

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1984 (Weber) – As Amended April 1, 2024

SUBJECT: Transfer reporting for alternative schools, county community schools, and continuation schools: suspension rates: persistently exclusionary.

SUMMARY: Requires the California Department of Education (CDE) to collect and publish on its DataQuest website, and local educational agencies (LEAs) to provide to the CDE, data on pupil transfers to alternative schools, continuation schools or classes, or county community schools, as specified. Specifically, **this bill:**

- 1) Requires the CDE to collect and publish on its DataQuest website, and LEAs to provide to the CDE, data on pupil transfers, disaggregated by those initiated by the pupil or their parent or guardian and those initiated by the LEA, to alternative schools, to continuation schools or classes, or to county community schools, as specified.
- 2) Requires the CDE to systematically review suspension and expulsion data and the data collected pursuant (1), above, and to include reducing the use of the transfers identified in any guidance to LEAs relating to ending the disproportionate discipline of pupil subgroups, including African American pupils.
- 3) Defines “LEA” to mean a school district, county office of education (COE), or charter school.

EXISTING LAW:

- 1) Prohibits a student 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 student has committed any of the following offenses:
 - a) 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;
 - b) 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;
 - c) Unlawfully possessing, using, selling, or otherwise furnishing a controlled substance;
 - d) Unlawfully offering, arranging, or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
 - e) Committing or attempting to commit robbery or extortion;
 - f) Causing or attempting to cause damage to school property or private property;

- g) Stealing or attempting to steal school property or private property;
 - h) Possessing or using tobacco, or products containing tobacco or nicotine products;
 - i) Committing an obscene act or engaging in habitual profanity or vulgarity;
 - j) Unlawfully possessing or unlawfully offering, arranging, or negotiating to sell drug paraphernalia;
 - k) 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; (Grades 4-12 only)
 - l) Knowingly receiving stolen school property or private property;
 - m) Possessing an imitation firearm;
 - n) Committing or attempting to commit a sexual assault or sexual battery;
 - o) Harassing, threatening, or intimidating a student who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the student from being a witness or retaliating against that student for being a witness, or both;
 - p) Unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;
 - q) Engaging in or attempting to engage in hazing;
 - r) Engaging in the act of bullying, including bullying committed by means of an electronic act;
 - s) Committing sexual harassment (grades 4 through 12 only);
 - t) Causing or attempting to cause, threatening to cause, or participating in an act of hate violence (grades 4 through 12 only);
 - u) Engaging in harassment, threats, or intimidation against school district personnel or students that have the effect of disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment (grades 4 through 12 only); and,
 - v) Making a terroristic threat against school officials, school property, or both. (Education Code (EC) 48900, 48900.2, 48900.3, 48900.4, 48900.7)
- 2) Requires the principal or superintendent of schools to recommend the expulsion of a student for any of the following acts committed at school or at a school activity off school grounds, unless it is determined that the expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:
- a) Causing serious physical injury to another person, except in self-defense;

- b) Possession of any knife or other dangerous object of no reasonable use to the student;
 - c) Unlawful possession of any controlled substance, as specified;
 - d) Robbery or extortion; and
 - e) Assault or battery, as defined, upon any school employee. (EC 48915)
- 3) Prohibits a student in kindergarten through 5th grade from being suspended for disrupting school activities or otherwise willfully defying the valid authority of school personnel and prohibits these acts from being grounds for any student from kindergarten through 12th grade to be recommended for expulsion. (EC 48900)
- 4) Prohibits a student in 6th through 8th grade from being suspended for disrupting school activities or otherwise willfully defying the valid authority of school personnel until July 1, 2025. (EC 48900)
- 5) 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) A conference between school personnel, the student's parent or guardian, and the student;
 - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support 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 student and his or her parents;
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment;
 - 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 schoolday on campus; and
 - h) After school programs that address specific behavioral issues or expose students to positive activities and behaviors. (EC 48900.5)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “AB 1984 will expand transparency of all transfers to alternative schools. Parents and student advocates are sharing that these types of transfers

represent a large hidden share of California exclusionary discipline – disproportionately impacting Black, Brown, and differently-abled students. A recent public records request finding, for example, in one school district that Black students represented 14% of enrollment but an astonishing 45% of transfers to alternative schools. And attending an alternative school is associated with negative outcomes, making students less likely to graduate and attend college – requiring transparency and accountability all the more critical.”

Task Force to Study and Develop Reparation Proposals for African Americans. AB 3121 (Weber), Chapter 319, Statutes of 2020, establishes the Task Force to Study and Develop Reparation Proposals for African Americans (Task Force or Reparations Task Force). AB 3121 charges the California Department of Justice (DOJ) with providing administrative, technical, and legal assistance to the Task Force.

According to the DOJ, the institution of slavery is inextricably woven into the establishment, history, and prosperity of the United States. Constitutionally and statutorily sanctioned from 1619 to 1865, slavery deprived more than four million Africans and their descendants of life, liberty, citizenship, cultural heritage, and economic opportunity. Following the abolition of slavery, government entities at the federal, state, and local levels continued to perpetuate, condone, and often profit from practices that brutalized African Americans and excluded them from meaningful participation in society. This legacy of slavery and racial discrimination has resulted in debilitating economic, educational, and health hardships that are uniquely experienced by African Americans.

AB 3121 charges the Reparations Task Force with studying the institution of slavery and its lingering negative effects on living African Americans, including descendants of persons enslaved in the United States and in society. The Task Force published a report and recommendations in 2023. Related to Chapter 23 of the report, *Policies Addressing Separate and Unequal Education*, “the Task Force recommends the CDE collect and publish additional data on students who are transferred to alternative schools, both voluntarily and involuntarily. African American students are overrepresented in alternative schools, which provide a substandard education. Attending an alternative school is associated with negative outcomes; students who attend alternative schools are less likely to graduate and less likely to attend college. Because transfers to alternative schools are often used as an alternative to discipline in order to avoid the original school having a record of said discipline, but have the same effect as pushing out African American students through suspension and/or expulsion, transfer data should also be systematically reviewed by the CDE. The CDE shall include reducing the use of alternative school transfers in any goals related to ending the disproportionate discipline of African American students.”

This bill proposes to establish this Task Force recommendation into state law.

California suspension and expulsion rates. Although the total number of suspensions and expulsions is declining statewide, gaps between racial/ethnic groups and other student subgroups persist. In the 2022-23, African American students had the highest rates of suspension among all racial/ethnic groups (8.9%), and foster youth had the highest rate of suspension overall (13.9%), with a statewide average of 3.6%.

Figure 1: 2022-23 Suspension Rate

Student Subgroup	Cumulative Enrollment	Total Suspensions	Unduplicated Count of Students Suspended	Suspension Rate	Percent of Students Suspended with One Suspension	Percent of Students Suspended with Multiple Suspensions
African American	308,444	49,260	27,462	8.9%	61.7%	38.3%
American Indian or Alaska Native	26,981	3,490	2,034	7.5%	64.5%	35.5%
Asian	582,803	8,440	6,280	1.1%	79.3%	20.7%
Filipino	134,975	2,367	1,798	1.3%	80.3%	19.7%
Hispanic or Latino	3,375,994	197,579	130,561	3.9%	71.7%	28.3%
Pacific Islander	25,509	1,927	1,279	5.0%	71.9%	28.1%
White	1,235,042	56,600	36,362	2.9%	70.9%	29.1%
Two or More Races	266,125	14,732	9,107	3.4%	68.8%	31.2%
Not Reported	63,678	3,112	1,960	3.1%	70.1%	29.9%
English Learners	1,210,441	69,320	45,697	3.8%	71.5%	28.5%
Foster Youth	41,901	12,164	5,816	13.9%	53.0%	47.0%
Homeless Youth	246,480	27,567	16,128	6.5%	64.9%	35.1%
Migrant Education	50,036	3,248	2,160	4.3%	72.5%	27.5%
Socioeconomically Disadvantaged	3,792,922	278,514	174,883	4.6%	68.9%	31.1%
Students with Disabilities	874,818	97,346	52,707	6.0%	61.0%	39.0%
Statewide	6,019,551	337,507	216,843	3.6%	70.4%	29.6%

Source: CDE DataQuest

Holding schools accountable for suspension and expulsion rates. The Local Control Funding Formula (LCFF) was established in the 2013-14 fiscal year to address the achievement gap by providing more equitable funding among LEAs, that is, to provide a higher level of funding to LEAs that enroll larger numbers of English learners, foster youth, and students eligible for free or reduced-price meals (unduplicated pupils) so they could provide those students with additional services and support. The reforms to the funding system were accompanied by changes to the state accountability system, including Local Control and Accountability Plans (LCAPs). The LCAP is a three-year plan that describes the goals, actions, services, and expenditures to support positive student outcomes that address state and local priorities. The LCAP provides an

opportunity for school districts, COEs, and charter schools to share their stories of how, what, and why programs and services are selected to meet their local needs.

The LCFF and LCAP requirements include school climate as one of the eight state priorities. All California school districts, COEs, and charter schools are required to report and examine student suspension and expulsion rates on their LCAP and annual updates. It has been suggested that this requirement to clearly report disciplinary actions, in the aggregate as well as by subgroup, increases the pressure on schools to employ alternatives to suspension and expulsion.

Current law requires, beginning with LCAPs for the 2024–25 school year, school districts, COEs, and charter schools to include specific actions in the LCAP to address all instances where a school or pupil group within a school district, COE, and charter school, or a pupil group within a school, receives the lowest performance level on one or more state indicators on the California School Dashboard (Dashboard), which includes the Suspension Rate statewide indicator.

Is the data required by this bill already collected? DataQuest is the CDE’s web-based data reporting system for publicly reporting information about California students, teachers, and schools. DataQuest provides access to a wide variety of reports, including school performance, test results, student enrollment, English learner, graduation and dropout, school staffing, course enrollment, and student misconduct data. This bill requires the CDE to collect and publish on the DataQuest website, and LEAs provide to the CDE, data on pupil transfers, disaggregated by those initiated by the pupil or their parent or guardian and those initiated by the LEA, to alternative schools, to continuation schools or classes, or to county community schools. The CDE does not currently collect pupil transfer information in this way. The Committee may wish to consider that it may be challenging to decipher which pupil transfers are initiated by the pupil or parent, or by the LEA.

Disparities in the rate of school suspensions. The disproportionate incidence of suspensions and expulsions among certain populations of students, including African American students, has gained nationwide attention in recent years. A 2018 report by the U.S. Government Accountability Office (GAO), *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*, found that black students, boys, and students with disabilities were disproportionately disciplined in K-12 schools, based upon an analysis of Civil Rights Data Collection (CRDC) data. The further suggests that “implicit bias on the part of teachers and staff may cause them to judge students’ behaviors differently based on the students’ race and sex. Teachers and staff sometimes have discretion to make case-by-case decisions about whether to discipline, and the form of discipline to impose in response to student behaviors, such as disobedience, defiance, and classroom disruption.”

Research on student behavior, race, and discipline has found no evidence that African American over-representation in-school suspension is due to higher rates of misbehavior. African American students were referred more often for behaviors that seem to require more subjective judgment on the part of the person making the referral (e.g. disrespect, excessive noise, threatening behavior, and loitering). (Losen, 2011)

Recommended Committee Amendments. Staff recommend that the bill be amended as follows:

- Require involuntary transfers, pursuant to current law, to be included in the dataset collected and reported on DataQuest of student transfer to alternative schools, to continuation schools or classes, or to county community schools.

- Require the CDE to systematically review suspension and expulsion data and data regarding specified student transfers, and to include reducing the use of the transfers identified in any guidance to LEAs relating to ending the disproportionate discipline of student subgroups, including the top 3 subgroup or subgroups with the highest rates of suspensions or expulsions statewide, based on the latest statewide DataQuest report published by the CDE, in lieu of naming a specific student subgroup.

Related legislation. AB 2711 (Ramos) of the 2023-24 Session would remove the possession of tobacco products and controlled substances on school grounds or at a school activity as bases for suspension from school or recommendations for expulsion, as of July 1, 2026. This bill would require schools to develop plans for students who possess or use tobacco, a controlled substance, or alcohol on school property, to implement specified supports or interventions for at least four to six weeks, and to take further action if necessary. This bill would also require annual reporting to the CDE of such incidents and actions taken, including specified information relating to the students involved.

SB 274 (Skinner), of the 2023-24 Session would remove disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties from the list of acts for which a student, regardless of their grade of enrollment, may be suspended or recommended for expulsion. The bill would also extend the prohibition against the suspension of charter school students for those acts to all grades, indefinitely.

AB 740 (McCarty), Chapter 400, Statutes of 2022, extends the parental notification requirements currently in place for a student's involuntary transfer to a continuation school, suspension, or expulsion, in the case of a foster child, to the foster child's attorney and social worker, and, in the case of an Indian child, the child's tribal social worker and county social worker. This bill also provides a foster child's and Indian child's attorney and social worker with the same rights as parents during the involuntary transfer, suspension, or expulsion process, such as requests for meetings and the ability to inspect all documents.

AB 2598 (Akilah Weber), Chapter 914, Statutes of 2022, requires the CDE to develop and post on its website by June 1, 2024, evidence-based best practices for restorative justice practices for LEAs to implement to improve campus culture and climate.

AB 3121 (Weber), Chapter 319, Statutes of 2020, establishes the Reparations Task Force and charges the DOJ with providing administrative, technical, and legal assistance to the Task Force.

SB 419 (Skinner), Chapter 279, Statutes of 2019, commencing July 1, 2020, permanently extends the prohibition against suspending a student enrolled in kindergarten through grade 3 for disrupting school activities or otherwise willfully defying the valid authority of school staff to include grades 4 and 5 permanently; and to include grades 6 to 8, until July 1, 2025; and applies these prohibitions to charter schools.

AB 2698 (Weber), of the 2015-16 Session would have established the School Climate and Student Achievement Act, and required low-achieving schools, to begin an assessment of school climate on or before September 1, 2017, and complete this assessment by July 1, 2018; and would have required the CDE to convene an advisory committee comprised of stakeholders and professionals who have participated in the development and expansion of alternative discipline

programs, such as restorative justice and positive behavioral interventions and supports. This bill was held in the Assembly Appropriations Committee.

AB 2489 (McCarty), of the 2015-16 Session would have required the CDE to develop a standard model to implement restorative justice practices on a school campus and make the standard model available for use by any school district that chose to implement restorative justice practices as part of its campus culture. This bill was held in the Assembly Appropriations Committee.

AB 1455 (Campos), Chapter 229, Statutes of 2014, authorizes school officials to refer a victim of, witness to, or other student affected by an act of bullying, committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program.

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

AB 1729 (Ammiano), Chapter 425, Statutes of 2012, reaffirms that superintendents and school principals have the discretion to implement alternatives to suspension and expulsion and expands 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

None on file

Opposition

None on file

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