

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 667 (Reyes) – As Introduced February 14, 2017

**SUBJECT:** Pupil discipline: suspension: informal conference

**SUMMARY:** Requires that, at the informal conference required before a student is suspended from school, the pupil be informed of other means of correction that were attempted before the suspension was imposed. Specifically, **this bill:**

- 1) Requires that the principal, his or her designee, or the district superintendent of schools inform a pupil who is being suspended of the other means of correction that were attempted prior to the suspension, during the mandatory informal conference.

**EXISTING LAW:**

- 1) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction may include, but are not limited to, the following:
  - a conference between school personnel, the pupil's parent or guardian, and the pupil;
  - referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling;
  - 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;
  - referral for a comprehensive psychosocial or psychoeducational assessment;
  - enrollment in a program for teaching prosocial behavior or anger management;
  - participation in a restorative justice program;
  - a positive behavior support approach with tiered interventions that occur during the schoolday on campus; and,
  - after school programs that address specific behavioral issues or expose pupils to positive activities and behaviors. (EC 48900.5)
- 2) Authorizes, but does not require, school districts to document the other means of correction used and to place that documentation in the pupil's record (EC 48900.5).
- 3) Requires that suspension of a pupil by the principal or the district superintendent of school, be preceded by an informal conference conducted by the principal, designee or district superintendent, between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil. At the conference, the pupil must be informed of the reason for the disciplinary action and the evidence against him or her, and must be given the opportunity to present his or her version and evidence in his or her defense (ECS 48911).
- 4) Specifies that a pupil may be suspended without an informal conference prior to the suspension only if the principal or district superintendent determines that an emergency situation exists which constitutes a clear and present danger to the life, safety, or health of

pupils or school personnel. If a pupil is suspended without a conference prior to the suspension, both the parent and the pupil must be notified of the pupil's right to a conference. The conference must be held within two school days, unless the pupil waives the right or is physically unable to attend. The conference must then be held as soon as the pupil is physically able to attend (EC 48911).

- 5) Prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district, or the principal of the school, determines that the pupil has committed any of the following offenses:
  - causing, attempting to cause, or threatening to cause physical injury to another person; or willfully using force or violence upon another person, except in self-defense;
  - possessing, selling, or otherwise furnishing a firearm, knife, explosive, or other dangerous object, unless the student had obtained prior written permission to possess the item;
  - unlawfully possessing, using, selling or otherwise furnishing a controlled substance;
  - unlawfully offering, arranging or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
  - committing or attempting to commit robbery or extortion;
  - causing or attempting to cause damage to school property or private property;
  - stealing or attempting to steal school property or private property;
  - possessing or using tobacco, or products containing tobacco or nicotine products;
  - committing an obscene act or engaging in habitual profanity or vulgarity;
  - unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;
  - 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;
  - knowingly receive stolen school property or private property;
  - possessing an imitation firearm;
  - committing or attempting to commit a sexual assault or sexual battery;
  - harassing, threatening or intimidating a pupil who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the pupil from being a witness or retaliating against that pupil for being a witness, or both;
  - unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;
  - engaging in or attempting to engage in hazing;
  - engaging in the act of bullying, including, but not limited to, bullying committed by means of an electronic act (EC 48900).
- 2) Specifies that a pupil in kindergarten through 3<sup>rd</sup> grade cannot be suspended for disrupting school activities or otherwise willfully defying the valid authority of school personnel and that these acts shall not serve as grounds for any pupil from kindergarten through 12<sup>th</sup> grade to be recommended for expulsion. This provision becomes inoperative on July 1, 2018 (EC 48900).
- 3) Specifies additional grounds for suspension or recommendations for expulsion:
  - committing sexual harassment (grades 4 through 12 only);

- causing or attempting to cause, threatening to cause, or participating in an act of hate violence (grades 4 through 12 only);
  - engaging in harassment, threats, or intimidation against school district personnel or pupils that have the effect of disrupting classwork, creating substantial disorder and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment (grades 4 through 12 only); and,
  - making a terroristic threat against school officials or school property, or both. (EC 48900.2, 48900.3, 48900.4, 48900.7)
- 4) Encourages a school which has demonstrated an expulsion rate over 30% for the prior year, to consider implementing alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending the pupil off campus, including in-school suspensions, a progressive discipline approach using conferences between school staff, pupils and parents; referral to the school counselor, school psychologist, child welfare attendance personnel, or other school support service staff; detention; or study teams, guidance teams, resource panel teams, or other assessment-related teams. Does not preclude schools from suspending pupils to an off-campus site (EC 48911.2).

**FISCAL EFFECT:** The Office of Legislative Counsel has keyed this bill as a state-mandated local program.

**COMMENTS:**

*Need for the bill.* According to the author:

“Suspension of a pupil, when used as a primary tool for discipline causes students to miss critical hours of instruction which has both immediate and long-term impacts. Suspensions are not dealt out equally, with boys being three times more likely to be suspended than girls. In addition, students of color, foster youth, and students of low-income are also disproportionately suspended. These vulnerable groups of students can ill afford to miss hours of instruction.

Existing law requires that suspension of a pupil be imposed only when other means of correction fail to bring about proper conduct. Despite this, it is often unclear what, if any, methods were used in compliance with this provision in law prior to suspension of a pupil. This bill ensures that other means of correction are actually being pursued in advance of a suspension by including, within the existing informal conference, an expectation that the student be informed of the other means of correction that failed to bring about proper conduct, before the suspension occurs. ”

***Rate of suspensions and expulsions declining but disparities persist.*** The California Department of Education (CDE) reported that 243,603 students were suspended statewide in 2014-15, representing a 13% drop from the prior year and a 34% drop over the three year period since CDE began collecting suspension and expulsion data at the student level through the California Longitudinal Pupil Achievement Data System (CALPADS). A total of 6,611 students were expelled in 2014-15, representing a reduction of 14% from the prior year and 40% over the same three year period.

CDE attributes a number of factors to the reduction in statewide suspension and expulsion rates, including a focus on successful alternatives to suspensions and expulsions, including restorative justice programs, as well as a variety of behavioral intervention strategies and supports. In addition, the passage of AB 420 (Dickinson) in 2013 limited suspensions and expulsions for willful defiance-related offenses.

The disproportionate incidence of suspensions and expulsions among certain populations of students, including African American students, has gained nationwide attention in recent years. This holds true in California, where African American students make up 6% of total statewide enrollment, but made up 16% of students suspended in both 2013-14 and 2014-15.

Similarly, the Attorney General's 2016 report, *In School + On Track*, notes that "African American students represent 22% of all suspensions and 28% of students suspended for more than three days, while only representing 5% of the overall K-5 student population.

***Holding schools accountable for suspension and expulsion rates.*** California's Local Control Funding Formula (LCFF) and Local Control and Accountability Plan (LCAP) requirements include a focus on school climate as Priority 6. All California school districts, county offices of education, and charter schools, are required to report and examine pupil suspension and expulsion rates on their LCAP and annual updates.

***Growing trend to use alternatives to suspension and expulsion.*** According to the U.S. Department of Education:

"teachers and students deserve school environments that are safe, supportive, and conducive to teaching and learning. Creating a supportive school climate—and decreasing suspensions and expulsions—requires close attention to the social, emotional, and behavioral needs of all students. Evidence does not show that discipline practices that remove students from instruction—such as suspensions and expulsions—help to improve either student behavior or school climate. Suspensions are associated with negative student outcomes such as lower academic performance, higher rates of dropout, failures to graduate on time, decreased academic engagement, and future disciplinary exclusion. Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts."

***Arguments in support.*** According to supporters, AB 667 will ensure that students are not being suspended before more productive and restorative alternatives are employed. When students are suspended or expelled for relatively minor incidents, the primary result is a missed opportunity for learning without addressing any underlying issues contributing to the misbehavior. Suspended students are more likely to fall behind, and putting troubled kids on the streets without constructive adult supervision can be a recipe for greater misbehavior and crime.

Supporters argue that simply by requiring that the pupil be informed of the alternatives that were attempted, schools will be more likely to adhere to current law and students will have the benefit of knowing the other means of correction that were attempted prior to their suspension. It is important for students and school staff to have a conversation and an understanding about how prevention and intervention could work better at addressing the root causes of behavior issues.

**Question for the committee:** The committee may wish to consider whether the requirement to inform the pupil of the alternative means of correction that were attempted prior to suspension, at the informal conference, will have any significant effect on the use of alternative means of correction or on the rates of suspension and expulsion, given that the requirement to utilize such alternative means exists in current law.

**Prior and similar legislation:** AB 576 (Levine) of this Session, would require that a school employee make a reasonable effort to contact the pupil's parent or guardian to notify them that an informal conference has been scheduled prior to discuss the pupil's pending suspension. Would also require that prior to consideration of suspension for a pupil that has been issued detention, the parent or guardian be informed of the detention and the possibility that the pupil may be considered for suspension if the action or behavior is repeated. The bill would also amend the definition of detention. The bill is pending in this Committee.

AB 420 (Dickinson), Chapter 660, Statutes of 2014 eliminated the authority to suspend a pupil enrolled in kindergarten through 3rd grade, and the authority to recommend for expulsion a pupil enrolled in grades kindergarten through 12<sup>th</sup> grade, for disrupting school activities or otherwise willfully defying the valid authority of school personnel engaged in the performance of their duties. The bill sunsets on July 1, 2018.

AB 1729 (Ammiano), Chapter 425, Statutes of 2012 reaffirmed that superintendents and school principals have the discretion to implement alternatives to suspension and expulsion and expanded the list of other means of correction that must be implemented prior to suspension or expulsion to address most student misbehavior.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Children Now (Sponsor)  
Alliance for Boys and Men of Color  
American Civil Liberties Union of California  
Asian Americans Advancing Justice  
Black Parallel School Board  
California School-Based Health Alliance  
Children's Defense Fund-California  
Dolores Huerta Foundation  
Equal Justice Society  
Fight Crime: Invest In Kids  
Genders & Sexualities Alliance Network  
Legal Services for Children  
National Center for Youth Law  
Our Family Coalition  
Promesa Boyle Heights  
Public Counsel

**Opposition**

None on file

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