
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 805 **Hearing Date:** April 26, 2017
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Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil discipline: suspensions and expulsions: assault or battery

SUMMARY

This bill requires the immediate suspension and recommendation for expulsion of a pupil that principal or the superintendent of schools determines has committed an assault or battery upon any school employee or staff member contracted to provide services to pupils.

BACKGROUND

Existing law:

- 1) Prohibits a pupil from being suspended or recommended for expulsion unless the superintendent of the school district or the principal of the school determines that the pupil has committed certain acts, including, *among other acts*, all of the following:
 - a) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - b) Willfully used force or violence upon the person of another, except in self-defense.
 - c) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, except as specified.
 - d) Committed or attempted to commit robbery or extortion.
 - e) Caused or attempted to cause damage to school property or private property.
 - f) Committed or attempted to commit a sexual assault or committed sexual battery.
 - g) Engaged in, or attempted to engage in, hazing.
 - h) Engaged in an act of bullying. (Education Code § 48900)
- 2) States that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct, but authorizes

a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts, including causing, attempting to cause, or threatening to cause physical injury to another person and willfully using force or violence upon the person of another, except in self-defense; or if the pupil's presence causes a danger to persons. (EC § 48900.5)

- 3) Requires the principal or the superintendent of schools to recommend the expulsion of a pupil for certain acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct. Those acts include:
 - a) Causing serious physical injury to another person, except in self-defense.
 - b) Possession of any knife or other dangerous object of no reasonable use to the pupil.
 - c) Unlawful possession of any controlled substance, except for either of the following:
 - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
 - d) Robbery or extortion.
 - e) Assault or battery, as defined in the Penal Code, upon any school employee. (EC § 48915)
- 4) Requires the principal or superintendent of schools to immediately suspend and recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
 - a) Possessing, selling, or otherwise furnishing a firearm, as specified.
 - b) Brandishing a knife at another person.
 - c) Unlawfully selling a controlled substance.
 - d) Committing or attempting to commit a sexual assault committing a sexual battery.
 - e) Possession of an explosive. (EC § 48900)
- 5) Requires the governing board of a school district to order a pupil expelled upon finding that the pupil committed an act listed in (4) and to refer that pupil to a program of study that meets all of the following conditions:

- a) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
 - b) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
 - c) Is not housed at the schoolsite attended by the pupil at the time of suspension.
- 6) Specifies that other means of correction 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 his or her parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a 504 plan.
 - 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.
 - i) Community service, as specified. (EC §48900.5)
- 7) Defines assault as an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another. (Penal Code § 240)
- 8) Defines battery as any willful and unlawful use of force or violence upon the person of another. (PC § 242).

ANALYSIS

This bill requires the immediate suspension and recommendation for expulsion of a pupil that principal or the superintendent of schools determines has committed an assault or battery upon any school employee or staff member contracted to provide services to pupils. Specifically, this bill:

- 1) Deletes the authority for the principal or the superintendent of schools, for a pupil that he or she determines has committed an assault or battery upon any school employee, to determine that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.
- 2) Requires the principal or superintendent of schools to immediately suspend and to recommend expulsion of a pupil that he or she determines has committed assault or battery, as defined in the Penal Code, upon any school employee or a staff member contracted to provide services to pupils.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Like students, school staff must feel safe in their work environment in order to provide student the best support as they are prepared for adulthood. If a student who assaulted or battered a school employee returns to the same school the school employees feel unsafe and do not provide the same level of support due to fear of continued violence. That same student it will label the student by their classmates as violent which will either hamper their ability to reform or empower them to continue in their violent behavior. Having a student be expelled and forced to attend a new school provides that student the opportunity to have a new start without the reputation of being a student who attacks school authority."

"This bill will not only mandate the immediate suspension and recommendation for expulsion of a violent student it will extend the classification of potential victims to included staff contracted from an outside entity. As an example, most school districts are unable to fund their own School Police Departments, such as San Diego, Los Angeles, or Twin Rivers Unified School Districts, and must contract with their local municipal police or sheriff departments to provide full time School Resource Officers/Deputy. In such instances, these contracted staff members are for purposes of this section, as protected a district funded employee."

- 2) ***Discretion.*** This bill eliminates the discretion for a principal or superintendent of school to determine, under the totality of the circumstances, either it is not appropriate to recommend expulsion for or that other means of correction will be effect as an alternative to expulsion. Instead, for assault or battery upon any school employee or a staff member contracted to provide services to pupils, this bill would add require expulsion regardless of the circumstances or effectiveness of alternative means.

The committee may wish to consider whether eliminating this authority and mandating expulsion provide sufficient discretion to schools?

- 3) ***How many additional expulsions?*** According to the most recent data available from the California Department of Education, there were 4,190 suspensions and 1,053 expulsions in the 2014-15 school year for violent incidents in school with physical injuries. For violent incidents without physical injuries in schools, which could include assaults as defined by this bill, there were 22,133 suspensions and 1,477 expulsions. These numbers amplify significantly to 37,413 (physical injury) and 154,924 (no physical injury) for suspensions for violence incidents that occurred out of school. However, it is unclear what percentage of these incidents involved school employees. The committee may wish to consider whether there is sufficient capacity in the education system to absorb the additional expulsions that could result from the bill.
- 4) ***What about assaults and batteries on other pupils.*** This bill limits required expulsions for assaults and batteries to assaults and batteries on school employees and staff members contracted to provide services to pupils. This bill would continue to allow principals and superintendents of schools to exercise discretion when a pupil causes serious physical injury to another pupil. The committee may wish to consider if this distinction is ramifications is appropriate. ***Staff recommends that the bill be amended*** to retain the discretion provided for in existing law but to keep the extension of including assault or battery on a staff member contracted to provide services to pupils.

SUPPORT

Peace Officers Research Association of California

OPPOSITION

Alliance for Boys and Men of Color
American Civil Liberties Union of California
Public Advocates
Public Counsel

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