
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: SB 186
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Urgency: No
Consultant: Kathleen Chavira
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Fiscal: No

Subject: Community college districts: removal, suspension, or expulsion

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

SUMMARY

This bill expands the definition of “good cause” for purposes of removal, suspension or expulsion from a community college to include sexual assault or sexual battery and, for this conduct exclusively, makes an exception to the prohibition against removal, suspension, or expulsion unless the conduct is related to college activity or attendance.

BACKGROUND

Existing law provides for the suspension or expulsion of community college students with “good cause.” (Education Code § 76030-76038)

Existing law defines “good cause” as including but not being limited to, the following offenses:

1. Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.
2. Assault, battery, or any threat of force or violence upon a student or college personnel.
3. Willful misconduct which results in injury or death to a student or college personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the district.
4. The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code.
5. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.
6. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct. (EC § 76033)

Existing law prohibits the removal suspension or expulsion of a community college student unless the conduct resulting in the disciplinary action is related to college activity or college attendance. (EC § 76034)

ANALYSIS

This bill:

1. Expands the definition of “good cause” for purposes of suspension or expulsion from a community college. Specifically it:
 - A. Adds the offenses of sexual assault or sexual battery.
 - B. Specifies the offense to be “good cause” regardless of the victim’s affiliation with the community college.
2. Makes an exception to the prohibition against removal, suspension or expulsion of a student unless the conduct resulting in the disciplinary action is related to college activity or college attendance if the conduct is sexual assault or sexual battery.
3. Clarifies the continuing applicability of federal law.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, at a roundtable discussion at UC Santa Barbara in November 2014, local community college representatives raised concerns about their inability to discipline students for sexual assault violations occurring off campus. Current law prohibits community colleges from taking disciplinary action against a student unless the conduct occurs on campus or at campus related events. This is particularly challenging at the community colleges since, for the most part, these campuses are non-residential. The representatives expressed the need to have clear legal authority in place to ensure their students’ and communities’ safety and well-being. This bill is intended to remove the prohibition against community college districts as regards to off-campus jurisdiction for student code of conduct violations involving sexual assault or sexual battery.
2. ***Related legal opinion.*** Legal Opinion L 07-07, issued by the California Community Chancellor’s Office in 2007, provides guidance to districts on the “Availability and Use of Information on Students’ Past Conduct.” In response to questions regarding the actions a college can take if officials become knowledgeable about prior violent or criminal behavior enacted at another college campus that creates safety concerns, the opinion notes that colleges may establish health or safety prerequisites, seek restraining orders, share information necessary to protect health and safety of individuals, and educate the college community about risks and responses. The legal opinion further notes that “relying on vague statutory language to exclude students from publicly

funded education carries considerable risk because vague language does not provide clear guidance concerning what behavior supports exclusion.”

3. ***UC/CSU Policies?*** According to the author, this bill is intended to align the community college authority with that of the University of California (UC) and California State University (CSU) by allowing community colleges to hold students accountable for sexual assaults or sexual battery whether on or off campus and regardless of the victim’s affiliation with the college.

There is no statutory restriction on the UC’s extension of its jurisdiction over issues of student conduct beyond the campus. The UC reports that its campuses have exercised this discretion in the interpretation and application of student conduct code expectations and discipline when it determines that the conduct endangers the campus community.

According to the CSU, Title V regulations authorize sanctions for specified conduct to be imposed on applicants, enrolled students, students between academic terms, graduates awaiting degrees, and students who withdraw from school while a disciplinary matter is pending. The regulations specifically state that conduct that threatens the safety or security of the campus community, or substantially disrupts the functions or operation of the University is within this jurisdiction whether it occurs on or off campus. In addition, Executive Order 1095, adopted in June 2014 to outline implementation of Title IX, the Clery Act, and state law and regulations, specifically allows third parties (individuals other than students or employees) to make complaints which would then be investigated and acted on as appropriate.

4. ***Federal law.*** This bill clarifies the continuing applicability of (and the authority of community colleges to act under) federal law. These federal laws include Title IX and the Clery Act.

Title IX applies to educational institutions receiving federal financial assistance and prohibits discrimination on the basis of sex in an educational institution's programs or activities, including employment, academic, educational, extracurricular and athletic activities (both on and off campus). It also protects all people regardless of their gender or gender identity from sex discrimination, including sexual harassment and sexual violence. Title IX requires institutions to take necessary steps to prevent sexual assault on their campuses, and to respond promptly and effectively when an assault is reported.

The Clery Act requires colleges and universities to report annual statistics on crime, including sexual assault and rape, on or near their campuses, and to develop and disseminate prevention policies. The Act requires that institutional policies address and prevent sexual violence through training, education, and certain discipline procedures.

5. ***Related and prior legislation.*** AB 969 (Williams) makes an exception to the prohibition against removal, suspension or expulsion of a student unless the conduct resulting in the disciplinary action is related to college activity or

attendance if the conduct threatens the safety of students or the public and includes an individual who has been suspended for a sexual assault or sexual battery offense from another community college district. The bill also authorizes a community college district to require a student seeking admission to inform the community college district if he or she has been previously suspended from a community college in the state for rape, sexual assault, or sexual battery. AB 969 is awaiting action in the Assembly Higher Education Committee.

SUPPORT

California Communities United Institute

OPPOSITION

None received.

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