
THIRD READING

Bill No: SB 857
Author: Laird (D)
Amended: 3/22/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas,
Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Advisory task force: LGBTQ+ pupil needs

SOURCE: California Association of Student Councils
Equality California

DIGEST: This bill requires 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 (LGBTQ+) pupils and report its findings to the Legislature, the SPI, and Governor by January 1, 2026.

ANALYSIS:

Existing law:

- 1) Declares it is the policy of the State of California to afford equal rights and opportunities in the educational institutions of the state 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. (Education Code (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 sites and community resources for LGBTQ students. (EDC § 234.1 (d))

- 3) Requires the CDE to monitor LEAs for adopting policies prohibiting discrimination, harassment, intimidation, and bullying based on sexual orientation, gender, gender identity, or gender expression. (EDC § 234.1(a))
- 4) Requires the CDE to monitor LEAs for the adoption of processes for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying and establishes complaint procedures. (EDC § 234.1(b))

This bill:

- 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.
- 2) Requires the SPI to select 11 members representative of all of the following groups 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 an 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.
- 3) Requires the Task Force, on or before January 1, 2026, to report their findings and recommendations based on assessing areas described in #1 to the Legislature, the SPI, and the Governor as specified.
 - 4) Specifies that the report may include minority findings and recommendations at the request of any member of the Task Force.

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) *CDE: Supporting LBGTQ+ 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 LBGTQ+ youth, and how to create safe spaces for LBGTQ+ 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 , as part of its compliance monitoring, current law requires CDE 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.

- 3) *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 backgrounds, including:

Chronic Absenteeism: School-based victimization can impinge on a student's right to an education. Students 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 in-person and online victimization incidents were related to missing school days. 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 say 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 writing 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%).

- 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 previously removed provisions.

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

SUPPORT: (Verified 4/25/23)

California Association of Student Councils (co-source)

Equality California (co-source)

California Federation of Teachers

California School-Based Health Alliance

California Teachers Association

California Youth Empowerment Network

Dolores Huerta Foundation

Los Angeles Unified School District

Mental Health America of California

Our Family Coalition

Santa Clarita Valley Democrats

The Source LGBT+ Center

TransYouth Liberation

OPPOSITION: (4/25/23)

None received

ARGUMENTS IN SUPPORT: According to the California Association of Student Councils, “Every student deserves a safe and supportive school environment where they can learn and succeed. Unfortunately, while California has passed several laws to protect LGBTQ+ students, many school districts lack the resources to implement these laws, face hostile local social climates that impede implementation, or lack awareness regarding existing legal requirements

and the best ways to meet them. According to Equality California Institute's 2022 Safe and Supportive Schools Report Card, 30% of school districts that responded to the survey had not adopted an anti-bullying policy that explicitly prohibits bullying on the basis of sexual orientation or gender identity. Nearly half (48%) of respondents had not adopted LGBTQ+ inclusive educational materials that are compliant with the FAIR Education Act. SB 857 is an important opportunity to empower the growing community of LGBTQ+ students, ensure the enforcement and implementation of existing laws, and work to address the real needs of all California students.”

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4/26/23 15:12:04

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