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# SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

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**Bill No:** SB 857 **Hearing Date:** April 12, 2023  
**Author:** Laird  
**Version:** March 22, 2023  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Kordell Hampton

**Subject:** Advisory task force: LGBTQ+ pupil needs.

## SUMMARY

This bill would require the State Superintendent of Public Instruction (SPI), on or before July 1, 2024, to convene an advisory task force (Task Force) to identify the statewide needs of lesbian, gay, bisexual, transgender, queer, questioning, and plus (LGBTQ+) pupils and report its findings to the Legislature, the SPI, and Governor by January 1, 2026.

## BACKGROUND

Existing Law

Education Code (EDC)

- 1) Declares it is the policy of the State of California to afford equal rights and opportunities in the educational institutions of the state of to all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes as specified. (EDC § 200)
- 2) Requires the California Department of Education (CDE), as part of its compliance monitoring, to assess whether local educational agencies (LEAs) have provided information to certificated staff serving grades 7-12 on school site and community resources for LGBTQ students. (EDC § 234.1 (d))
- 3) Requires the CDE to monitor LEAs for adoption of policies prohibiting discrimination, harassment, intimidation, and bullying on the basis of sexual orientation, gender, gender identity, or gender expression. (EDC § 234.1(a))
- 4) Requires the CDE to monitor LEAs for adoption of processes for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying, and establishes complaint procedures. (EDC § 234.1(b))

## ANALYSIS

This bill would require the SPI, on or before July 1, 2024, to convene a Task Force identify the statewide needs of LGBTQ+ pupils and report its findings to the Legislature, the SPI, and Governor by January 1, 2026. Specifically, this bill:

*Scope of the Task Force*

- 1) Require the SPI, on or before July 1, 2024, to convene a Task Force to identify the statewide needs of LGBTQ+ pupils and to assist in implementing supportive policies and initiatives to address LGBTQ+ pupil education, including, but not limited to, all of the following:
  - a) An assessment of pupil mental health and feelings of safety and support within the state.
  - b) The adequacy and availability of inclusive and safe access to school facilities within the state.
  - c) The adequacy and quality of, and access to, inclusive instructional material and school curriculum within the state.
  - d) An assessment of the implementation of the policies and procedures on the prevention of, response to, and oversight of, bullying and harassment within the state to determine the effectiveness of policies and programs.
  - e) The adequacy and availability of inclusive participation in campus activities within the state.

*Task Force Membership*

- 2) Requires the SPI to select 11 members representative of all of the following group with, to the extent practicable, the members representing the geographical, racial, ethnic, socioeconomic, cultural, physical, and educational diversity of California's LGBTQ+ community, and emphasis on identifying at-risk or disadvantaged LGBTQ+ pupils to serve as the high school members of the advisory task force.
  - a) Three pupils identifying as members of the LGBTQ+ community who are enrolled in a California high school;
  - b) One school administrator currently employed by a LEA;
  - c) Two certificated school teachers currently employed by LEA;
  - d) One licensed physician and surgeon, with a preference for one who practices LGBTQ+ affirming care;
  - e) Two mental health professionals, with a preference for those who practice LGBTQ+ affirming care;
  - f) One community LGBTQ+ advocate, with a preference for one with programmatic expertise; and
  - g) One representative from the Office of Health Equity established by the State Department of Public Health.

*Report to the Legislature, the Superintendent, and the Governor.*

- 3) Requires the Task Force, on or before January 1, 2026 to report their findings and recommendations based on the assessment of areas described in #1 to the Legislature, the SPI, and the Governor as specified.
- 4) Specifies that the report may include minority findings and recommendation, at the request of any member of the Task Force.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author “Across this nation school campuses have become a battle ground in the fight for LGBTQ+ dignity and humanity. LGBTQ+ students often find themselves caught in the cross fire, lacking the support and resources they need to thrive. A safe and supportive school environment allows LGBTQ+ students to succeed academically and has a significant impact on their overall wellbeing. California continues to lead the nation in supporting LGBTQ+ youth both on and off the campus, through robust policy projections and budget allocations. However, we still have a long way to go. Many school districts lack the resources needed to implement these laws, face hostile local social climates that impede implementation, and lack awareness regarding existing legal requirements and the best ways to meet them. School district administrators cannot address this issue alone they need the input and expertise of all of those involved in creating a thriving environment for LGBTQ+ youth on school grounds in order to succeed. SB 857 brings students, teachers, and administrators together to ensure that authentic voices from the community are involved in discussions about how to create a safe and supportive environment for LGBTQ+ students, while providing the State Department of Education with valuable perspectives to ensure resources are efficiently allocated to implement existing laws and better support LGBTQ+ student needs.”
- 2) ***2021 National School Climate Survey by the Gay, Lesbian & Straight Education Network (GLSEN).*** A growing body of research has linked disparities to non-binary students' experiences of violence, harassment, and exclusion in educational settings. LGBTQ+ youth often navigate more hostile school climates than their peers. According to a 2021 National School Climate Survey by the GLSEN, "76.1% of LGBT students were verbally harassed, 31.2% were physically harassed, and 12.5% were physically assaulted due to their sexual orientation." Furthermore, 81.8% of LGBTQ+ students who participated in GLSEN's survey reported feeling unsafe in school because of at least one of their actual or perceived personal characteristics. The relationship between marginalization and mental health in gender minority populations is well documented. In the same survey, over half of LGBTQ+ students (61.6%) reported feeling unsafe in school because of their mental health or emotional disability. Non-binary students' experiences of violence, harassment, and exclusion in educational settings can lead to negative educational experiences, including:

*Chronic Absenteeism:* School-based victimization can impinge on a student's right to an education. Students who are regularly harassed or assaulted during the school day may attempt to avoid these hurtful experiences by not attending school

and may be more likely to miss school than students who do not experience such victimization. We found that experiences of both in-person and online victimization were related to missing days of school. Higher levels of in-person victimization and higher levels of online victimization in school regarding sexual orientation, gender expression, and gender were both associated with more than a two times greater likelihood of missing school in the past month for LGBTQ+ students.

*Difficulty in Reaching Academic Achievement:* Among those who attended school in person, either full-time or combined with online instruction, LGBTQ+ students who reported higher levels of in-person victimization regarding their sexual orientation were nearly twice as likely to report that they did not plan on pursuing their education beyond high school (16.6% vs. 9.4%), and LGBTQ+ students reporting higher levels of victimization based on gender expression or gender were twice as likely (18.3% vs. 8.8% and 18.1% vs. 9.0%, respectively).

*School Discipline:* More than a third (40.7%) of students in this survey reported having been disciplined at school, with most of these students reporting discipline that occurred in school, such as being sent to the principal's office (24.1%), being isolated alone in a classroom or hallway, and receiving detention (20.3%). A smaller portion of LGBTQ+ students reported experiencing disciplinary consequences that prohibited them from attending school, such as out-of-school suspension and expulsion (4.8%).

A link to the report can be found [here](#).

- 3) **CDE: Supporting LGBTQ+ Students.** CDE currently provides instructional guidance, references, and policies on its [website](#) to help LEAs and families support their LGBTQ+ students, such as highlighting the Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act, which prescribes inclusion of the contributions of groups previously excluded in the history of California and the U.S. This section once included men and women and numerous ethnic groups; the expanded language requires the inclusion of the contributions of LGBTQ + Americans to California and U.S. history as well as their roles in contemporary society.

The website also includes training offered by the *American Psychological Association* and the *Trevor Project*, resources for schools such as establishing peer support or Affinity Clubs on campus, links to antibias training to support LGBTQ+ youth, and how to create safe spaces for LGBTQ+ students on campus.

CDE also provides its website resources for families and Community organizations by region. For example, LEAs and families in Monterey, Santa Clara, Santa Cruz, and San Benito can be connected to the Billy DeFrank Lesbian and Gay Community Center, PFLAG, Queer Youth Task Force, and Epicenter Monterey. In another instance, LEAs and families in Riverside, Inyo, Mono, and San Bernardino, can find resources to help their students at the Desert AIDS Project, Joshua's Home, Safe Schools, Desert Cities, and TruEvolution.

Moreover, current law requires CDE, as part of its compliance monitoring, to assess whether local schools have provided information to certificated staff serving

grades 7-12 on school sites and community resources for LGBTQ students. Current law also requires the CDE to monitor local schools to ensure the adoption of policies prohibiting discrimination, harassment, intimidation, and bullying based on sexual orientation, gender, gender identity, or gender expression.

- 4) ***Upcoming Protections: Title IX.*** In May 2016, after several court cases had developed and several states had attempted to create laws restricting transgender students' bathroom use, the U.S. Department of Education (DOE) and the U.S. Department of Justice (DOJ) under the Obama Administration issued a directive instructing public schools across the country to allow transgender students to use the bathroom that matches their gender identity. Jointly, DOE and DOJ clarified that the civil rights of transgender school students were protected under Title IX, which prohibits sex discrimination. In January 2017, the Trump Administration's DOJ and DOE rescinded the previous guidance on federal support for transgender students, indicating they would not pursue federal enforcement of Title IX violations. As part of the Biden Administration, the DOE is proposing regulations to reinstate similar provision that were previously removed.

- 5) ***Related Legislation.***

*AB 827* (O'Donnell) Chapter 562, Statutes of 2015, requires the CDE, as part of its compliance monitoring, to assess whether LEAs have provided information to certificated staff serving grades 7-12 on schoolsite and community resources for LGBTQ students.

*SB 48* (Leno) Chapter 81, Statutes of 2011, (1) adds persons with disabilities, and lesbian, gay, bisexual, and transgender Americans to the list of groups of people whose role and contributions must be accurately portrayed in social science instruction and instructional materials, and (2) prohibits the State Board of Education and the governing board of any school district from adopting textbooks or other instructional materials that reflect adversely upon a person's religion, or sexual orientation.

*AB 5* (Zbur, 2023) would require the CDE, on or before July 1, 2025, to finalize the development of an online training delivery platform and an online training curriculum to support LGBTQ+ cultural competency training for teachers and other certificated employees and require each school serving pupils in grades 7 to 12, inclusive, to use the online training delivery platform and curriculum, or an in-service alternative, to provide at least 4 hours of training at least once every 3 years to teachers and other certificated employees at those schools.

*AB 2240* (Gloria, 2020) would have, required the CDE to create an online training delivery platform and an online training curriculum on schoolsite and community resources for the support of LGBTQ+ pupils and strategies to increase support for LGBTQ+ pupils, as specified, and encourage each school operated by a school district or county office of education and each charter school to use the online training delivery platform and curriculum to provide training at least once every 2 years to teachers and other certificated employees at those schools.

*AB 493* (Gloria) Chapter 775, Statutes of 2019, requires that, no later than July 1, 2021, the CDE develop resources or update existing resources for in-service training on schoolsite and community resources for the support of LGBTQ+ students, for use in LEAs and charter schools serving students in grades 7-12. Requires the CDE to periodically provide online trainings on this topic that can be accessed on a statewide basis.

**SUPPORT**

California Association of Student Councils (Co-Sponsor)  
Equality California (Co-Sponsor)  
California Federation of Teachers  
California School-Based Health Alliance  
California Youth Empowerment Network  
Dolores Huerta Foundation  
Los Angeles Unified School District  
Mental Health America of California  
Our Family Coalition  
The Source LGBT+ Center

**OPPOSITION**

None received

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