
THIRD READING

Bill No: SB 274
Author: Skinner (D)
Amended: 4/10/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/19/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas,
Wilk

SUBJECT: Suspensions and expulsions: willful defiance

SOURCE: State Superintendent of Public Instruction Tony Thurmond
Alliance for Boys and Men of Color
Dolores Huerta Foundation

DIGEST: 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 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.

ANALYSIS:

Existing law:

- 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) 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)
- 4) 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 objects, 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 performing their duties.
 - k) Engaged in or attempted to engage in hazing.
 - l) Engaged in the act of bullying. (EDC § 48900)
- 5) 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)

- 6) Authorizes school district superintendents and school principals to use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior, as specified. (EDC § 48900(v))
- 7) States that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct but authorizes a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts (*not* including disrupting school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties) or the pupil's presence causes a danger to persons. (EDC § 48900.5)
- 8) 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 their parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including 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 school day 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)
- 9) 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)

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 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.

Comments

- 1) *Need for the bill.* According to 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, must 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 Have 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, other statutory provisions have been 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:* The Legislature intends 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 school district superintendent 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 educational 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.
- 4) *Discretion*. This bill prohibits 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 4/20/23)

State Superintendent of Public Instruction Tony Thurmond (co-source)

Alliance for Boys and Men of Color (co-source)

Dolores Huerta Foundation (co-source)

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 Connection

California Youth Empowerment Network

Californians for Justice

Center on Juvenile and Criminal Justice
Children Now
City and County of San Francisco
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
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: (Verified 4/20/23)

5 Individuals

ARGUMENTS IN SUPPORT: According to the Alliance of Boys and Men of Color, a co-sponsor of the measure, “AB 420 (Dickinson) successfully eliminated defiance expulsions and suspensions for students in grades K-3 (inclusive) and SB 419 (Skinner) successfully eliminated defiance suspensions for students in grades

4-6 (inclusive). Since the 2014-2015 school year, “defiance” suspensions have decreased from 125,419 to 21,465 in the 2021-2022 Academic Year. Despite this significant decrease many schools continue to use this policy and racial disparities persist. The simple act of ending willful defiance suspensions for all public school children recognizes the unique developmental vulnerabilities of youth, especially youth of color and youth with disabilities, by creating a school environment where every child has the opportunity to learn, thrive and succeed. It is for these reasons, the Alliance for Boys and Men of Color is pleased to co-sponsor and support SB 274.”

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4/21/23 15:32:03

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