Prohibits a principal or the superintendent of the school, hearing officer, or administrative panel from recommending expulsion if a student is found, either at school or at a school activity off of grounds for possession or use of tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, vaping products, and betel

Model Policy By CDE Regarding Possession and Use of Illicit Drugs on School Property

- 4) Requires the CDE, on or before July 1, 2025, to develop, in consultation with stakeholders, including treatment providers, LEAs, and community-based organizations, a model policy for a public health approach to addressing pupil possession and use of illicit drugs on school property.
- 5) Requires an LEA on or before July 1, 2025, to adopt a plan to address pupils who possess or use drugs on school property that is youth informed, reduces criminalization, and includes specific information on where on campus and in the community pupils can receive education, treatment, or support for substance abuse.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "AB 599 would revise school suspension and expulsion policies for drug-related infractions by requiring the California Department of Education to create a model policy using a public health approach for school districts to use as resource in lieu of suspensions and expulsions."
- 2) **Zero Tolerance Policies Disproportionate Effects.** In 1994, Congress passed the Gun-Free Schools Act (GFSA), which required states to expel students who brought firearms to campus for at least one year. While zero tolerance policies were initially intended to ensure a safe and healthy school environment (e.g., selling drugs or engaging in gang-related fights on school grounds), policies were expanded to include minor offenses that would otherwise be seen as normal behavior. These policies inadvertently created the "School to Prison Pipeline," where youth expelled or suspended for minor offenses are funneled out of public schools and into the juvenile and criminal legal systems. The school-to-prison pipeline causes a disproportionate number of students of color to drop out of school and enter the criminal justice system, which can have life-changing adverse effects.

Although California's suspension rate has decreased recently, students of color are still disproportionately suspended compared to their peers. The CDE data shows that while total suspensions dropped from 363,406 in the 2017-18 school year (SY) to 233,753 in 2019-20 SY, black students received 15.6% of all suspensions for defiance-only in the 2017-18 SY and 18.7% in the 2019-20 SY. In recent years, other statutory provisions have been designed to limit the use of suspensions and promote alternatives, as it has been shown that zero-tolerance policies are ineffective.

- 3) ***Suspension and Expulsion for Illicit Drug Use or Possession.*** According to CDE statewide data from 2021-22, a total of 17% of all suspensions and 712 or 17% of all expulsions were illicit drug-related. These numbers are down from 2018-19 when there were 63,132 suspensions and 1,754 expulsions for illicit drug-related offenses. The data does not differentiate between possession, use, or sale of drugs. The suspensions and expulsions were disproportionately students of color, as shown in the table below.

Ethnicity	% of total statewide enrollment	% of illicit drug expulsions	Illegal drug suspensions
African American	5.2%	6.2%	7.6%
Hispanic or Latino	55.8%	71.9%	65.1%
White	21.0%	15.0%	18.7%

Source: CDE Data Quest 2021-22

According to a report from the American Institutes for Research (AIR), *Less is More: The Effects of Suspension and Suspension Severity on Behavioral and Academic Outcomes* examines the effects of the type and length of suspensions received by middle and high school students on their educational outcomes, their same-grade same-school peers' educational outcomes and school climate. The report made several key findings:

- More severe exclusionary discipline does not serve as a deterrent to students' future reported misbehavior, and for younger students, it may instead exacerbate it. In addition, more severe exclusionary discipline consistently negatively affects many other long-term educational outcomes for students.
- Receiving a more severe exclusionary disciplinary response to an incident increases the number of days students miss due to absence during subsequent school years, increases the number of days they miss due to suspension in subsequent school years, decreases their likelihood of earning both English language arts and math credits throughout their high school career, and decreases their likelihood of graduating.

- The severity of exclusionary disciplinary response has no effect on the reported behavior, academic outcomes, or attendance of peers in the same grade within the disciplined student's school, nor does it impact students' or teachers' perceptions of school climate.
- 4) ***Disciplinary Actions Other than Suspension of Expulsion From School.*** While the bill prohibits a school from recommending a student for suspension and expulsion for having possessed or used tobacco or products containing tobacco or nicotine products, this does not prohibit a school from taking disciplinary action or steps to discourage high school students from smoking and using tobacco products (EC 48901(b)). Some of these corrective behaviors include but are not limited to:
- a) A conference between school personnel, the pupil's parent or guardian, and the pupil.
 - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
 - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973.
 - e) Enrollment in a program for teaching prosocial behavior or anger management.
 - f) Participation in a restorative justice program.
 - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
 - h) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups. (EC 48900.5)
- 5) ***Local Control Accountability Plan (LCAP) State Priority: Pupil Engagement.*** One of the eight state priorities required to be addressed in the LCAP is pupil engagement, measured by suspension and expulsion rates. In their LCAPs, school districts, county offices of education, and charter schools have to explain their actions to achieve their goals for each state priority, including goals for reducing suspension rates. Given that LCAPs were first implemented for the 2014-15 school year, the overall reduction in suspensions and disruption/willful defiance could also be linked to the priority of pupil engagement.

6) Related Legislation

AB 274 (Skinner, 2023) extends the prohibition against the suspension and expulsion of students in grades K-8, to K-12, for disrupting school activities or willfully defying the valid authority of school personnel to all grades indefinitely but retains a teacher's existing authorization to suspend any student from class for willful defiance and prohibits the suspension or expulsion of a student based solely on the fact that they are truant, tardy, or otherwise absent from school activities. This bill is in Assembly Education Committee.

SB 419 (Skinner), Chapter 279, Statutes of 2019, commencing July 1, 2020, extends the permanent prohibition against suspending a pupil enrolled in kindergarten or any of grades 1 to 3 for disrupting school activities or otherwise willfully defied the valid authority of school staff to include grades 4 and 5 permanently; and to have grades 6 to 8, inclusive, until July 1, 2025; and applies these prohibitions to charter schools.

AB 420 (Dickerson), Chapter 660, Statutes of 2014, eliminated the option to suspend or recommend for expulsion a pupil who disrupted school activities or otherwise willfully defied the authority of school officials and instead authorizes schools to suspend a pupil in grades 6-12 who has substantially disrupted school activities or substantially prevented instruction from occurring.

SB 1111 (Lara), Chapter 837, Statutes of 2014, requires parental consent for referrals to a county community school by a school attendance review board (SARB), school district, or probation department, except for situations where a student is expelled or under a court order. This bill also establishes the right of a student to reenroll in his/her former school or another school upon completion of the term of involuntary transfer to a county community school.

AB 1729 (Ammiano), Chapter 425, Statutes of 2012, recasts provisions relative to the suspension of a pupil upon a first offense and authorizes the use and documentation of other means of correction.

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

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

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

AB 1909 (Ammiano), Chapter 849, Statutes of 2012, requires schools to notify a foster youth's attorney and representative of the county child welfare agency of pending expulsion or other disciplinary proceedings.

SUPPORT

California Alliance of Child and Family Services (sponsor)
ACLU California Action
Alameda County Board of Supervisors
American Cancer Society Cancer Action Network
American Lung Association of California
Aspiranet
Association of California School Administrators
California Association of Alcohol and Drug Program Executives, Inc.
California Coalition for Youth
California Community Foundation
California Youth Empowerment Network
Didi Hirsch Mental Health Services
Mental Health America of California
National Health Law Program
Pacific Clinics
Seneca Family of Agencies
The Los Angeles Trust for Children's Health
Whittier Union High School District

OPPOSITION

None Received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 607	Hearing Date:	July 5, 2023
Author:	Kalra		
Version:	May 18, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Public postsecondary education: course materials.

SUMMARY

This bill requires, commencing July 1, 2024, each campus of the California Community Colleges (CCC) and the California State University (CSU), and requests, each campus of the University of California (UC), to prominently display the estimated costs for each course of all required materials, and fees directly related to said materials, for no less than 75% of the total number of courses on the online campus schedule.

BACKGROUND

Existing law:

Federal law

- 1) Authorizes an institution of higher education to include the costs of books and supplies as part of tuition and fees if the institution does one of the following:
 - a) The institution does all of the following:
 - i) Has an arrangement with a book publisher or other entity that enables it to make those books or supplies available to students below competitive market rates.
 - ii) Provides a way for a student to obtain those books and supplies by the seventh day of a payment period.
 - iii) Has a policy under which the student may opt-out of the way the institution provides for the student to obtain books and supplies.
 - b) Documents on a current basis that the books or supplies, including digital or electronic course materials, are not available elsewhere or accessible by students enrolled in that program from sources other than those provided or authorized by the institution.
 - c) The institution demonstrates there is a compelling health or safety reason. (Code of Federal Regulations, Title 34 Section 668.164)

- 2) Requires, when a publisher provides a faculty member or other person or adopting entity in charge of selecting course materials at an institution of higher education receiving Federal financial assistance with information regarding a college textbook or supplemental material, the publisher shall include, with any such information and in writing (which may include electronic communications), the following:
 - a) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes the college textbook or supplemental material available to the public.
 - b) The copyright dates of the three previous editions of such college textbook, if any.
 - c) A description of the substantial content revisions made between the current edition of the college textbook or supplemental material and the previous edition, if any.
 - d) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound; and, for each other format of the college textbook or supplemental material, the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education and, if available, the price at which the publisher makes such other format of the college textbook or supplemental material available to the public. (U. S. Code (U.S.C.) Title 20, Chapter 28, Subchapter I, Part C, Section 1015b)

State law

- 3) Requires the CSU Trustees and the CCC Board of Governors, and requests the UC Regents to work with the academic senates to encourage faculty to give consideration to the least costly practices in assigning textbooks; to encourage faculty to disclose to students how new editions of textbooks are different from previous editions; and, the cost to students for textbooks selected, among other things. Current law also urges textbook publishers to provide information to faculty when they are considering what textbooks to order, and to post information on the publishers' Web sites, including "an explanation of how the newest edition is different from previous editions." Publishers are also asked to disclose to faculty the length of time they intend to produce the current edition and provide faculty free copies of each textbook selected. (Education Code (EC) Section 66406)
- 4) Establishes the College Textbook Transparency Act, which, in part:
 - a) Defines "textbook" as a book that contains printed material and is intended for use as a source of study material for a class or group of students, a copy of which is expected to be available for the use of each of the

- students in that class or group, specifying that "textbook" does not include a novel.
- b) Defines "adopter" as any faculty member or academic department or other adopting entity at an institution of higher education responsible for considering and choosing course materials to be used in connection with the accredited courses taught at that institution.
 - c) Encourages adopters to consider cost as a factor when adopting a textbook.
 - d) Requires each campus bookstore at any public postsecondary educational institution to post in its store or on its Internet Web site a disclosure of its retail pricing policy on new and used textbooks. (EC § 66406.7)
- 5) Requires, effective January 1, 2018, each campus of the CCC and the CSU, and requests, effective January 1, 2018, each campus of the UC, to clearly highlight the courses that use digital course materials that are free of charge and have a low-cost option for printed versions; and, communicate to students that the course materials for said courses are free of charge and not required to be purchased. (EC § 66406.9)
- 6) Establishes the California Digital Open Source Library, administered by the CSU in coordination with the CCC, for the purpose of housing open source materials while providing Web-based access for students, faculty and staff to find, adopt, utilize, or modify course materials for little or no cost. (EC Section 66408)
- 7) Establishes the California Open Education Resources Council and requires the council to be responsible for, among other things, developing a list of 50 strategically selected lower division courses in the public postsecondary segments for which high-quality, affordable, digital open source textbooks and related materials are to be developed or acquired. (EC § 66409)

ANALYSIS

This bill:

- 1) Requires, commencing July 1, 2024, each campus of the CCCs and the CSU, and requests each campus of the UC to prominently display, by means that may include a link to a separate internet web page, the estimated costs for each course of all required course materials and fees directly related to those materials, for no less than 75 percent of the total number of courses on the online campus course schedule.
- 2) Defines course materials for purposes of the bill to include digital or physical textbooks, devices such as calculators and remote attendance platforms, and software subscriptions.
- 3) Makes technical and clarifying changes to existing law.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “Course material costs make up a significant portion of the costs of secondary education, especially at community colleges.” The author contends that, “Unlike fees and tuition, course material costs are not fixed which makes it challenging for students to plan ahead.” The author states, “In recent years, the types of materials students are expected to purchase has widened to include digital homework platforms and other new technologies that are not captured by existing laws. AB 607 would close price transparency gaps by including these newer forms of course materials. The increased transparency will allow students to make informed decisions for course registration in a manner that works best for them financially.”

Further, the author states, “A 2020 report by CSU Channel Islands examined a Hispanic Serving Institution (HSI) in Southern California and found that students from historically marginalized backgrounds pay more for textbooks than their peers. With all the costs students are expected to take on when pursuing higher education, further cost transparency and ability to plan ahead can especially benefit students from disadvantaged backgrounds as they strategize how best to account for financial aid awards or income from a minimum wage job.”

This measure, in part, requires the CCC and CSU and requests each campus of the UC, to prominently display the estimated costs for each course of all required course materials, and fees directly related to those materials, for no less than 75% of the total number of courses on the online campus schedule.

- 2) **Textbook cost disclosure requirements.** This bill requires colleges to display cost estimates for course materials for each course within their online course schedule. Faculty play a key role in determining which instructional materials are required for each course. As such, colleges must rely on information provided by faculty to produce estimated costs for course materials. Concerns have been raised about a college’s ability to comply should information not be provided in a timely manner for 75 percent of courses. However, federal regulations, colleges are already required, *to the maximum extent practicable*, to disclose on their online course schedule the retail price information of required and recommended textbooks and supplemental materials for each courses listed in the institution’s course schedule. Further, information provided by the sponsors of this bill shows that at least 19 CSUs are in compliance with the federal regulations around the selection, purchase, sale, and use of course materials (provide a direct link class page within the bookstore’s website to show pricing). Seemingly, the infrastructure has been built, but ramping up to the 75 percent threshold required by this bill could be challenging for colleges. CSU estimates that information is provided for only about 30 percent of courses. The requirements in this bill would result in the disclosure of other materials required for class participation, such as lab coats, calculators, or software subscriptions not required in federal regulations. Additionally, unlike federal regulations, which require colleges to display information to the “greatest extent possible,” this bill requires colleges to display the estimated costs of course materials for at least 75% of the total number of courses. Staff notes that this bill does not mandate exact pricing

allowing for a degree of flexibility in estimating the financial implications of course materials for students.

- 3) **Arguments in support.** The CCC Chancellor's Office states, in part, in their support letter submitted to this committee, "...Students often report that they choose not to purchase textbooks altogether, which negatively affects their learning and, ultimately, success in their courses. The Chancellor's Office recently convened a Burden-Free Instructional Course Materials Task Force to identify strategies that strengthen equitable access to instructional materials. We hope that this will facilitate systemwide adoption of zero-textbook cost policies and practices.

AB 607 is directly aligned with the priorities of our Burden-Free Instructional course materials Task Force. By requiring colleges to post required course materials online, AB 607 will close price transparency gaps and allow students to plan ahead, increasing the likelihood of timely degree completion."

- 4) **Prior legislation**

AB 2624 (Kalra, 2022), which was held on the Suspense File in the Assembly Committee on Appropriations, was virtually identical to this measure. AB 2385 (Cunningham), Chapter 214, Statutes of 2018, in part, urges textbook publishers to post in a prominent location on the publishers' Internet Web sites, where it is readily available to college faculty, students, and departments, a detailed description of how the newest textbook edition differs from the previous edition.

SB 727 (Galgiani of 2017), which was left on the Inactive File on the Senate Floor, in part, would have authorized a public postsecondary educational institution to adopt policies that allow for the use of innovative pricing techniques and payment options for textbooks and other instructional materials.

SB 1359 (Block, Chapter 343, Statutes of 2016) in part, requires, effective January 1, 2018, each campus of the CCC and the CSU, and requests, effective January 1, 2018, each campus of the UC, to clearly highlight the courses that use digital course materials that are free of charge and have a low-cost option for printed versions.

SUPPORT

Michelson Center for Public Policy (Sponsor)
 Cal State Student Association
 California Community Colleges Chancellor's Office
 California Public Interest Research Group
 Faculty Association of California Community Colleges
 Generation Up
 Govern for California
 Student Senate for California Community Colleges

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 656	Hearing Date:	July 5, 2023
Author:	McCarty		
Version:	March 16, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: California State University: doctoral programs.

SUMMARY

This bill authorizes the California State University (CSU) to award doctoral degrees statewide that do not duplicate University of California (UC) doctoral degrees and satisfy certain requirements. Requires a CSU campus seeking authorization to offer a doctoral degree to submit specified information on the proposed doctoral degree for review by the CSU Chancellor's office, and approval by the CSU Trustees, as provided. Authorizes a proposed doctoral degree that is approved for implementation by the CSU Trustees to be implemented at the CSU systemwide.

BACKGROUND

Existing law:

- 1) Provides that the primary mission of the CSU is undergraduate and graduate instruction through the master's degree, but authorizes the CSU to offer joint doctoral degrees with the UC, or with one or more independent institutions of higher education, only as specified. Specifies that, in setting forth the missions and functions of California's public and independent institutions of higher education that, among other things, the UC has the sole authority in public higher education to award the doctoral degree in all fields of learning, except that it may agree with the CSU to award joint doctoral degrees in selected fields. (Education Code (EC) § 66010.4)
- 2) Authorizes the CSU to independently award the Doctor of Education (Ed.D.) degree focused solely on preparing administrative leaders for California public elementary and secondary schools and community colleges and on the knowledge and skills needed by administrators to be effective leaders in California public schools and community colleges. (EC § 66040, et seq.)
- 3) Authorizes the CSU to offer the Doctor of Audiology (Au.D) degree; and, specifies that the Au.D degree programs at the CSU will focus on preparing audiologists to provide health care services and shall be consistent with the standards for accreditation set forth by the Council on Academic Accreditation in Audiology and Speech-Language Pathology. (EC § 66041, et seq.)
- 4) Authorizes the CSU to offer the Doctor of Physical Therapy (D.P.T.) degree, and specifies that the D.P.T. degree programs at the CSU will focus on preparing

physical therapists to provide health care services, and be consistent with meeting the requirements of the Commission on Accreditation in Physical Therapy Education. (EC § 66042, et seq.)

- 5) Authorizes CSU to offer the Doctor of Nursing Practice (DNP) degree programs, and specifies that the DNP offered by the CSU will focus on the preparation of nursing faculty to teach in postsecondary nursing education programs and may also train nurses for advanced nursing practice or nurse leadership. (EC § 89280, et seq.)
- 6) Authorizes CSU to offer the Doctor of Occupational Therapy (OTD) degree, and specifies that OTD degree programs offered by the CSU will focus on preparing occupational therapists to provide health care services and to be consistent with the standards for accreditation set forth by the appropriate accrediting body. (EC § 66043, et seq.)
- 7) Authorizes CSU to offer the Doctor of Public Health (Dr.PH) degree, and specifies that Dr.PH degree programs offered by the CSU will focus on health and scientific knowledge translation and transformative community leadership, and will be designed to address the community public health workforce needs of California and prepare qualified professionals to be leaders and experienced practitioners who apply their advanced knowledge in service to California's diverse communities in areas such as community health administration, health education and promotion, and public health advocacy. (EC § 66044, et seq.)
- 8) Authorizes the Board of Governors (BOG) of the California Community Colleges (CCC) to establish permanent district baccalaureate degree programs, and provided that only 15 baccalaureate degree programs are approved during each application period allowing for a total of 30 baccalaureate degree programs per academic year. Additionally, existing law:
 - a) Requires the Chancellor of the CCC to consult with and seek feedback from the Chancellor of the CSU, the President of the UC, and the President of the Association of Independent California Colleges and Universities (AICCU) on proposed baccalaureate degree programs, as specified, and establishes a mechanism for the assessment, consultation, and approval of programs where duplication is identified, as specified;
 - b) Requires a community college district (CCD) to continue to offer an associate degree program in the same academic subject for which a baccalaureate degree program has been approved, unless the (CCD) has receive approval from the chancellor to eliminate the associate degree program, as specified; and,
 - c) Specifies that the total number of baccalaureate degree programs offered by a CCD, at any time, does not exceed 25% of the total number of associate degree programs offered by the CCD, including associate degrees for transfer. (EC § 78040 et seq.)

ANALYSIS

This bill:

- 1) Authorizes the CSU, in consultation with the UC President to award doctoral degrees statewide that do not duplicate UC doctoral degrees and requires CSU in implementing this authority to comply with all for the following requirements:
 - a) That enrollment in CSU doctoral degree programs not diminish enrollment in CSU undergraduate programs.
 - b) That CSU doctoral degree programs not duplicate UC doctoral degree programs that are offered or under systemwide review by the president's office.
 - c) That the CSU establish fees for doctoral degree programs that are comparable to, but no higher than, those fees charged for UC doctoral degree programs.
 - d) That the CSU provide any startup and operational funding needed for doctoral degree programs from within existing budgets for academic program support without diminishing the quality of program support offered for CSU undergraduate programs and provides that funding of doctoral degree programs not result in reduced CSU undergraduate enrollment.
- 2) Requires that a CSU doctoral programs established pursuant to the provisions in this bill comply with all of the following limitations:
 - a) Documentation verifying that the proposed doctoral program does not duplicate a UC doctoral degree program that is offered or under systemwide review by the president's office.
 - b) Enrollment projections for the proposed doctoral program.
 - c) An administrative plan for the proposed doctoral program, including, but not limited to, the funding plan for the program.
 - d) Statewide workforce data relevant to the proposed doctoral program.
- 3) Requires that the CSU Chancellor ensure all of the following for a CSU campus seeking to offer a proposed doctoral program:
 - a) The CSU Chancellor notifies, in writing, and sends relevant materials on the proposed doctoral program to the UC President's office and the President of the AICCU to allow for consultation on issues of duplication.
 - b) That the CSU Trustees not approve for implementation a proposed

doctoral program if the president's office has, within 60 days of being notified and receiving materials for the proposed doctoral program provided written objections on the basis of duplication.

- c) That a proposed doctoral program that receives written objections from the UC President's Office not be approved for implementation by the trustees unless and until a letter indicating a resolution of the written objections and a mutual agreement, signed by both the CSU Chancellor and the UC President, in support of the CSU offering the proposed doctoral program is submitted to the Assembly Committee on Higher Education and the Senate Committee on Education.
- 4) Allows a proposed doctoral program that is approved for implementation by the trustees to be implemented at the CSU systemwide.
- 5) States various legislative findings and declarations relating to the Master Plan for Higher Education, the differentiation of mission and function of each public higher education segment established by the Master Plan and around the granting of CSU authority to offer doctoral degrees stateside that do not duplicate UC doctoral degrees as an exception to the differentiation of function in graduate education that is assigned to UC.
- 6) Defines various terms for purposes of the bill.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "California's Master Plan of Higher Education, adopted in 1960, created three segments of public higher education with different functions among UC, CSU, and California Community Colleges (CCC). UC was given exclusive authority to offer doctoral degrees, while CSU may do so only if UC or a private university agrees to partner on a joint doctoral program.

Consequently, each time the CSU seeks an exception to offer a doctoral degree to address workforce or accreditation needs, separate legislation must be adopted. For example, since 2005, individual legislation has been necessary to grant the CSU authorization to offer doctoral degrees in Education, Audiology, Physical Therapy, Nursing Practice, Occupational Therapy, and Public Health. CSU currently awards more than 600 doctoral degrees each year in these disciplines.

It makes little sense to continue to require legislative action one professional degree at a time. Over 60% of CSU students stay in California after graduation and become an integral part of the state's economy. By increasing the number and types of doctoral programs that are available at the CSU, countless students who previously may not have had access to a doctoral degree may obtain one."

- 2) **Benefits to California.** According to CSU Chancellor's office, this bill has many benefits to Californians, including the following:

- **Affordable access to students:** The CSU's 23 campuses are committed to serving California's diverse population and first-generation students with an affordable public postsecondary education. AB 656 will provide more opportunities for students to seek reasonably priced post-graduate programs. These opportunities will enable them to receive advanced training in their career, earn promotions, and increase their social mobility at a CSU.
- **Addressing workforce need:** AB 656 will provide flexibility to address workforce gaps in California to keep our economy growing. Examples of potential CSU doctoral programs not offered by the UC that could be offered include Business Administration, Business Management Information Systems, Cyber Physical Systems, Advanced Manufacturing Engineering, and Counselor Education.
- **Pathways to faculty diversity:** The CSU educates the most ethnically, economically and academically diverse student body in the nation. More than half of CSU undergraduate students are members of underrepresented groups and approximately 60% of CSU graduate students identify as Latino/Hispanic, Asian, Black / African American, or mixed race. CSU students who continue with their education to earn a doctoral degree have the potential to not only advance their careers in industry, but to also qualify for tenure-track faculty positions at the CSU or other universities.

- 3) **Master Plan for Higher Education.** As outlined in the Master Plan for Higher Education and by state statute, the primary mission of the CSU is undergraduate and graduate instruction through the master's degree. The UC was granted the sole authority to offer doctoral degrees and CCCs are designated to have an open admission policy and bear the most extensive responsibility for lower-division undergraduate instruction.

Notwithstanding the differentiation of the mission envisioned by the Master Plan and outlined in statute, the Legislature has authorized the CSU to go beyond its original mission to offer five professional doctoral degrees which include the Doctor of Public Health degree, Doctor of Education, Doctor of Physical Therapy, Doctor of Audiology, Doctor of Occupational Therapy and Doctor of Nursing. Similar to this proposal, fees were capped at the rate charged at the UC, no additional funding was provided by the state, and these programs were to be implemented without diminishing or reducing enrollment in undergraduate programs. Additionally, the CSU programs offer applied doctorates and are generally not duplicative of degrees offered by UC. These authorities were more limited than that proposed by this bill. This bill provides a blanket authorization to CSU to, in consultation with UC, award an unrestricted number of doctoral degrees that do not duplicate UC doctoral programs. This bill would allow an approved program to be offered systemwide.

- 4) **Why not establish joint degrees?** Current law also authorizes CSU to offer joint degrees with either the UC or private higher education institutions. Arguably, under this authority, the need to offer the Doctoral programs could be met by

expanding or developing partnerships between UC and CSU such as the, partnership between UC San Diego and San Diego State University (SDSU) to offer a joint Ph.D in Public Health. *Rather than authorizing CSU to offer its own Doctoral degrees, would it make more sense to encourage CSU and UC to build their partnership and establish joint degrees before CSU offers its own program?*

Could this bill undermine any incentives for similar collaborations across the public segments to address regional workforce needs? To the extent that existing collaborative efforts cannot meet demand or need, the committee may wish to consider:

- *Can the process for developing collaborative efforts to address workforce needs be modified to facilitate greater proliferation of these programs?*
- *Should a CSU be required to demonstrate that existing avenues for partnership with other institutions are not possible or viable before seeking authorization to offer doctoral degrees?*

5) **CCC BA authorization.** Similar to this bill, the legislature recently granted systemwide authorization for community colleges to offer a restricted number of baccalaureate degrees and deviate from their original mission. The implementation of this authorization has resulted in intersegmental conflict regarding the duplication of baccalaureate degrees and the process of approving such programs. *Given these issues, should legislation be enacted prior to the establishment of an entity or process aimed at resolving conflicts arising from overlapping missions within higher education?*

6) **Need for a Higher Education Coordinating Body.** The Master Plan for Higher Education outlines the missions of the CCC, CSU, and UC. However, in recent years, the Legislature has pushed those boundaries by allowing CCCs to offer baccalaureate programs and several doctoral programs at CSU. The CSU doctoral degree authorization proposed in this bill represents a significant departure from the system's original mission and into a space traditionally reserved for the UC. However, it seems likely that the Legislature will see other proposals in future years to expand the institutional mission, to mandate the offering of specific programs of study, or intervene in matters to resolve intersegmental conflict resulting from overlapping missions. These types of programmatic changes are being taken up in a piecemeal way and with no comprehensive plan for future growth for higher education in California; if this trend persists, it could result in an uncoordinated and fragmented system of higher education. Prior to its demise, the role of the California Postsecondary Education Commission (CPEC) included program review to coordinate the long-range planning of the state's public higher education systems as a means to ensure that the segments were working together to carry out their individual missions while serving the state's long-range workforce and economic needs. In the wake of CPEC's closure, the LAO cautioned in its 2012 higher education oversight report that no office or committee has the resources to devote to reviewing degree programs to identify long-term costs, alignment with state needs and institutional missions, duplication, and priority relative to other demands. *The committee may wish to consider whether establishing a higher*

education coordinating entity is necessary to coordinate and guide the state's higher education agenda. A CPEC-like entity could facilitate the review of new degree programs, make recommendations on proposals that push mission boundaries, monitor student access, improve coordination among the public segments, and ensure alignment of degrees and credentials with economic and workforce development needs.

- 7) **Amendments.** In order to clarify the type of doctoral degrees CSU is authorized to offer, limit the number of degrees approved by the board of trustees, and improve the review process, **the author wishes and staff agrees that the bill be amended** as follows:

- a) Clarify that CSU doctoral degrees must be “applied or professional.”
- b) Cap the number of degree titles (i.e., disciplines or types) to 10 per year.
- c) Extend UC review time from 60 to 120 days.
- d) Clarify the review process including making considerations for programs already under review, developing criteria for duplication in consultation with faculty senates, and providing for a mutually agreed upon single review calendar process.
- e) Require a LAO report with an evaluation of the program due in 2028.

Additionally, **staff recommends that the bill be amended to** implement a cap on the total number of independent professional or applied doctoral degree programs offered by a CSU campus pursuant to the bill, at any time, not exceed 25% of the total number of undergraduate, graduate through the master's degree, and professional and teacher education programs offered by a CSU campus.

- 8) **Arguments in support.** The CSU, the sponsor of this bill, writes in their letter of support submitted to committee, that, “since 2005, the CSU has worked strategically with the Legislature and the UC to secure approval on legislative proposals to authorize the CSU to offer doctoral degrees in Education, Audiology, Physical Therapy, Nursing Practice, Occupational Therapy, and Public Health. The CSU currently awards more than 600 doctoral degrees each year in these disciplines. However, pursuing legislation on each degree program is a lengthy process which can delay academic program development and leave workforce demands unmet.”

The CSU continues that they are, “...absolutely committed to not duplicating doctoral degrees offered by the UC, and language in AB 656 clearly prohibits duplication. Specifically, a participating campus must provide evidence of non-duplication with UC programs, workforce need, enrollment demand, and an administrative plan. Participating campuses are required to make their programs financially self-sufficient, so no additional state funds are needed. A consultation process with the UC system is clearly spelled out in the bill, including language to

ensure that any disagreement on duplication is resolved in a written document submitted to the Legislature before a program can be approved.”

9) **Prior Legislation**

SB 684 (Hueso, Chapter 936, Statutes of 2022) authorized CSU to offer the Doctor of Public Health degree, and specified that Doctor of Public Health degree programs offered by the CSU will focus on health and scientific knowledge translation and transformative community leadership. SB 684 when it left the Senate, related to the establishment of a California Border Commission. It was substantively amended in the Assembly to recast its provisions its enacted form and it was never heard by this committee.

AB 829 (Bloom, Chapter 183, Statutes of 2019) authorized CSU to offer the Doctor of Occupational Therapy (OTD) degree, and specifies that Doctor of OTD degree programs offered by the CSU will focus on preparing occupational therapists to provide health care services and to be consistent with the standards for accreditation set forth by the appropriate accrediting body

AB 422 (Arambula, Chapter 702, Statutes of 2017) authorized CSU to offer the Doctor of Nursing Practice (DNP) degree programs, and specified that the DNP offered by the CSU shall focus on the preparation of nursing faculty to teach in postsecondary nursing education programs and may also train nurses for advanced nursing practice or nurse leadership.

AB 2317 (Mullin, Chapter 267, Statutes of 2016) authorized the CSU to offer the Doctor of Audiology (Au.D) degree, and specifies that the Au.D degree programs at the CSU shall be focused on preparing audiologists to provide health care services and shall be consistent with the standards for accreditation set forth by the Council on Academic Accreditation in Audiology and Speech-Language Pathology.

AB 2382 (Blumenfield, Chapter 425, Statutes of 2010) authorized the CSU to offer the Doctor of Physical Therapy (D.P.T) degree, and specified that the D.P.T degree programs at the CSU shall be focused on preparing physical therapists to provide health care services, and shall be consistent with meeting the requirements of the Commission on Accreditation in Physical Therapy Education.

SB 724 (Scott, Chapter 269, Statutes of 2005) established the authority and conditions under which the CSU could offer the Doctor of Education (Ed.D) degree. The authority and conditions established in this bill are almost identical to those established for purposes of the awarding of the Ed.D degree.

SUPPORT

American Translators Association
ASML San Diego
Biocom California

Black Small Business Association of California
Cal State Student Association
California African American Chamber of Commerce
California Association of School Psychologists
California Center for Civic Participation
California Hawaii State Conference of the NAACP
California Polytechnic State University
California State Polytechnic University, Humboldt
California State Polytechnic University, Pomona
California State University, Bakersfield
California State University, Channel Islands
California State University, Chico
California State University, Dominguez Hills
California State University, East Bay
California State University, Fresno
California State University, Fullerton
California State University, Long Beach
California State University, Los Angeles
California State University, Monterey Bay
California State University, Northridge
California State University, Sacramento
California State University, San Bernardino
California State University, San Marcos
California State University, Stanislaus
Campbell Union School District
East Side Union High School District
Families in Schools
Greater Sacramento Economic Council
Greater Sacramento Urban League
Hamilton Lane Advisors
Los Angeles County Economic Development Corporation
Milpitas Unified School District
Mount Pleasant School District
North Orange County Chamber of Commerce
Oak Grove School District
Orange County Business Council
San Diego Gas & Electric
San Diego State University
San Francisco State University
San Gabriel Valley Economic Partnership
San Jose City College
San José State University
Santa Clara County Office of Education
Scripps Health
Sharp Healthcare
Sonoma State University
Valley Children's Healthcare
West Valley-mission Community College District

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 672
Author: Jackson
Version: April 18, 2023
Urgency: No
Consultant: Ian Johnson

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: Teacher credentialing: Teacher Credentialing Task Force.

SUMMARY

This bill requires the Commission on Teacher Credentialing (CTC) to convene a Teacher Credentialing Task Force (task force) to examine the experiences of student candidates in various credentialing pathways to make recommendations for increasing the number and diversity of qualified teachers in California.

BACKGROUND

Existing law:

- 1) Establishes the minimum requirements for the preliminary multiple subject, single subject, or education specialist teaching credential as all of the following:
 - a) A baccalaureate degree or higher degree from a regionally accredited institute of higher education (IHE). Except as specified, for single subject teaching credentials, the baccalaureate degree may not be in professional education. The CTC is required to encourage regionally accredited IHEs to offer undergraduate minors in education and special education to students who intend to become single subject credentialed teachers;
 - 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. In accordance with the CTC's assessment and performance standards, a program must include a teaching performance assessment (TPA) that is aligned with the California Standards for the Teaching Profession. (Education Code (EC) 44259)
- 2) Requires the CTC to establish standards for the issuance and renewal of credentials, certificates, and permits. 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. (EC 44300 and the CTC's Teaching Performance Expectations)

- 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. (EC 44225)
- 4) Authorizes the CTC to issue single subject teaching credentials in agriculture, art, biological sciences, business, chemistry, dance, English, geosciences, health science, home economics, industrial and technology education (ITE), mathematics, music, physics, physical education, science (various subjects), social science, theater, and world languages (English language development and languages other than English). (EC 44257)
- 5) 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. (EC 44257.2)
- 6) 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. (EC 44274.2)
- 7) 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 an assessment 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. (EC 44320.2)
- 8) Requires the CTC to implement the performance assessment 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. (EC 44320.2)
- 9) 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 performance assessment:
- 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. (EC 44320.2)
- 10) Requires the CTC to ensure that each performance assessment 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 performance assessment 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 performance assessment 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 performance assessment 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 performance assessment results must be reported so that they may serve as one basis for the individual induction plan of the new teacher. (EC 44320.2)
- 11) 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.
- 12) Requires the CTC to adopt examinations and assessments to verify the subject matter knowledge and competence of candidates for single subject teaching credentials. (EC 44282)
- 13) 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. (EC 44320.3)

ANALYSIS

This bill:

- 1) Requires the CTC to convene a task force to examine the experiences of student candidates in various credentialing pathways to make recommendations for increasing the number and diversity of qualified teachers in California.
- 2) Requires the task force to do all of the following:
 - a) Review and examine available research on factors that enable and constrain recruitment, credentialing, and retention of a diverse teaching workforce;
 - b) Gather and review input or data, or both, from the California Department of Education (CDE), the CTC, local educational agencies (LEAs), IHEs, and other relevant stakeholders regarding the state's teacher shortage.
 - c) Prioritize speaking with current student candidates, new teachers in the workforce, and representatives from LEAs that are responsible for recruiting and hiring new teachers;
 - d) Examine the experiences of student candidates in various credentialing pathways from preparation, credentialing, and induction, through the first five years of teaching, including, but not necessarily limited to, the requirements to complete the California Subject Examinations for Teachers (CSET); the California Basic Education Skills Test (CBEST); the RICA; the California Teaching Performance Assessments (CalTPAs); the provisions and principles of the United States Constitution requirement; instruction in health education; and instruction in foundational and advanced computer technology. Requires the research design to examine candidates and preliminary credentialed teachers in each of these phases of development simultaneously;

- e) Focus on the extent to which the requirements in various credentialing pathways support the recruitment, development, and retention of a diverse teaching workforce while maintaining teacher quality and effectiveness;
 - f) Examine research outcomes during the first five years of individuals being credentialed by determining if those individuals have stayed in the profession, left the profession, or have expressed a desire to leave the profession; and
 - g) Identify any barriers to entry for prospective teachers, and in particular prospective teachers, from diverse backgrounds during the current teacher recruitment process, the current teacher preparation process, and the current teacher enrollment process.
- 3) Requires the CTC to submit a report to the appropriate committees of the Legislature, on or before March 1, 2027, covering any policy recommendations for increasing the number of, and diversity of, qualified teachers in California.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The state of our educator workforce is abysmal. Our schools are desperately understaffed and severely lacking in diverse educators. We must thoroughly examine what we are doing wrong as a state when it comes to bolstering the number of qualified teachers. Research has found that the current way we credential our teachers can serve as barrier to entry for people of color and the economically disadvantaged in California. AB 672, will gather the Golden State’s best to determine exactly what changes are needed to ensure equity, diversity and inclusion in our teacher credentialing process.”
- 2) ***Changes have been made to remove barriers for teachers.*** California has taken large steps towards removing barriers to entering the teacher workforce in recent years. The state previously required teacher candidates to pass a series of standardized tests prior to earning a credential in the areas of basic skills, reading instruction competency, and subject matter knowledge. Due to changes in law over the last 3 years, the basic skills and subject matter competencies can now be demonstrated through coursework. The reading instruction competency is being incorporated into the TPA, instead of a stand-alone exam. With regard to the TPA, the CTC has a standing Bias Review Committee that reviews all exams and performance assessment items and materials before and during implementation. The CTC is developing a one-hour implicit bias training for all calibrated assessors of the CTC-sponsored performance assessments — the CalTPA for teachers and the California Administrator Performance Assessment (CalAPA) for administrators. Because of these changes, by July 1, 2025, the TPA will be the only remaining assessment required for teachers to complete prior to teacher licensure.
- 3) ***Learning Policy Institute (LPI) report.*** The LPI’s 2016 report, “Addressing California’s Emerging Teacher Shortage: An Analysis of Sources and Solutions” included the following summary: “After many years of teacher layoffs in

California, school districts around the state are hiring again. With the influx of new K-12 funding, districts are looking to lower student-teacher ratios and reinstate classes and programs that were reduced or eliminated during the Great Recession. However, mounting evidence indicates that teacher supply has not kept pace with the increased demand.” The report included the following findings:

- a) Enrollment in educator preparation programs has dropped by more than 70 percent over the last decade.
- b) In 2014-15, provisional and short-term permits nearly tripled from the number issued two years earlier, growing from about 850 to more than 2,400.
- c) The number of teachers hired on substandard permits and credentials nearly doubled in the last two years, to more than 7,700 comprising a third of all the new credentials issued in 2014-15.
- d) Estimated teacher hires for the 2015-16 school year increased by 25 percent from the previous year while enrollment in the University of California (UC) and the California State University (CSU) teacher education programs increased by only about 3.8 percent.

The LPI report offered several policy recommendations for consideration, including the creation of more innovative pipelines into teaching.

- 4) ***Legislative Analyst Office (LAO) assessment.*** As part of the Proposition 98 Education Analysis for the 2016-17 Governor’s Budget released in February 2016, the LAO included a section on teacher workforce trends in which it examined evidence for teacher shortages in specific areas, identified and assessed past policy responses to these shortages, and raised issues for the Legislature to consider going forward in terms of new policy responses. In the report, the LAO indicated that the statewide teacher market will help alleviate existing shortages over time and that the shortages may decrease without direct state action. However, the LAO noted there are perennial staffing difficulties in specific areas, such as special education, math, and science, for which they encouraged the Legislature to address with narrowly tailored policies rather than with broad statewide policies.
- 5) ***Already weak teaching pipeline further damaged by COVID-19 education disruptions.*** A March 2021 report by the LPI raised concerns about the effects of the COVID-19 pandemic on the teacher shortage in California:
 - a) Teacher shortages remain a critical problem. Most districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers on substandard credentials and permits,

reflecting a statewide trend of increasing reliance on underprepared teachers.

- b) Teacher pipeline problems are exacerbated by teacher testing policies and inadequate financial aid for completing preparation. Many districts attributed shortages to having a limited pool of fully credentialed applicants, with more than half reporting that testing requirements and lack of financial support for teacher education pose barriers to entry into teaching.
 - c) Teacher workload and burnout are major concerns. The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
 - d) Growing retirements and resignations further reduce supply. In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. District leaders anticipate higher retirement rates next year, which could exacerbate teacher shortages.
- 6) ***Arguments in support.*** According to the Riverside County Superintendent of Schools, "California schools continue to face an alarming shortage of teachers at all levels across the TK-12 education system. Given the well-documented learning loss suffered by many students during the pandemic, it is imperative that California explore every alternative to ensure that each student has access to a fully qualified teacher.

Over the last several years, California has taken large steps and invested significant funding toward expanding programs, increasing access, and removing barriers to individuals entering the workforce. Data from both a February 2023 CTC report and a Learning Policy Institute March 2023 report indicate that teacher residency grantees and completers make up a far more diverse group than the existing statewide teacher pool. Progress is being made, but more work needs to be accomplished to fortify the statewide pool to be fully qualified and representative of California's student population."

- 7) ***Arguments in opposition.*** The California Teachers Association writes, "CTA believes there are critical missing elements in this proposed study bill that would make the work more accountable to the Legislature and more meaningful in its recommendations:
- a) The workgroup convening should be open and transparent to the public.

- b) The relationship between the Commission on Teacher Credentialing and the contractor charged with facilitating the study and developing the report should be specified.
- c) Because this proposal will create a workgroup whose report will be advisory to both the legislature and the Commission, the Commission should not have the sole discretion to appoint the members of the work group.
- d) Classroom teachers should comprise the majority of the membership on this nineteen-member panel.
- e) The timeline for convening the panel and developing the report of findings and recommendations should be considerably shorter.

CTA joined in the process for developing the bill after significant agreements were in place to keep the bill moving forward. The Association believed that substantive discussions to further develop and amend AB 672 would continue. The five enumerated concerns are directly linked to the core values of the California Teachers Association to improve the conditions of teaching and learning, yet none will be amended into AB 672.”

“Unfortunately, today, the Association is withdrawing its co-sponsorship of AB 672. Teacher candidates should have the benefit of a preparation program to develop the skill to plan and teach lessons, exhibit culturally responsive instruction, and demonstrate approaches to differentiate student needs. The Association believes that the workgroup as proposed in AB 672 will not have the impact to shift the landscape of policy on teacher assessment and preparation.”

SUPPORT

California Faculty Association (co-sponsor)
Los Angeles County Office of Education
Los Angeles County Superintendent of Schools
Office of The Riverside County Superintendent of Schools

OPPOSITION

California Teachers Association

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 1078	Hearing Date:	July 5, 2023
Author:	Jackson		
Version:	June 28, 2023		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Kordell Hampton		

Subject: Instructional materials and curriculum: diversity.

SUMMARY

The bill, with urgency, would 1) Require school governing boards, when adopting instructional materials, to ensure the accurate portrayal of the cultural and racial diversity of our society, as specified; 2) Requires the California Department of Education (CDE) to include, in its Categorical Program Monitoring Process, has adopted appropriate policies and instructional materials, as specified; 3) Adds duties of county superintendent of schools when sufficient textbooks and instructional materials have not been provided by a local educational agency (LEA); 4) Allows complaints, related to instructional materials, as specified, to be directly filled with the State Superintendent of Public Instruction (SPI), as specified; 5) Requires a two-thirds vote to be met in order to remove a textbook and other instructional materials, outside an LEA the regularly adoption schedule; 6) Requires the CDE to issue guidance on how to manage conversations about race and gender, and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant; 7) Requires the SPI to leverage a fiscal penalty against an LEA, should the SPI determine that it had to provided sufficient textbooks or instructional materials, as specified.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) 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)
- 2) A governing board shall not adopt any instructional materials for use in the schools that, in its determination, contain any matter reflecting adversely upon persons based on race or ethnicity, gender, religion, disability, nationality, sexual orientation, and occupation, and any sectarian or denominational doctrine or propaganda contrary to law. (EC § 60044)
- 3) 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)

- 4) 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)
- 5) Requires the State Librarian to establish the Reading Initiative Program to, among other things, develop a list of recommended books that supplement the state-recommended English language arts curriculum framework and develop a method for recognizing students who participate in the program. (EC § 19336)

ANALYSIS

The bill, with urgency, would 1) Require school governing boards, when adopting instructional materials, to ensure the accurate portrayal of the cultural and racial diversity of our society, as specified; 2) Requires the CDE to include, in its Categorical Program Monitoring Process, has adopted appropriate policies and instructional materials, as specified; 3) Adds duties of county superintendent of schools when sufficient textbooks and instructional materials have not been provided by a LEA; 4) Allows complaints, related to instructional materials, as specified, to be directly filled with the SPI, as specified; 5) Requires a two-thirds vote to be met in order to remove a textbook and other instructional materials, outside an LEA the regularly adoption schedule; 6) Requires the CDE to issue guidance on how to manage conversations about race and gender, and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant; 7) Requires the SPI to leverage a fiscal penalty against an LEA, should the SPI determine that it had to provided sufficient textbooks or instructional materials, as specified. Specifically, this bill:

Adoption of Textbooks and Other Instruction Material: Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act.

- 1) Expands existing law which requires governing boards, when adopting instructional materials for use in schools to only include instructional materials that accurately portray the cultural and racial diversity of our society, including the role and contributions of Latino Americans, LGBTQ+ Americans, and members of other religions and socioeconomic groups to the total development of California and the United States.

Categorical Program Monitoring Process

- 2) Clarifies that the CDE must, when conducting its Categorical Program Monitoring process, ensure a LEA, and all acts of the governing board or body of the LEA, the superintendent of the school district, and the county superintendent of schools adopt policies, as specified.
- 3) Requires the CDE, when conducting its Categorical Program Monitoring process, has complied with state laws requiring that public schools provide pupils with comprehensive, culturally competent, and accurate instruction about the history, experiences, and viewpoints of people from different communities in California.

Duties of The County Superintendent of Schools

- 4) Requires, the county superintendent of schools, among other duties, to provide an LEA within two months into the school year to provide sufficient textbooks or instructional materials ,as specified, if it is determined by the county superintendent of schools that there are insufficient textbooks or instructional materials, as specified, or as a result of receiving a report of an unresolved complaint, as specified, or an audit, as specified.
- 5) Requires the county superintendent of schools, among other duties, should the LEA fail to provide sufficient textbooks or instructional materials with two month into the school year, to do the following:
 - a) Request the CDE to purchase sufficient textbooks or instructional materials necessary. Further:
 - i) Requires the CDE to issue a public statement at the first regularly scheduled meeting of the state board occurring immediately after the department receives the request of the county superintendent and that meets the applicable public notice requirements, indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials if the CDE purchases the textbooks or instructional materials for a school district.
 - ii) Requires the CDE to notify the Controller, and requires the Controller, to deduct an amount equal to the total amount used to purchase the textbooks and materials from the next principal apportionment of the school district or from another apportionment of state funds., unless the LEA repays the amount owed based upon an agreed-upon repayment schedule with the Superintendent
 - b) Require the county superintendent of schools, no later than the end of the twelfth week of the school term, to prominently post on the homepage of the internet website of the county office of education, and provide a copy of this notice to the district superintendent and the governing board of the LEA, a notice to parents in the LEA indicating that the district superintendent and the governing board of the LEA failed to provide pupils with sufficient textbooks or instructional materials. Further:
 - i) Requires the LEA to prominently post the notice to parents on the homepage of the internet website of the school district by no later than the end of the twelfth week of the school term.
 - ii) Specifies the notice to prominently include the names of the individual members of the governing board of the LEA, if the governing board of the LEA fails to take action to remedy the deficiency before the end of the eighth week of the school term.

- 6) Specifies a complaint related to insufficient textbooks and instructional materials, as specified, as the result of an act by the governing board of the school district, or the governing board's failure to provide sufficient textbooks and instructional materials, may be filed with the SPI directly and authorizes the SPI to directly intervene without waiting for an investigation, as specified.
- 7) Specifies a complaint filed related to insufficient textbooks and instructional materials, as specified, as the result of an act by the governing board of the school district, or the governing board's failure to provide sufficient textbooks and instructional materials must identify the basis for filing the complaint directly with SPI and present evidence that supports the basis for the direct filing.

Removing Existing Textbook, Other Instructional Material, or Curriculum By Two-Thirds Vote.

- 8) Prohibits a Governing Board from prohibiting the use of an existing textbook, other instructional material, or curriculum that contains inclusive and diverse perspectives, as specified.
- 9) Requires the governing board of an LEA, when considering the removal of an existing textbook, other instructional material, or curriculum for a reason other than that it contains inclusive and diverse perspectives outside its scheduled or routine update, to be approved by a two-thirds vote.

Guidance By the California Department of Education

- 10) Requires the CDE, no later than July 1, 2025, to develop guidance and public educational materials, including an internet website and other communications materials, to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.
- 11) Requires the CDE to issue guidance related to how to help school districts, county offices of education, charter schools, and school personnel manage conversations about race and gender, and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant.

Fiscal Penalty

- 12) Requires the CDE to take all remedial actions, as specified, including purchasing textbooks and instructional materials, issuing the public statement, and ensuring that the public notices indicating that the governing board of the school district failed to provide sufficient textbooks and instructional materials are posted if the SPI determines that a school district has not provided sufficient textbooks or instructional materials.
- 13) Specifies that if the SPI determines an LEA has not provided sufficient textbooks or instructional materials, then a financial penalty shall be assessed against its local control funding formula allocation.

- 14) Specifies that for LEAs where the SPI has determined that it had to provided sufficient textbooks or instructional materials the local control funding formula allocation amount must be reduced by the amount of funding the school district would have received for the 2012–13 fiscal year for the Instructional Materials Block Grant, as specified.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “We must strive to create a more equitable and inclusive education system for all students,” said Assemblymember Dr. Jackson. “This bill will ensure that students in California receive a comprehensive education that celebrates the diversity of our state and promotes a sense of belonging in the classroom. AB 1078: will require the State Board of Education to consider the representation of underrepresented groups, including but not limited to race, ethnicity, gender, sexual orientation, and ability, in all textbooks used in the state's public schools. The bill also establishes a review process for the selection and approval of books, ensuring that only those materials that meet the standards for diversity and inclusiveness are approved for use in the classroom. Assemblymember Dr. Jackson is confident that it will set a strong precedent for other states to follow and make a meaningful impact on students' lives across California.”
- 2) ***The Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act.*** In 2011, Governor Brown signed AB 48 (Leno) Chapter 81, Statutes of 2011, which required 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.

According to the FAIR Act, instruction in history/ social science shall include the following ethnic and cultural populations in the teaching of California and United States history:

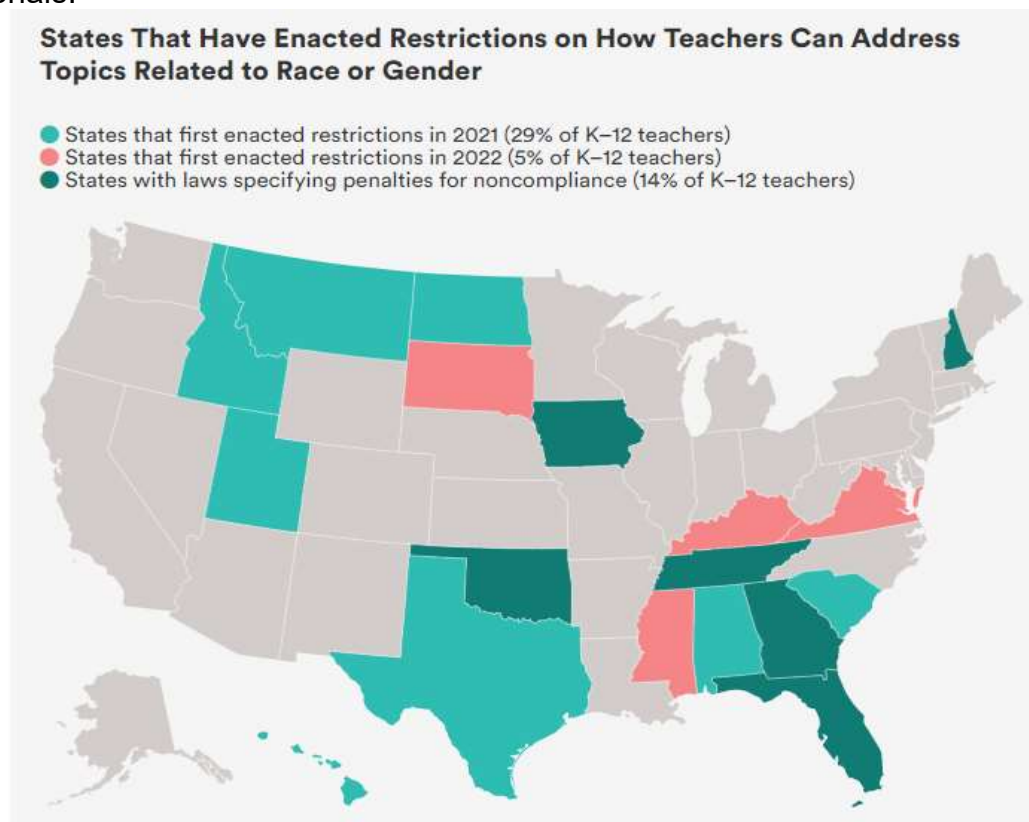
- Both men and women;
- Native Americans;
- African Americans;
- Mexican Americans;
- Asian Americans;
- Pacific Islanders;
- European Americans;
- Lesbian, gay, bisexual, and transgender Americans;
- Persons with disabilities;

Members of other ethnic and cultural groups, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the role of these groups in contemporary society.

- 3) ***Recent Diversity, Equity, and Inclusion Limitations in K-12 Education in Other States.*** According to the Pew Research Center, “K-12 education has emerged as a political flash point in American society in recent years. Lawmakers in numerous states have proposed laws that limit what educators can say in the

classroom about topics like race or gender identity – even as other states have mandated greater emphasis on these topics.”

Limitations on how schools can address contentious topics in the classroom, particularly those related to race or gender, are significantly affecting some teachers' instruction, according to a RAND report, *Walking on Eggshells—Teachers' Responses to Classroom Limitations on Race- or Gender-Related Topics*, the survey responses suggest that many teachers feel caught in a bind. “These educators want to address important social topics, yet 48 percent reported feeling at least somewhat limited in their ability to teach about race or gender issues that might veer toward controversy. One-third of the teachers surveyed said new state or district policies or pressures from parents or the community to avoid certain content had led them to change their texts or materials.”



Source: 2022 American Instructional Resource Survey

In 2022, 17 states passed policies restricting how teachers can address topics related to race, gender, and “divisive concepts” in the classroom. For example, the 2022 Florida state legislature passed three laws that took effect July 1. Parental Rights in Education (HB 1557) prohibits classroom instruction about sexual orientation or gender identity for kindergarten through third grade; Individual Freedom (HB 7) restricts how workplaces and classrooms can discuss race and gender; and K–12 Education (HB 1467) aims to get parents more involved in how districts select and approve instructional materials.

- 4) **Local School Boards: How Instructional Materials Are Adopted.** While the Instructional Quality Commission (IQC) develops and State Board of Education

(SBE) adopts model frameworks, local governing boards are responsible for adopting instructional materials that align with core academic content standards in a model framework.

When developing model frameworks, the SBE identifies instructional materials (state-adopted materials) that align with a core academic content standard of a framework. Once the SBE adopts instructional materials for a particular subject, those materials remain on the list of adopted materials for that subject until the SBE adopts a new list. A local governing board may use something other than the state-adopted instructional materials. (EC 60210)

This bill requires the CDE to develop guidance related to how to help school districts, county offices of education, charter schools, and school personnel manage conversations about race and gender and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant.

A local governing board must also adopt instructional materials recommended state-adopted materials as long as they meet the core academic content standards of the appropriate subject framework and complies with the FAIR Act. (EC 60210 & 60040). When adopting material, the local governing must ensure that most of the participants of any review process conducted by the LEA are classroom teachers assigned to the subject area or grade level of the materials (EC 60210 (c)). Furthermore, governing boards must also promote the involvement of parents and other community members in selecting instructional materials. (EC 60002). By the end of the eighth week of school, the local board shall decide, through a resolution, whether each pupil in the school district has instructional materials that are aligned with the content standards and that are consistent with the content and cycles of the curriculum framework adopted by the SBE for the following:

- Mathematics;
- Science;
- History-social science; and
- English language arts, including an adopted program's English language development component.

The complete program must be available for the local board to make this determination. (EC 60119)

Williams Case: The process of adopting and providing instructional materials stems from the Williams case. Williams v. State of California is a statewide class action suit regarding the sufficiency of instructional materials, adequacy of facilities, and the qualification of teachers. In September 2004, the Williams Settlement Legislation was enacted into law requiring all districts in the State of California to provide sufficient instructional materials in core subject areas; maintain clean, safe facilities in good repair and take measures to guarantee all pupils have qualified teachers. Concerning instructional materials, every school in

the district is required to provide sufficient textbooks, or other instructional materials, for all pupils in core subject areas. These instructional materials must be aligned with the content standards and consistent with the cycles of the curriculum frameworks adopted by the SBE. Core subject areas include English language arts (including any English Language Development component of an adopted program), mathematics, history/social science, and science. Pupils enrolled in a foreign language or health course must also be provided with sufficient instructional materials, and adequate science laboratory equipment must be available for science courses in grades 9-12.

Temecula Valley Unified School District (TVUSD): Most recently, in California, TVUSD opposed in a 3-2 vote the adoption of a new social studies curriculum that could leave 11,397 students without a textbook next year. The social studies curriculum was vetted by 47 Temecula Valley teachers who taught the material in 18 elementary schools this past year as part of a pilot program. The material, also approved by the CDE, will replace outdated textbooks. TVUSD must now work with the Riverside County Office of Education and CDE to explore the following steps if the curriculum is not adopted.

- 5) **Committee Amendment.** *The committee recommends, and the author has agreed to, the following amendments:*
- a) Clarify that the CDE must ensure each governing board complies with state law requiring that public schools provide pupils with comprehensive, culturally competent, and accurate instruction about history, experiences and viewpoints consistent with specific code sections related to instructional materials.
 - b) Specify that the CDE must issue guidance related to how to help school districts, county office of education, charter schools, and school personnel manage conversations about race and gender and how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant by July 1, 2025.
 - c) Specify specific code sections related to instructional materials to ensure that a governing board is considering the removal of an existing textbook, other instructional material, or curriculum.
 - d) Makes other technical changes.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (Sponsor)
ACLU California Action
California Faculty Association
National Association of Social Workers, California Chapter
Teach Plus
Women for American Values and Ethics Action Fund

OPPOSITION

California Parents Union
California School Boards Association

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 700
Author: Grayson
Version: June 19, 2023
Urgency: No
Consultant: Lynn Lorber

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: California Firefighter Cancer Prevention and Research Program.

SUMMARY

This bill establishes the California Firefighter Cancer Prevention and Research Program and requests the University of California (UC) to develop and administer a competitive grant program for UC campuses to conduct research related to understanding biomarkers of exposure to chemical carcinogens that are absorbed and metabolized by firefighters.

BACKGROUND

Existing law:

- 1) Establishes, under the California Constitution, the UC as a public trust to be administered by the Regents of the UC with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university, and such competitive bidding procedures as may be made applicable to the university for construction contracts, selling real property, and purchasing materials, goods and services. (Constitution of California, Article IX, Section 9)
- 2) States, under the California Constitution, that the university be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs. (Constitution of California, Article IX, Section 9 (f))
- 3) Provides that statutes related to UC (and most other aspects of the governance and operation of UC) are applicable only to the extent that the Regents of UC make such provisions applicable. (Education Code (EC) § 67400)
- 4) Declares the UC as the primary state-supported academic agency for research. (EC § 66010.4 (c))
- 5) Presumes that cancer developing or manifesting itself arises out of and in the course of the employment of a firefighter, as specified. (Labor Code § 3212.1)

ANALYSIS

This bill establishes the California Firefighter Cancer Prevention and Research Program and requests UC to develop and administer a competitive grant program for UC campuses to conduct research related to understanding biomarkers of exposure to chemical carcinogens that are absorbed and metabolized by firefighters.

- 1) Establishes the California Firefighter Cancer Prevention and Research Program and requests UC to develop and administer a competitive grant program to award grants to applicant UC campuses to conduct research using a fire service community-based participatory research model.
- 2) Provides that the research is to include, but not be limited to, understanding of biomarkers of exposure that quantify chemical carcinogens absorbed and metabolized by firefighters and studying biomarkers of effect that quantify cancer-promoting cellular changes that ultimately lead to a cancer diagnosis.
- 3) Requires UC (if the Regents agree to undertake these duties), in consultation with the Firefighting Resources of California Organized for Potential Emergencies (FIREScope) Program (see comment # 2 on page 3), to develop the strategic objectives and priorities of the program and receive and evaluate applications of applicant UC campuses.
- 4) Requires the FIREScope Program to make the final recommendations to the UC on which research grants should be funded based on the research priorities established for the program.
- 5) Requires UC, in consultation with the FIREScope Program, to prepare a report, to be submitted to the Legislature by January 1, 2025, and annually through 2028. This bill requires the report to include, but not be limited to, all of the following:
 - a) The number and dollar amounts of research grants that have been awarded.
 - b) The name of each UC campus receiving grant awards.
 - c) The name of each fire department working with the UC campus conducting research.
 - d) A summary of research findings from the research.
- 6) Conditions the implementation of this bill on both of the following:
 - a) An appropriation by the Legislature in the annual Budget Act or another statute.
 - b) A resolution adopted by the Regents of the UC agreeing to undertake the duties outlined in this bill.

- 7) Defines “community-based participatory research” as a mechanism by which academic partners establish a meaningful and ongoing collaboration with the population of interest to ensure that the research is relevant and needed in the community and is conducted in a responsible and respectful manner. The research engages communities at different times during the research process.
- 8) States legislative intent to establish a program to award grants for fire service community-based participatory research examining biomarkers of carcinogenic exposure and effect in order to identify the biological mechanisms that cause cancer in firefighters, and to reduce the incidence of cancer among California firefighters.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Without further research to elucidate the biological mechanisms associated with exposure to carcinogenic agents in the fire service, California’s firefighters will continue to face an elevated incidence of cancer. California must prioritize funding for the research needed to address the health and safety of those on the front lines. AB 700 helps to support firefighters by creating a fire service community based participatory research program examining bio-markers of carcinogenic exposure and effect in order to identify the biological mechanisms that cause cancer in firefighters and to reduce the incidence of cancer among California firefighters. By establishing the research program, AB 700 will help to address the goal of preventing cancer among California’s firefighters.”
- 2) ***FIRESCOPE Program.*** Existing law requires the Office of Emergency Services to establish and administer the FIRESCOPE Program to maintain and enhance the efficiency and effectiveness of managing multiagency firefighting resources in responding to an incident. The goal of the FIRESCOPE Program is the improvement of fire incident management and the coordination of multiagency firefighting resources on major or multiple incidents. The Office of Emergency Services, Department of Forestry and Fire Protection, and Office of the State Fire Marshall jointly administer the FIRESCOPE Program. In August 2022, FIRESCOPE established the Cancer Prevention Subcommittee within the program; according to FIRESCOPE’s website and minutes of the August 15, 2022 inaugural meeting of the subcommittee, one of the work tasks related to educational materials is “mechanistic process of DNA/cancer biology.”
- 3) ***Related budget activity.*** AB 102 (Ting, 2023), the Budget Act of 2023 (the Budget Bill Jr.) currently appropriates \$7 million to UC for the purposes contained in this bill. AB 102 passed the Legislature and is awaiting the Governor’s action.
- 4) ***Fiscal impact.*** According to the Assembly Appropriations Committee, a prior version of this bill would impose the following costs:
 - a) The Department of Public Health (DPH) estimates it will require approximately \$1.34 million to \$5.34 million (General Fund) annually to establish the program and support coordination with stakeholders, including the equivalent of two full-time program and research staff to

oversee fiscal and administrative duties, provide expertise in exposure assessment, and coordinate the grant process. Additionally, the funding would pay for up to ten research grants per year, at a cost of \$1 million to \$5 million. DPH notes it based this estimate on other DPH grant programs.

- b) The Office of Emergency Services FIRESCOPE Program and UC estimate negligible costs.

SUPPORT

California Professional Firefighters (Sponsor)
Alameda City Firefighters Local 689
Alameda County Firefighters Local 55
Anaheim Firefighters Association Local 2899
California Labor Federation
Contra Costa County Professional Firefighters Local 1230
Corona Firefighters Association Local 3757
Costa Mesa Firefighters Local 1465
Davis Professional Firefighters Association Local 3494
Fremont Fire Fighters Local 1689
Fresno Firefighters Local 202
Glendale Professional Firefighters Local 776
Hayward Fire Fighters Local 1909
Kern County Firefighters Local 1301 Union
Long Beach Firefighters Local 372
Marin Professional Firefighters Local 1775
Modesto City Firefighters Local 1289
Monrovia Firefighters Local 2415
Monterey Firefighters Association Local 3707
Nevada County Professional Firefighters Local 3800
Oakland Firefighters Local 55
Ontario Professional Firefighters Local 1430
Professional Firefighters of Sonoma County Local 1401
Rancho Cucamonga Firefighters Association Local 2274
Redlands Professional Firefighters Association Local 1354
Riverside City Firefighters Association Local 1067
Sacramento Area Firefighters Local 522
Salinas Fire Fighters Local 1270
San Bernardino County Firefighters Local 935
San Jose Fire Fighters Local 230
Santa Clara County Firefighters Local 1165
Santa Fe Springs Firefighters Local 3507
Torrance Fire Fighters Association Local 1138
Valley Center Firefighters Local 5187
Vista Firefighters Association Local 4107

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 938
Author: Muratsuchi
Version: June 21, 2023
Urgency: No
Consultant: Ian Johnson

Hearing Date: July 5, 2023

Fiscal: Yes

Subject: Education finance: local control funding formula: base grants: classified and certificated staff salaries.

NOTE: This bill has been referred to the Committees on Education and *Labor, Public Employment, and Retirement*. A "do pass" motion should include referral to the Committee on *Labor, Public Employment, and Retirement*.

SUMMARY

This bill creates new Local Control Funding Formula (LCFF) funding targets for the 2030-31 fiscal year and requires local educational agencies (LEAs) to submit employee salary data to the California Department of Education (CDE) annually.

BACKGROUND

Approved by the voters in November 1988, Proposition 98 amended Section 8 of Article XVI of the California Constitution. Specifically, Proposition 98—commonly referred to as the minimum guarantee—added constitutional provisions setting forth rules for calculating a minimum annual funding level for K–14 education. The state meets the guarantee using both state General Fund and local property tax revenue.

In 2013, the LCFF was enacted. The LCFF establishes per-pupil funding targets, with adjustments for different student grade levels, and includes supplemental funding for LEAs serving students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions.

The largest component of the LCFF is a base grant generated by each student. Current law establishes base grant target amounts for the 2013-14 fiscal year, which are increased each year by the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States.

The base grant target rates for each grade span for the 2022-23 fiscal year are as follows:

- 1) \$10,119 for grades K-3 (includes a 10.4 percent adjustment for class size reduction);
- 2) \$9,304 for grades 4-6;

- 3) \$9,580 for grades 7-8;
- 4) \$11,391 for grades 9-12 (includes a 2.6 percent adjustment for career technical education).

For each disadvantaged student (low-income, English learner, or foster youth), a district receives a supplemental grant equal to 20 percent of its adjusted base grant. A district serving a student population with more than 55 percent of disadvantaged students receives concentration grant funding equal to 50 percent of the adjusted base grant for each disadvantaged student above the 55 percent threshold.

Beginning in the 2022-23 fiscal year, school districts and charter schools receive an add-on to their LCFF entitlement equal to the Transitional Kindergarten (TK) add-on rate (\$2,813) multiplied by the LEA's current year TK average daily attendance (ADA).

The LCFF funds LEAs based on their ADA. Total ADA is defined as the total days of student attendance divided by the total days of instruction.

ANALYSIS

This bill:

- 1) Establishes new LCFF base and add-on grant targets for fiscal year 2030-31 and states that it is the intent of the Legislature to fully fund the LCFF target base grants in the years preceding the 2030–31 fiscal year and to spend those funds to increase schoolsite staff salaries to close the wage gap at LEAs.
- 2) Requires the CDE to, by July 1, 2024, update the Salary and Benefits Schedule for the Certificated Bargaining Unit (Form J–90) to include salary data collection for classified school staff assigned to a schoolsite or sites, in the same manner as collected for certificated staff assigned to a schoolsite or sites; and rename the form as the Salary and Benefit Schedule for the Bargaining Units (Form J–90).
- 3) Requires, on or before September 1, 2024, and annually thereafter, school districts, county offices of education (COE), and charter schools to complete the Form J–90 for classified and certificated staff assigned to a schoolsite or sites and report the Form J–90 to the CDE.
- 4) Requires, on or before November 1, 2024, and annually thereafter, the CDE to report to the Legislature on the progress of school districts, COEs, and charter schools in increasing salaries for classified staff assigned to a schoolsite or sites and certificated staff assigned to a schoolsite or sites. Requires this report to include the following:
 - a) The change in salary rates for certificated staff as compared to the 2020–21 fiscal year or the 2023–24 fiscal year, whichever year the Form J–90 was filed for first;

- b) The change in salary rates for classified staff as compared to the 2023–24 fiscal year;
- c) The salary rate changes year over year; and
- d) The rate of salary change compared to the rate of yearly inflation as measured by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “California is experiencing a severe school workforce crisis among both certificated and classified employees. This workforce crisis is exacerbated by the lack of interest in college students pursuing a career in teaching. AB 938 will raise school staff salaries to close the existing wage gap that exists between teachers and similarly educated college graduates in other fields. This wage gap has widened in the past decade and raising school employee salaries will correct a long standing inequity.

In countries such as Finland, Australia, Canada, and Singapore teaching is a competitive field. Teacher salaries are commensurate with other fields like engineering, law and business. In Finland, teaching is the most desired profession, and competition for slots is intense, with only 1 in 4 applicants to teacher training accepted overall, including only 1 in 10 for primary school teacher preparation. AB 938 will achieve equitable school site staff salaries by closing the wage gap, and help California recruit and retain qualified school site staff, both certificated and classified.”

- 2) ***Does this bill provide more funding for education?*** While the LCFF establishes the formula by which LEAs receive state funding, the Proposition 98 minimum guarantee constitutionally governs the amount of state funding provided to public schools (including community colleges). Moreover, this bill only changes the statutory calculation of LCFF targets for LEAs—not LEA’s annual LCFF entitlement—and expresses the intent of the Legislature to fully fund these targets over seven years to raise teacher wages by 50 percent and improve educational opportunities for pupils.

Therefore, this bill creates significant cost pressure to the LCFF, which, in turn, creates pressure to crowd out other education programs within Proposition 98, but would not result in additional funding for education.

- 3) ***Would significantly increasing the funding targets dissuade fiscal prudence by LEAs as state revenues slow and school attendance remains stagnant?*** While increasing the LCFF targets for LEAs could be interpreted by some as the beginning of a second, multi-year transition to a new targeted level of funding for LEAs, significant uncertainties about the future political and fiscal climate remain.

Specifically, at the March 2, 2023 hearing of the Senate Budget Subcommittee No. 1 on Education Finance, the Fiscal Crisis Management and Assistance Team (FCMAT) shared their observation of the following trends that will threaten the fiscal solvency of LEAs in the short-term and long-term:

- a) Declining enrollment and continued low ADA yields;
- b) Spend down or expiring of one-time pandemic-related funds;
- c) Slowing state revenues in near term years;
- d) Employer contribution rates for the California Public Employee Retirement System (CalPERS) increasing in 2023-24;
- e) Inflationary pressures on the cost side;
- f) Significant increase in liability claims against LEAs, impacting risk pools and eventually causing costs to flow to LEAs;

To the extent that increasing the LCFF targets would discourage LEAs from managing their multi-year budgets prudently—by signaling that these targets will be funded in the near future—this bill could result in less fiscal stability among LEAs (not more). The Committee should consider the importance of ensuring that the amount by which LCFF targets are raised matches the amount of available future state resources currently and in future years.

- 4) ***Fiscal Impact.*** According to the Assembly Appropriations Committee, this bill would have the following state fiscal effects:
 - a) Ongoing Proposition 98 General Fund cost increases of between \$2 billion and \$14 billion to roughly double the LCFF base rates by the 2030-31 school year and make other aspirational changes to the LCFF. This estimate takes into account that the state is statutorily required to provide annual cost of living adjustments (COLAs) to the LCFF, so the estimate is the differential from increasing the 2022-23 LCFF base funding rates by 50% and the compounded COLA increases from the 2024-25 school year through the 2030-31 school year. (The 50% LCFF increase to the 2022-23 LCFF base funding rates would total about \$36 billion.) The lower estimate assumes out-year projections of COLAs being around 4.3% year over year. The higher estimate assumes out-year COLAs that grow at the historical average of about 2.8% year over year. The actual cost will vary based on changes in student attendance and the annual COLAs the Legislature provides between now and the 2030-31 school year. In addition, this estimate holds student attendance flat throughout the implementation period.
 - b) Ongoing General Fund costs of an unknown amount, but potentially in the hundreds of millions, to increase contributions to California State

Teachers' Retirement System, depending on how much this bill increases salaries relative to how much salaries would have increased otherwise.

- c) Ongoing General Fund costs to CDE of about \$1.6 million annually, of this, \$900,000 annually for software and technology costs, \$668,000 annually for personnel costs. CDE indicates it has concerns about the feasibility of developing the software and meeting reporting requirements deadlines set in the bill.
 - d) Ongoing Proposition 98 General Fund costs to LEAs to begin reporting certain information to CDE. If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to LEAs or provide funding through the K-12 Mandate Block Grant.
- 5) ***Already weak teaching pipeline further damaged by COVID-19 education disruptions.*** A March 2021 report by the Learning Policy Institute (LPI) raised concerns about the effects of the COVID-19 pandemic on the teacher shortage in California:
- a) Teacher shortages remain a critical problem. Most districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers on substandard credentials and permits, reflecting a statewide trend of increasing reliance on underprepared teachers.
 - b) Teacher pipeline problems are exacerbated by teacher testing policies and inadequate financial aid for completing preparation. Many districts attributed shortages to having a limited pool of fully credentialed applicants, with more than half reporting that testing requirements and lack of financial support for teacher education pose barriers to entry into teaching.
 - c) Teacher workload and burnout are major concerns. The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
 - d) Growing retirements and resignations further reduce supply. In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. District

leaders anticipate higher retirement rates next year, which could exacerbate teacher shortages.

- 6) ***Arguments in support.*** The California Federation of Teachers states, "California is experiencing a severe school workforce crisis among both certificated and classified employees. Education workers constantly are providing support and services for California's students - the next generation of leaders, entrepreneurs, and the backbone of our economy. The work performed by education workers is often back-breaking, emotional, and runs workers through a gauntlet of challenges. Educators not only must pass certification and other licensing challenges, but also step into other roles for student safety and success. These roles are similar to therapists, mentors, emergency health providers, public safety officers, and now have been pushed to the limits in political defense of academic freedom and providing non-secular education. Today's workforce crisis is exacerbated by the lack of interest in the workforce to pursue a career in education. Research shows the overwhelming reason that the incoming workforce is not interested in teaching is salary. Nearly two-thirds (63%) of those not interested in teaching cited pay as one of the top three reasons they were not interested in teaching.

Further, research indicates that nationally, teachers earn 23.5% less than comparable college graduates, and 17% less than others in California. This percentage represents the wage gap between teachers and similarly educated peers. Over time this wage gap has increased, therefore, teacher salaries are falling further and further behind. This bill will close the school employee wage gap. Additionally, studies conducted both in the U.S. and abroad link the importance of teacher salary to teaching effectiveness and retention. Research shows that low teacher salary affects teacher motivation, teaching quality, and increases teacher attrition."

- 7) ***Committee amendments (to be taken in Labor Committee).*** The CDE has expressed concerns that: (1) the November 1 due date for the annual legislative report on the progress of LEAs increasing staff salaries does not give sufficient preparation time, and (2) locally-funded charter schools, as opposed to direct-funded charter schools, would not be able to comply with the Form J-90 reporting requirement to CDE because they are assumed to be schools of a district.

To address these concerns, ***staff recommends*** amending the bill to: (1) change the due date for the annual legislative report on the progress of LEAs increasing staff salaries to January 31, and (2) specify that the Form J-90 reporting requirement applies to direct-funded charter schools, and not locally-funded charter schools.

This bill was double-referred and will go to the Committee on Labor, Public Employment, and Retirement next. Due to timing issues, these amendments will be processed in Labor Committee.

SUPPORT

California Federation of Teachers (co-sponsor)
California Labor Federation (co-sponsor)
American Federation of State, County and Municipal Employees
Board of Supervisors for the City and County of San Francisco
California School Employees Association
California Teachers Association

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No: AB 1054

Hearing Date: July 5, 2023

Author: Berman

Version: June 12, 2023

Urgency: No

Fiscal: Yes

Consultant: Kordell Hampton

Subject: Pupil instruction: high schools: computer science education courses.

SUMMARY

This bill requires the governing board of a local educational agency (LEA) and a charter school maintaining any of grades 9 to 12, to adopt a plan to offer at least one course in computer science education beginning the 2025-26 and across all high schools by the 2027-28 school year, as specified.

BACKGROUND

Existing Law:

Education Code (EC)

- 1) Requires the Instructional Quality Commission (IQC) to consider developing and recommending to the State Board of Education (SBE), on or before July 31, 2019, computer science content standards for kindergarten and grades 1 to 12 pursuant to recommendations developed by a group of computer science experts. (EC 60605.4)
- 2) States that if a school district requires more than two courses in mathematics for graduation from high school, the district may award a student up to one mathematics course credit for successfully completing a “category C” approved computer science course. (EC 51225.35)
- 3) Requires the California State University (CSU), and requests the University of California (UC), to develop guidelines for high school computer science courses that may be approved for the purposes of recognition for admission. (EC 66205.5)

ANALYSIS

This bill requires the governing board of an LEA and a charter school maintaining any of grades 9 to 12, to adopt a plan to offer at least one course in computer science education beginning the 2025-26 and across all high schools by the 2027-28 school year, as specified.

Phasing in Computer Science Education

- 1) Requires the governing board of schools district and charter school maintaining any of grades 9 to 12 to adopt a plan at a regularly scheduled public meeting by January 1, 2025, to offer at least one course in computer science education in the following timeline:
 - a) Commencing the 2025–26 school year, at least one high school per school district offers a computer science education course.
 - b) Commencing the 2026–27 school year, all charter schools maintaining any of grades 9 to 12, inclusive, offer a computer science education course.
 - c) Commencing the 2026–27 school year, at least 50 percent of the high schools per school district offer a computer science education course.
 - d) Commencing the 2027–28 school year, all high schools in a school district offer a computer science education course.
- 2) Specifies that school districts maintaining only one high school instead offer a computer science education course by no later than the 2026–27 school year.
- 3) Specifies if a traditional classroom setting for a computer science education course is not feasible, the school district or charter school must include its plan to offer a virtual or distance course option in the plan adopted by the governing board of an LEA or charter school.
- 4) Requires the governing board of an LEA and charter school, to include in their adopted plan, it efforts to increase the computer science education course enrollment of female pupils, pupils with disabilities, pupils who belong to ethnic and racial groups, and pupils eligible for free or reduced-priced meals that are underrepresented in the field of computer science.
- 5) Requires an LEA and charter school to post on its website the adopted plan and make it available to the California Department of Education (CDE) upon request.
- 6) Requires the governing board of an LEA and charter school, on or before May 31, 2025, and annually thereafter until each high school in a school district, or each charter school maintaining any of grades 9 to 12, inclusive, offers a computer science education course, to review the plan adopted at a regularly scheduled public meeting and report to the public on its progress in implementing the plan.

Reporting to the California Department of Education

- 7) *Requires each LEA and charter school to submit to the CDE, on or before June 30, 2026, and by each June 30 thereafter, a report for the concluding academic year that shall include, but not be limited to, all of the following:*
 - a) The names and course codes of computer science education courses offered in each school, including course descriptions and which computer science academic content standards are covered, to the extent that information is available.

- b) The number and percentage of pupils who enrolled in each computer science education course, disaggregated by each of the following:
 - i) Gender.
 - ii) Race and ethnicity.
 - iii) Special education status.
 - iv) English learner status.
 - v) Eligibility for free and reduced-price meals.
 - vi) Grade level.
 - c) The number of computer science teachers at each school, disaggregated by credential, authorization, and certification, as applicable.
- 8) Requires the CDE to post the names and course codes of computer science education courses offered in each school, including course descriptions and which computer science academic content standards are covered, to the extent that information is available disaggregated by the school; the number and percentage of pupils who enrolled in each computer science education course and the number of computer science teachers at each school aggregated to the statewide level; and a list of computer science education course codes and names,
- 9) Requires the CDE to publically post data consistent with any standards prescribed pursuant to the California Cradle-to-Career Data System.

General Provision

- 10) Makes findings and declarations about the importance of providing computer science education to students.
- 11) “Computer science” means the study of computers and algorithmic processes, including their principles, hardware, and software designs, implementation, and impact on society, as described in the computer science academic content standards adopted by the state board pursuant to EC 60605.4.
- 12) “Computer science education course” means a computer science course that is aligned to the computer science academic content standards adopted by the state board and in which pupils do not merely use technology as passive consumers, but understand why and how computing technologies work, and then build upon that conceptual knowledge by creating computational artifacts.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “From Silicon Valley to Biotech Beach, California is the undisputed cradle of innovation. However, far too many students grow up in the shadows of tech companies, yet do not have the opportunity to learn the skills they need to work there. As of 2023, California has 49,040 open

computing jobs with an average salary of \$115,754, yet there were only 9,339 graduates in computer science in 2020. According to the Kapor Center, 60% of high schools in California do not offer any computer science courses. Schools serving low-income communities are three times less likely to offer core computer science courses than schools serving high-income communities. Rural schools are two times less likely to offer computer science courses than urban schools. While 52% of high schools serving a greater proportion of White or Asian students offered computer science courses, only 34% of high schools serving high proportions of Black, Indigenous, Latinx, and Pacific Islander students, offered computer science courses. While young women comprise 49% of the high school population, they comprise only 30% of students taking computer science. AB 1054 would ensure computer science education for all by requiring all public high schools in California to adopt a plan to offer at least one computer science education course by the 2027-28 school year. It is time to restore California as a leader and take the next step to ensure every high school student in California has access to computer science education, which will help close the gender and diversity gaps.”

- 2) **Computer Science Standards.** On September 30, 2014, Governor Brown signed Assembly Bill 1539 (Hagman), Chapter 876, Statutes 2014, into law, adding Section 60605.4 to the EC and directing the IQC to consider developing and recommending to the SBE computer science (CS) content standards on or before July 31, 2019, pursuant to recommendations developed by a group of CS experts. The IQC approved and recommended the draft CA CS Standards to the SBE on July 2018. The SBE approved the IQC recommendations and adopted the CA CS Standards in September 2018.

The CA CS Standards are based on CS core concepts and core practices from the revised international Computer Science Teachers Association standards, which align with the national K–12 Computer Science Framework. The CA CS Standards are model 1 standards that define the knowledge, concepts, and skills that students should acquire in each grade band and encourage school districts to provide opportunities for CS education for all students. CS core concepts and practices in the standards are vertically aligned, coherent across grades, and designed in developmentally appropriate grade spans K–2, 3–5, 6–8, and 9–12. The standards are designed to be accessible to every student in California and to inform teachers, curriculum developers, and educational leaders to ensure all students receive quality CS instruction. Consequently, educators are encouraged to design CS learning experiences according to their local capacity and context to meet the needs of their students.

- 3) **Computer Science Strategic Implementation Plan (CSSIP).** Concurrent with creating the CA CS Standards, CSSIP development began in January 2018. The development of the CSSIP was a multi-step process that involved 23 Panel members comprised of teachers; administrators; faculty from institutions of higher education (IHEs); a public school student; and representatives from private industry, a parent organization, the California Commission on Teacher Credentialing (CTC), and the IQC. Members were selected based on their expertise in CS education, experience in standards-based interdisciplinary and differentiated instruction for a diverse student population, other areas of expertise

and leadership, and previous committee experience. The panel participated in small and whole-group discussions during these meetings to determine the most appropriate recommendations. Additionally, the CSSIP Panel created a mission and vision statements to guide computer science education in California.

Scaling Up K–12 Computer Science Education in California Cont'd.

#	Responsible Entity	Strategy	Evidence of Success	Time Frame
SI.4	CDE	The CDE should convene stakeholders to review computer science standards every seven years to evaluate whether or not they should be refreshed. If revision <u>is recommended</u> , legislative authority to update standards will be sought.	Stakeholders <u>are convened</u> to review standards for potential revision.	7 years
SI.5	Districts	Create four-year implementation and evaluation plans for helping all students achieve the K–12 standards (core for 9–12). Plans should be educator-driven and educator-focused, leveraging interest among teachers to pilot materials and disseminate information to colleagues rather than top-down mandates for all teachers to participate from the beginning.	Support for computer science education <u>is written</u> into district LCAPs under Priority 7: Course Access (Pupil enrollment in a broad course of study that includes all of the subject areas). Plans developed by early adopter districts <u>are used</u> as models for other districts and/or legislation to support computer science education implementation.	2 years
SI.6	Districts, COEs, and the CDE	State will identify model districts and schools that highlight successful implementation of the standards and best practices and share with the larger education community.	Recognition for early adopters and current successful models of California computer science implementation <u>are highlighted</u> on a statewide interactive map with symbolic recognition by CDE.	2–3 years

Note: 3 of the 49 recommendations from the Computer Science Strategic Implementation Plan Panel to support computer science education in California (Source: CDE - CSSIP Panel)

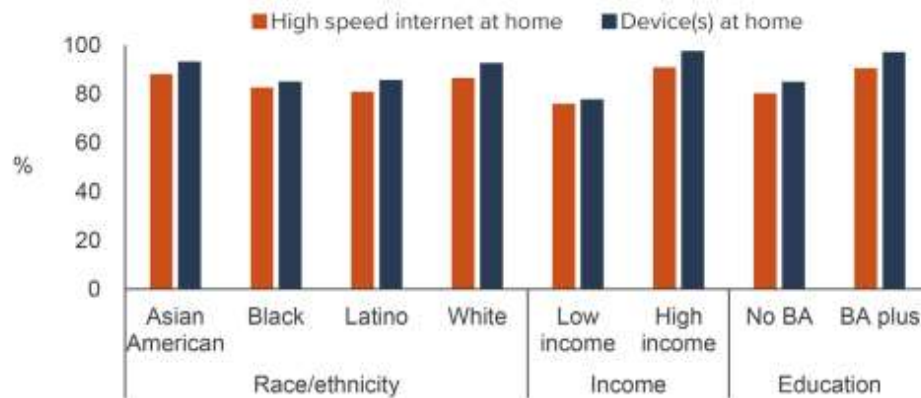
The panel's final recommendations include the entity responsible for implementing the recommendation, a strategy for meeting the recommendation, and evidence of successful implementation. In addition, a suggested time frame for each strategy is provided.

This bill requires the governing board of an LEA and charter school to develop and adopt a plan to phase in computer science education across all high school by the 2027-28 school year. The committee may wish to consider whether the state has provided sufficient funding to support the professional development of teachers and school leaders to learn about the California K–12 computer science standards and to effectively integrate or offer as standalone computer science courses in K–12 education.

- 4) **Broadband Access Has Grown In Recent Years, But Many Still Lack Access.** According to the Public Policy Institute of California (PPIC) in their policy brief, *California's Digital Divide*, "Access to fast and reliable home internet has continued to increase, but many still live without access. The American Community Survey (ACS) found that 85% of Californian households had high-speed internet at home in 2021—a slight improvement from 84% in 2019, before the onset of the COVID-19 pandemic. Since 2019, access to broadband at home has become more

common for most demographic groups. But racial and ethnic gaps persist: 81% of Latino, 83% of Black, 87% of white, and 88% of Asian households report having broadband access at home in 2021.”

Low-income households were less likely to have access to broadband and devices in 2021



Source: American Community Survey, 2021.

Notes: Average California household size is three. Low-income households have an annual income below \$50,000; or roughly 225% of the federal poverty line for a three-person household in 2022 (\$51,818). High-income households have an annual income above \$100,000. Education level and race/ethnicity are for household head.

The PPIC also notes that not all students can access the digital tools they need for school. Many students still struggle to access the internet for their homework, even when their district provides a device. For example, about 13,000 students of Fresno Unified School District’s 60,000 students remain unconnected to the internet outside of their school’s network in the greater Fresno area. Nearly 1 in 20 households (4%) with school-age children do not have access to a device at home.

In 2021, the California legislature passed Senate Bill 156 (Committee on Budget) Chapter 112, Statutes of 2021 providing over \$6 billion to expand broadband infrastructure and enhance internet access in unserved and underserved communities. The Federal Infrastructure Investment and Jobs Act (2021) provides at least \$100 million to expand broadband infrastructure in California. The PPIC report notes that “even with funding like SB 156 to defray the infrastructure costs of building out broadband, internet availability can differ greatly among neighbors due to individual financial constraints, a home’s elevation, signal obstacles, accessibility for work trucks, and the accuracy of previous attempts to estimate an area’s access.”

The committee may wish to consider whether the state has made progress in closing the digital divide and has built enough broadband infrastructure to begin requiring computer science courses in 2025.

5) Related Legislation

AB 1853 (Berman, 2022) would have established the Computer Science Preservice Teacher Grant Program, administered by the CTC to award competitive grants to IHEs to develop or expand K–12 computer science and computational thinking coursework for individuals seeking specified teaching credentials. *This bill was held in the Assembly Appropriations Committee.*

AB 130 (Committee on Budget), Chapter 44, Statutes of 2021, established the Computer Science Supplementary Authorization Incentive Grant Program for the purpose of providing one-time grants to LEAs to support the preparation of credentialed teachers to earn a supplementary authorization in computer science and provide instruction in computer science coursework.

AB 128 (Committee on Budget), Chapter 21, Statutes of 2021, appropriated \$5 million on a one-time basis to establish the Educator Workforce Investment Grant: Computer Science and required the CDE to select an IHE or nonprofit organizations to provide professional learning for teachers and paraprofessionals statewide in strategies for providing high-quality instruction and computer science learning experiences aligned to the computer science content standards.

AB 2309 (Berman, 2020) would have required the CTC to develop and implement a program to award competitive grants to postsecondary educational institutions for the development of preservice credential programs for individuals seeking a teaching credential and the expansion of programs of study for single subject or multiple subject credentialed teachers seeking a supplementary authorization in computer science. *This bill was held in the Assembly Education Committee.*

AB 2274 (Berman, 2020) would have required the CDE to annually compile and post on its website a report on computer science courses, course enrollment, and teachers of computer science courses for the 2019-20 school year and each subsequent school year. *This bill was held in the Assembly Education Committee.*

AB 52 (Berman, 2019) would have required the computer science strategic implementation plan to be regularly updated. *This bill was held in the Assembly Appropriations Committee.*

SUPPORT

California Stem Network (Co-Sponsor)
Children Now (Co-Sponsor)
Code.org (Co-Sponsor)
Silicon Valley Leadership Group (Co-Sponsor)
21st Century Alliance
Amazon
American Association of University Women - California
BSA The Software Alliance
California Chamber of Commerce
California Teachers Association
College Board
Computer Science Equity Project
Learningtech.org
Los Angeles Area Chamber of Commerce
Los Angeles County Office of Education
Los Angeles Unified School District
Microsoft Corporation
North Bay Leadership Council
Orange County Business Council

Regional Economic Association Leaders Coalition
Salesforce
Snap Inc.
Technet
Unite-LA
Valley Industry and Commerce Association

OPPOSITION

None Received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 1311	Hearing Date:	July 5, 2023
Author:	Soria		
Version:	April 13, 2023		
Urgency:	No	Fiscal:	No
Consultant:	Olgalilia Ramirez		

Subject: Public postsecondary education: allied health programs: assessment.

SUMMARY

This bill requires the Legislative Analyst's Office (LAO) to conduct an assessment, on or before January 1, 2025, evaluating the efficacy of existing programs in allied health jointly offered between campuses of the California Community Colleges (CCC), California State University (CSU), and University of California (UC).

BACKGROUND

Existing law:

- 1) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to ensure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services. (Article IX, Section (9)(a) of the California Constitution)
- 2) Confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees. (Education Code (EC) § 66606 and 89500, et seq.)
- 3) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. (EC § 70900)
- 4) Provides that the primary mission of the CSU is undergraduate and graduate instruction through the master's degree, but authorizes the CSU to offer joint doctoral degrees with the UC, or with one or more independent institutions of higher education, only as specified. Specifies that, in setting forth the missions and functions of the CCC, CSU, UC and California's independent institutions of higher education that, among other things, the UC has the sole authority in public higher education to award the doctoral degree in all fields of learning, except that it may agree with the CSU to award joint doctoral degrees in selected fields. (EC § 66010.4)

ANALYSIS

This bill:

- 1) Requires the LAO to conduct an assessment, on or before January 1, 2025, evaluating the efficacy of existing programs in allied health, including, but not limited to nursing, jointly offered between campuses of the CCC, CSU, and UC.
- 2) Requires that the results of the final assessment be reported, in writing, to the Legislature and the Governor by January 1, 2025 and that the final assessment include, but not be limited to, all of the following:
 - a) The total number of joint programs currently implemented, including information identifying the number of programs, applicants, admissions, enrollments, and degree recipients.
 - b) The extent to which existing allied health programs fulfill the identified workforce shortages, including statewide supply and demand data that considers capacity at the CCC, the CSU, the UC, and California's independent colleges and universities.
 - c) Information on the job placement of graduates.
 - d) Joint allied health program costs and the funding sources that were used to finance these programs.
 - e) Time-to-degree rates and completion rates for students in joint allied health programs.
 - f) Recommendations on whether and how joint, intersegmental allied health programs can or should be extended and expanded.
- 3) Requires that the report be submitted, as specified in current law.
- 4) Sunsets the bill's provisions on January 1, 2026.

STAFF COMMENTS

- 1) **Need for the bill.** The author's office provided no background material on this bill to the Committee.
- 2) **Intersegmental partnerships and transfer pathways.** Current law authorizes CSU to offer joint degrees with UC. For example, UC San Diego and San Diego State University offer a joint Ph.D. in public health. CCCs may have agreements with baccalaureate degree-granting institutions. Improving alignment between CCC and the universities, in particular CSU, could increase the number of CCC students who ultimately obtain a bachelor's degree and reduce the amount of time students take to obtain their degree. For example, the Tri-County Nursing Pathway is a partnership between Riverside City College and two CSU campuses (Fullerton and San Bernardino) that allows associate degree nursing

students to concurrently obtain their bachelor's degrees. Students can enroll in CSU courses while still completing their associate degree requirements, allowing them to obtain their bachelor's degree with only six additional months of coursework. Additionally, the Associate Degrees for Transfer (ADT) pathways have made it possible for CCC students to earn a transfer associate degree that deems the student eligible for transfer with guaranteed admission into the CSU system. There are currently 41 ADT pathways offered across the CCCs, including one in public health science. Having data and information on joint nursing and other allied health-related programs can help identify and address education gaps. This bill requires the LAO to provide recommendations on whether and how joint programs in allied health care should be extended and expanded between CCC, CSU, and UC.

SUPPORT

California Teachers Association

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	AB 1393	Hearing Date:	July 5, 2023
Author:	Calderon		
Version:	May 18, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Olgalilia Ramirez		

Subject: Student Aid Commission: California Dream Act: Food Support Pilot Program.

SUMMARY

This bill authorizes the California Student Aid Commission (Commission) to establish a food benefit pilot program for the purpose of providing students, who receive financial aid through the California Dream Act, with funding for food.

BACKGROUND

Existing law:

Federal law

- 1) Establishes the federal nutrition program, Supplemental Nutrition Assistance Program (SNAP), pursuant to the Food Stamp Act of 1964 to provide funding to low-income households for food and essential household items. Requires the federal government to appropriate funds for the nutritional benefits and enables the states to distribute the funds and determine eligibility based on federal regulations. (7 United States Code (U.S.C) Section 2011, et seq.)
- 2) Restricts any individual, who is enrolled at least half-time in an institution of higher education from qualifying for SNAP benefits, unless the individual qualifies for an exception, as specified. (7 Code of Federal Regulations (CFR) 273.5(a))
- 3) Clarifies that a college student, enrolled at least part-time, may qualify for SNAP nutritional benefits if they are:
 - a) Over the age of 50 or under the age of 17; or,
 - b) Physically or mentally unfit; or,
 - b) Receiving Temporary Assistance for Needy Families under Title IV of the Social Security Act; or,
 - c) Enrolled in a Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program; or,

- d) Employed for a minimum of 20 hours per week and are paid to the equivalent of Federal minimum wage for 20 hours of work per week; or,
- f) Participating in a state or federally-financed work study program during the regular school year; or,
- g) Participating in an on-the-job training program; or,
- h) Responsible for the care of a child under the age of six; or,
- i) Responsible for the care of a child between the ages of six and twelve when adequate child care is not available to enable the student to work 20 hours a week; or,
- j) A single parent enrolled full-time and are responsible for a child under the age of 12; or,
- k) Enrolled in a program associated with the Job Training Partnership Act of 1974; an employment and training program funded by Carl Perkins and Technical Education Act of 2006, as defined; a program associated with the Trade Act of 1974 as defined; or an employment and training program for low-income households operated by the State or local government. (CRF 273.5(b))

State law.

- 1) Establishes a citizen requirement for SNAP benefits, including that undocumented immigrants are ineligible for SNAP including Deferred Action for Childhood Arrival students and AB 540 students, as specified (Welfare and Institutions Code (WIC) § 18930, et seq.)
- 2) Establishes the California CalFresh program to administer federal SNAP monetary benefits to qualifying families and individuals, as specified. (WIC § 18900 et seq.)
- 3) Establishes commission as the state agency charged with administering state financial aid programs to qualifying students enrolled in institutions of higher education throughout the State. (Education Code (EC) § 69510 et. seq.)
- 4) Exempts a qualifying nonresident student from paying nonresident tuition at the California Community Colleges (CCC) and the California State University (CSU), and requests the University of California (UC) Regents to adopt similar measures, if the student meets the following requirements:
 - a) The student is not nonimmigrant alien within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, and,
 - b) The student either:

- i) Attended full-time, as defined, for three years: a California high school, as defined, a California adult school, or a CCC; or,
 - ii) Completed three or more years of full-time high school coursework in California and a total of three or more years of attendance in a California elementary schools, California secondary schools, or a combination of both; and,
 - c) Completed any of the following:
 - i) Graduated from a California High School or attained an equivalent of a high school diploma;
 - ii) Obtained an associate degree from a CCC; or;
 - iii) Fulfilled the minimum transfer requirements for the CSU or UC; and,
 - d) Registered as an entering student at, or is currently enrolled at an accredited institution of higher education in California no earlier than the fall semester or quarter of the 2001-2002 academic year. (EC § 68130.5)
- 5) Expands the eligibility of student financial aid programs offered by California to students who meet the requirement of Section 68130.5 (AB 540 student) or who meet the equivalent requirements adopted by the UC, notwithstanding any other law. Requires commission to create an application for students to apply for aid, as specified, and provides it is the intent of the legislature that all forms of state-based aid in California be made equally available to all students, as specified.(EC § 69508.5)
- 6) Authorizes, beginning January 1, 2013, AB 540 students to be eligible to apply for, and participate in, any student financial aid program administered by the State of California to the full extent permitted by federal law. (EC § 66021.6.)
- 7) Authorizes, beginning January 1, 2013, AB 540 students attending UC, CSU, or the CCC to be eligible to receive a scholarship derived from nonstate funds, as received by the respective segment for the purpose of scholarships. (EC § 66021.7)
- 8) Defines “public higher education,” as consisting of the CCC, (2) the CSU, and each campus, branch, and function thereof, and (3) each campus, branch, and function of the UC. (EC § 66010 (a))
- 9) Establishes the definition and mission of independent institutions of higher education as nonpublic higher education institutions who are considered nonprofits and are accredited by an agency recognized by the United States Department of Education to confer undergraduate degrees, graduate degrees, or both. (EC § 66010 (b))

ANALYSIS

This bill:

- 1) Requires, until January 1, 2033, the Commission to establish the Food Support Pilot Program for a four-year period to provide food support grants to qualifying students who submit a complete California Dream Act application and receive financial assistance under the California Dream Act.
- 2) Requires the granting of an award to each eligible students and sets award amounts equal to the maximum amount allocated to one CalFresh recipient during that year.
- 3) Require the Commission to allocate the award on a semester or quarterly basis to the qualifying institution if all of the following are met:
 - a) The student has submitted a complete California Dream Act application on time.
 - b) The student would be eligible for a Federal Pell Grant if the student was a citizen or an eligible noncitizen and the student is offered and receives financial aid from the state or an institutional aid program.
 - c) The student is pursuing an undergraduate academic program of at least two academic years that is offered by a qualifying institution.
 - d) The student is enrolled at least part time.
 - e) The student maintains good academic standing with the qualifying institution at which the student is enrolled.
- 4) Provides for the renewal of an award for a total of the equivalent of up to two years or four years of full-time attendance in an undergraduate program provided that the students continues to meet eligibility requirements.
- 5) Requires that the Commission disburse funds to qualifying institutions and each institution is required to disbursed the funds with the institutional agreement between the Commission and the institution for Cal Grants.
- 6) Requires a qualifying institution, upon the receipt of funds from the Commission provide the funds to the student and provides that a grant received by a student cannot be counted towards the total of a student's financial aid award and prohibits a qualifying institution from reducing an institutional financial aid offer for grants recipients.
- 7) Requires the Commission in administering the program to do all of the following:
 - a) Notify students who meet the eligibility requirement of their receipt of the award.

- b) Submit an annual report, as specified to the Legislature on the number of students who qualified for the pilot program grant disaggregated by qualifying institution, age gender, race, and ethnicity.
 - c) Conduct a student survey, as specified, evaluate the effectiveness of the program upon completion of the survey and report the results to the appropriate policy and fiscal committees by July 1, 2027 and by July 1, 2029, as specified.
 - d) Administer the Food Support pilot program, and adopt rules and regulations for that purpose. The bill authorizes the Commission to adopt emergency regulations in accordance with rule making procedures prescribed in existing law .
- 8) Defines various terms for purposes of the bill including, a “qualifying institution,” to mean any public postsecondary educational institution or independent institution of higher education, in the state that receives, or benefits from, state-funded financial assistance or enrolls students who receive state-funded student financial assistance.
- 9) Makes the implementation of this bill’s provisions contingent upon a state appropriation.
- 10) Sunsets the bill’s provisions on January 1, 2033.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “The CalFresh Program, federally known as the Supplemental Nutrition Assistance Program (SNAP), provides monthly food benefits to low-income individuals and families. Unfortunately, undocumented individuals are ineligible for the program due to their immigration status. This places an incredible burden on undocumented students pursuing higher education, adding food insecurity to the cost of college.

To establish equity for these students, Assembly Bill 1393 creates a food pilot program administered by the California Student Aid Commission to provide food benefits similar to CalFresh to undocumented students.”

- 2) **Who is eligible?** To be eligible for food support award, a student must have applied for financial aid through the Dream Act Application, and have been awarded financial assistance under the California Dream Act. DREAM Act applicants are undocumented students who qualify for the AB 540 nonresident tuition waiver. Nonresidents residing in California who have attended or earned the equivalent number of credits at a California high school or California community college campus for a minimum of three years as defined are eligible for AB 540 nonresident tuition exemption. A student enrolled, at least part-time in an undergraduate program at CCC, CSU, UC or a California independent institutions of higher education would be eligible to receive financial assistance under the proposed food support program. Because the bill’s provisions make eligibility contingent on being qualified for a federal Pell Grant award, had

citizenship status not had been a factor, a food support grant applicant must meet other applicable qualifications for federal Pell Grant including having financial need. According to the Assembly Appropriations Committee analysis, the Commission reports in the 2021-22 academic year, 16,119 low-income students completed a California Dream Act application and, of these students, 11,177 students received a Cal Grant.

- 3) **Grant awards.** Under the bill's provisions, grant awards are equal to the maximum amount allocated to one CalFresh recipient during that year; according to the Assembly Appropriations Committee analysis, the current CalFresh maximum amount is \$281 per month. This would total, for a CalFresh recipient, around \$3,300 for the calendar year. The food support grant may be renewed for a total of the equivalent of up to two or four years of full-time attendance in an associate degree or undergraduate program. The food support grants are intended to augment rather than replace or reduce institutional aid offers.
- 4) **California Student Aid Commission Workgroup to expand access to CalFresh.** The Commission organized a workgroup of CalFresh specialists, Legislative staff, representatives from public higher education segments, and non-profit groups in late 2020. The workgroup was formed to investigate and make recommendations to increase the number of California postsecondary students currently enrolled and receiving CalFresh benefits, as measured by year-over-year changes in disbursed benefits, by streamlining the process and increasing awareness of eligibility. According to their report, "*Access to Proper Nutrition Equals College Success: Making CalFresh Work for Students*," through the Supplemental Nutrition Assistance Program, the federal government offers one of the most comprehensive anti-hunger initiatives in the world. This federal program is carried out in California through a program called CalFresh, which is managed and regulated by the California Department of Social Services. Local welfare offices in each of the state's 58 counties operate and administer CalFresh. CalFresh is primarily designed to assist populations that do not earn enough money to meet their basic nutritional needs. Even though this program is available to postsecondary students, only a small percentage of potentially eligible students in California currently receive it. Among California's 6.7 million postsecondary students, it is estimated that between 400,000 and 750,000 students are potentially eligible for CalFresh. Yet only approximately 127,000 students receive this food benefit. For a subset of these students—those who are undocumented—the challenge is more pronounced as they are prohibited from accessing CalFresh and Pell Grants, the most significant forms of federal grant aid for students. It is estimated that between 70,000 and 90,000 undocumented students attend a California college or university. This bill attempts to close the financial need gap caused by the lack of access to federal programs for California's undocumented student population to help them achieve their academic goals.

5) **Prior legislation**

AB 2652 (McCarty, 2022), similar to this bill, required the Commission to establish the Food Support Pilot Program to provide food support grants to students enrolled in qualifying institutions who submit a California Dream Act

application. AB 2653 was held under submission in the Assembly Committee on Appropriations.

SB 464 (Hurtado, 2021) would have expanded the eligibility for the California Food Assistance Program to households that are ineligible for CalFresh benefits due to their immigration status. SB 464 was held under submission in the Assembly Committee on Appropriations.

SUPPORT

Southern California College Attainment Network (Sponsor)
A Place Called Home
Alliance for A Better Community
Association of Independent California Colleges & Universities
C5 Youth Foundation of Socal - C5LA
California Charter Schools Association
California Community Colleges Chancellor's Office
California Immigrant Policy Center
California Student Aid Commission
Camino Nuevo Charter Academy
Children Youth & Family Collaborative
College Access Plan
Determined to Succeed
Educating Students Together
El Monte Promise Foundation
Families in Schools
Immigrants Rising
Kid City Hope Place
Let's Go to College California
Los Angeles Regional Food Bank
Motivating Our Students Through Experience
NextGen California
One Voice
Operation Jump Start
Parent Institute for Quality Education
Partnership Scholars Program
Project Soar
Puente Learning Center
Student Debt Crisis Center
Study Smart Tutors, Inc.
The Children's Partnership
The Institute for College Access & Success
uAspire
Unite-LA
United Friends of the Children
University of California
Mixteco Indigena Community Organizing Project

OPPOSITION

None received

-- END --