
SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

Bill No:	SB 274	Hearing Date:	April 19, 2023
Author:	Skinner		
Version:	April 10, 2023		
Urgency:	No	Fiscal:	No
Consultant:	Kordell Hampton		

Subject: Suspensions and expulsions: willful defiance.

SUMMARY

This bill 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 would retain a teacher's existing authorization to suspend any student from class for willful defiance.

BACKGROUND

Existing Law

Education Code (EDC)

- 1) Prohibits a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, from being suspended and expelled for disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. (EDC § 48900(k)(3))
- 2) Prohibits until July 1, 2025, a pupil enrolled in kindergarten or any of grades 6 to 8, inclusive, from being suspended for disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. (EDC § 48900(k)(4))
- 3) 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) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind.
 - e) Committed or attempted to commit robbery or extortion.
 - f) Caused or attempted to cause damage to school property or private property.
 - g) Stole or attempted to steal school property or private property.
 - h) Committed an obscene act or engaged in habitual profanity or vulgarity.
 - i) Committed or attempted to commit a sexual assault or committed sexual battery.
 - j) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - k) Engaged in, or attempted to engage in, hazing.
 - l) Engaged in an act of bullying. (EDC § 48900)
- 4) Authorizes a pupil enrolled in any of grades 4 to 12, inclusive, to be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment. (EDC § 48900.4)
- 5) Authorizes school district superintendents and school principals to use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior, as specified. (EDC § 48900(v))
- 6) States that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct, but authorizes a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts (*not* including disrupting school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties) or the pupil's presence causes a danger to persons. (EDC § 48900.5)
- 7) 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. (EDC §48900.5)
- 8) States that schools should consider implementing at least one of the following if the number of pupils suspended during the prior school year exceeded 30 percent of the school's enrollment:
- a) A supervised suspension program.
 - b) A progressive discipline approach during the schoolday on campus (as an alternative to off-campus suspension), using any of the following activities:
 - i) Conferences between the school staff, parents and pupils.
 - ii) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.
 - iii) Detention.
 - iv) Study teams, guidance teams, resource panel teams, or other assessment-related teams. (EDC § 48911.2)
- 9) Authorizes teachers to suspend pupils from class for the day and the following day. If the pupil is to remain on campus during that suspension, the pupil must be under appropriate supervision. Teachers must ask the parent to attend a parent-teacher conference regarding the suspension. Pupils are prohibited from returning to the

class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher and principal. (EDC § 48910)

ANALYSIS

This bill 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 would retain a teacher's existing authorization to suspend any student from class for willful defiance.

STAFF COMMENTS

- 1) ***Need for the bill.*** According the author “SB 274 is based on a simple premise: Students belong in school. Suspending youth for low-level behavior issues leads to significant harm, including learning loss and a higher likelihood that affected students will drop out of school completely. The punishment for missing school should not be to miss more school. Students, especially those with behavioral issues, need to be in school where teachers and counselors can help them succeed. SB 274 puts the needs of students first. Instead of kicking them out of school, we owe it to students to figure out what’s causing them to act out and help them fix it.”
- 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 California Department of Education (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 there have been other statutory provisions designed to limit the use of suspensions and promote alternatives to suspension. These provisions aim to address the root causes of the student's behavior and to improve academic outcomes:

- a) ***Minimize Suspension for Attendance Issues:*** It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

- b) *Instead of Suspension, Support:* A superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age-appropriate and designed to address and correct the pupil's misbehavior.

The state has also established a Multi-Tiered System of Supports (MTSS), which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, that may be used to help students gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

- c) *Suspension as a Last Resort:* Suspension shall be imposed only when other means of correction fail to bring about proper conduct, and then continues to provide an extensive list of suggested positive, non-exclusionary alternative practices. Other means of correction may include additional academic supports, to ensure, for example, that instruction is academically appropriate, culturally relevant, and engaging for students at different academic levels and with diverse backgrounds.

3) ***Restorative Justice and Other Approaches to Suspension and Expulsion?***

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

- \$100 million in competitive grants to LEAs to increase the number of teachers available to serve California state preschool and transitional kindergarten pupils and to provide teachers with training in inclusive practices, culturally responsive instruction, supporting dual language learners, enhancing social-emotional learning, implementing trauma-informed and restorative practices, and mitigating implicit biases to eliminate exclusionary discipline;
- \$50 million to the Orange County Office of Education for support of MTSS efforts, including grants to LEAs to provide ongoing training and support in the use of trauma screening tools and mental health service referrals, and school climate surveys.
- \$6 million for training LEAs on interpreting data from their local school climate surveys of pupils, families, and educators to inform continuous improvement efforts and better assess community needs stemming from the COVID-19 pandemic and distance learning; and for the CDE to develop an optional trauma-informed practice module to be used with school climate surveys.

Moreover, Governor Newsom signed AB 2598 (Weber) Chapter 914, Statutes of 2022 which required the CDE to develop and post on its website by June 1, 2024, evidence-based best practices for restorative justice practices for LEAs to implement to improve campus culture and climate.

- 4) **Discretion.** This bill would prohibit school personnel from recommending suspension or expulsion from school for willfully defying school personnel and for being truant, tardy, or otherwise absent from school activities. This does not limit the ability of a teacher to suspend a student from class.

The committee may wish to consider whether this bill is a reasonable compromise between prohibiting suspension and expulsion from school and allowing teachers to continue to suspend students from class for disrupting school activities or otherwise willfully defying the authority of school officials.

- 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.**

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 include grades 6 to 8, inclusive, until July 1, 2025; and applies these prohibitions to charter schools

SB 607 (Skinner, 2017) would have required commencing July 1, 2019, permanently prohibits the suspension any pupil in kindergarten or grades 1 to 5, inclusive, and the expulsion of any pupil in kindergarten or in any of grades 1 to 12, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties; prohibits, until July 1, 2023, the suspension of any pupil or grades 6 to 8, inclusive, for that same act; and makes these provisions applicable to charter schools. *This bill was vetoed by Governor Brown:*

Teachers and principals are on the front lines educating our children and are in the best position to make decisions about order and discipline in the classroom. That's why I vetoed a similar bill in 2012. In addition, I just approved \$15 million in the 2018 Budget Act to help local schools improve their disciplinary practices. Let's give educators a chance to

invest that money wisely before issuing any further directives from the state.

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 pursuant to 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

State Superintendent of Public Instruction Tony Thurmond (Co-Sponsor)
Alliance for Boys and Men of Color (Co-Sponsor)
Dolores Huerta Foundation (Co-Sponsor)
Alliance for Children's Rights
American Civil Liberties Union California Action
Asian Solidarity Collective
California Alliance for Youth and Community Justice
California County Superintendents
California Native Vote Project
California Public Defenders Association

California Youth Empowerment Network
Californians for Justice
Center on Juvenile and Criminal Justice
Children Now
The Children's Partnership
Communities United for Restorative Youth Justice
Community Asset Development Re-defining Education
Disability Rights California
Fresh Lifelines for Youth
Genders & Sexualities Alliance Network
Generation Up
Go Public Schools
John Burton Advocates for Youth
Law Foundation of Silicon Valley
Legal Aid Foundation of Los Angeles
Los Angeles County Office of Education
Los Angeles Unified School District
Mental Health America of California
Mid-City Community Advocacy Network
Pacific Juvenile Defender Center
Public Advocates INC.
Public Counsel
Santa Cruz Barrios Unidos
Seneca Family of Agencies
Sigma Beta Xi, INC. Youth and Family Services
Teach Plus
The Arc and United Cerebral Palsy California Collaboration
The Children's Partnership
The Education Trust - West
Young Women's Freedom Center
Youth Alliance
Youth United for Community Action
Youth Will
2 Individuals

OPPOSITION

5 Individuals

-- END --