

Date of Hearing: June 22, 2016

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 1309 (Leyva) – As Amended April 27, 2016

SENATE VOTE: 39-0

SUBJECT: Pupil discipline: expulsion hearings: county schools

SUMMARY: Establishes a process for expulsion of a pupil enrolled in a school operated by a county office of education (COE). Specifically, **this bill:**

- 1) Prohibits a pupil enrolled in a school operated by a COE from being recommended for expulsion unless the principal of the school in which the pupil is enrolled or his or her designee determines that the pupil has committed an act for which a pupil may be subject to suspension or expulsion under current law and a hearing has been conducted.
- 2) Requires the county board of education to do either of the following, if expulsion is recommended by a principal or his or her designee:
 - a) Contract with the Office of Administrative Hearings (OAH) for a hearing officer to conduct the expulsion hearing.
 - b) Appoint an impartial administrative panel consisting of three or more certificated persons, none of whom is a member of the county board of education or employed on the staff of the school in which the pupil is enrolled, to conduct the expulsion hearing.
- 3) Requires the hearing officer or the impartial administrative panel to, if the decision is to expel, prepare and submit to the county board of education findings of fact in support of the decision to expel.
- 4) Requires the findings of fact to be based solely on the evidence presented at the expulsion hearing.
- 5) Authorizes a pupil who has been expelled or his or her parent or guardian to, within 30 days following the hearing officer's or the impartial administrative panel's decision, file an appeal to the county board of education, and requires the county board of education to hold a hearing on the matter and render a decision. Requires the appeal hearing to be held in the same manner and have the same effect as the appeal process established for a pupil enrolled in a school district.

EXISTING LAW:

- 1) Authorizes or requires a principal or a superintendent of schools to suspend or expel a student committing any of a number of specified acts. (EC Sections 48900, 48900.2, 48900.3, 48900.4, 48900.7, 48915)
- 2) Specifies the process for expulsion, the requirement for the governing board of a school district to recommend a plan of rehabilitation for the pupil at the time of the expulsion order,

the process for readmission, the requirement for the governing board to establish rules and regulations for expulsions, the right of a pupil to have a hearing, the timeline for the hearing, and the process for appealing an expulsion. (EC Sections 48916, 48916.1, 48918, 48918.5, 48919, 48919.5, 48920, 48921, 48922, 48923, and 48924)

- 3) Requires county superintendent of schools in counties that operate community schools, in conjunction with superintendents of the school district in the county, to develop a plan for providing education services to all expelled pupils in the county. Requires the plan to enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. (EC Section 48926)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Estimated costs for contracting with the OAH to conduct an expulsion hearing is \$4,500. It is unknown how many hearings the OAH would conduct. Costs would be \$68,000 if 15 hearings were conducted in a given year.
- 2) Statewide reimburseable state mandate costs could be in excess of \$50,000 in a given year. Actual costs would depend upon the number of appeals that occur, which is currently unknown.

COMMENTS: *Background.* Under existing law, a principal or a superintendent may suspend or recommend expulsion of a pupil for committing any of a number of specified acts. For expulsions, current law specifies three categories: 1) acts committed by a pupil that result in immediate suspension and recommendation for expulsion; 2) acts committed by a pupil for which a principal or superintendent must recommend expulsion, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance; and 3) acts committed by a pupil for which a principal or superintendent have discretion to determine expulsion.

Upon a recommendation of expulsion of a pupil, a school district governing board is required to hold a hearing and provide a student and his or her parents or legal guardians written notice that includes the charges upon which a proposed expulsion is based, within specified timelines. In lieu of conducting the hearing itself, existing law also authorizes the governing board to contract with the county hearing officer or the OAH, or appoint an impartial administrative panel of three or more certificated individuals to conduct the hearing. The governing board may meet in closed session, but the final action to expel a pupil must be made in a public session. A pupil who is expelled may file an appeal with the county board of education.

Existing law does not provide a process for expulsion of students enrolled in COEs. COEs operate county community schools for students who have been expelled from a school district, juvenile court schools for students who are in juvenile detention facilities, and provide career technical education, special education and related services. The author states, "Despite the existence of a detailed process for handling student expulsion at the school district level, current law remains silent on how expulsions should be handled by COE operated schools. This lack of clarity does not ensure that students have access to due process when going through expulsion proceedings. There is no requirement in current law for a COE to hold an expulsion hearing or to have an appeals hearing following an expulsion. Furthermore, even if there is an appeal, the

situation could arise where the COE board hears and decides on both the expulsion and the appeal."

This bill establishes a process that is similar to the expulsion process required of school districts. The bill prohibits a pupil from being recommended for expulsion unless the principal finds that the pupil has committed one of the 18 acts that may lead to suspension or expulsion specified in the Education Code. If an expulsion is recommended, instead of requiring the county board of education to conduct a hearing, the bill requires the county board of education to either contract with the OAH or appoint an administrative panel comprised of three or more certificated persons who are not employed at the school where the pupil is enrolled or are members of the county board of education. These options are similar to options available to the governing boards of school districts should they choose not to conduct hearings themselves. If an expulsion is recommended, the bill requires the OAH or the administrative panel to submit findings of fact, based solely on the evidence provided at the hearing, to the county board of education. A pupil who has been expelled or his or her parent or guardian may request an appeal within 30 days of the OAH or administrative panel's decision. The appeal hearing is conducted by the county board of education, which is required to use the process a county board of education typically uses to conduct appeals for students expelled from district schools.

Do COEs expel students? According to the California County Superintendents Educational Services Association (CCSESA), most COEs do not expel students. County boards of education that do expel pupils either conduct hearings or convene administrative panels, but do not have a process for appeals. Some COEs initiate expulsion in order to "expel" the pupil from one county operated program to another. Expulsion data reported by COEs to the California Department of Education show that after excluding charter school expulsions¹, there were only six expulsions from county-operated schools operated by two COEs in 2014-15. One of the COEs initiates an expulsion process only to expel a student from one county-operated program to another and may not count as true expulsions.

What happens to students who are expelled from COEs? When students are expelled from district schools, schools districts are required to notify the pupil and his/her parents or guardians of the education alternative placement to be provided to the pupil. Typically, students expelled from district schools enroll in county operated programs. This bill does not specify what happens to the pupils if they are expelled from COEs. If the role of COEs is to educate those students for which district schools are not appropriate (because they were expelled, involved in the juvenile court system, etc.), where would those students receive their required education if they are expelled from COEs? The Los Angeles County Office of Education and the Santa Clara County Office of Education operate comprehensive high schools. Students expelled from these schools can enroll in other COE-operated programs, such as county community schools. Establishing an expulsion process for COE-operated comprehensive high schools may make sense, but the Committee may wish to consider whether COEs should be allowed to expel students who were already expelled from district schools.

Due process rights. While similar, the process established by this bill to provide due process protections to students expelled from COEs is abbreviated and does not offer all the same protections as those provided to district students, such as providing students with written notice

¹ Suspension and expulsion rates of charter schools authorized by county boards of education are reported as COE statistics.

of the hearing that includes the reasons for recommending expulsion, establishing timelines, and allowing students to have representation. Upon a recommendation by the OAH or the administrative panel to expel, the bill also does not require the county board of education to take action in a public meeting. Under current law, the governing board of a school district is required to inform a pupil and his/her parents or guardians of the alternative placement of the pupil during the expulsion. This bill does not include this requirement.

Staff recommends the following amendments:

- 1) Incorporate in the hearing process other due process rights similar to those established in Education Code 48918 for district students.
- 2) Upon a recommendation to expel by the OAH or the administrative panel, require the county board of education to take action in a public meeting.
- 3) Require the county board of education that upholds an expulsion following an appeal to provide the pupil and the pupil's parents or guardians with an education plan or alternative placement.
- 4) Require the plan for providing education services to all expelled students specified in EC Section 48926 to include students expelled by COEs.

Related legislation. SB 322 (Leno), pending in the Assembly Appropriations Committee, would, among other provisions, establish procedures for the suspension and expulsion of pupils in charter schools.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers

Opposition

None on file

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