

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1919 (Weber) – As Amended April 15, 2024

SUBJECT: Pupil discipline: suspension and expulsion: restorative justice practices

SUMMARY: Requires a school district to document any alternative means of correction used prior to the suspension of a student and requires local educational agencies (LEAs) to adopt at least one of the best practices for restorative justice implementation developed by the California Department of Education (CDE). Specifically, **this bill:**

- 1) Requires, rather than authorizes, a school district to document, in a student's record, any alternative means of correction that were used prior to a student being suspended.
- 2) Requires, as of July 1, 2026, a school district, county office of education (COE), or charter school to adopt at least one of the best practices for restorative justice implementation developed by the CDE, as specified.
- 3) Authorizes participation in a restorative justice program, identified as a best practice, as one of the alternative means of correction that schools may use before they consider the suspension of a student.

EXISTING LAW:

- 1) 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 related to a school activity or school attendance:
 - 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, an 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) Knowingly receiving stolen school property or private property;
 - l) Possessing an imitation firearm;
 - m) Committing or attempting to commit a sexual assault or sexual battery;
 - n) 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;
 - o) Unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;
 - p) Engaging in or attempting to engage in hazing; and
 - q) Engaging in the act of bullying, including, but not limited to, bullying committed by means of an electronic act. (Education Code (EC) 48900)
- 2) Specifies additional grounds for suspension or recommendations for expulsion:
- a) Committing sexual harassment (grades 4 through 12 only);
 - b) Causing or attempting to cause, threatening to cause, or participating in an act of hate violence (grades 4 through 12 only);
 - c) 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
 - d) Making a terroristic threat against school officials or school property, or both. (EC 48900.2, 48900.3, 48900.4, 48900.7)
- 3) 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)
- 2) Authorizes a teacher to suspend a pupil from that class for any of the acts identified in (1) above, for the day of the suspension and the day following, and to refer a pupil to the principal for consideration of a suspension from the school. (EC 48910)
 - 4) Includes the prohibition on suspension and expulsions for specified offenses to apply to students in charter schools. (EC 48901.1)
 - 5) Authorizes a principal or their designee to assign a student suspended from school for specified offenses to a supervised classroom for the entire period of suspension if the student poses no imminent danger or threat to the campus, students, or staff, provided that an action to expel the student has not been initiated. (EC 48911.1)
 - 6) 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, 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)
 - i) Community service including, but not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. (EC 48900.6)
 - 1) Requires the CDE, by June 1, 2024, to develop evidence-based best practices for restorative justice practice implementation on a school campus and make these available on the department website for use by LEAs to implement restorative justice practices as part of efforts to improve campus culture and climate. Also requires the CDE to consult with school-

based restorative justice practitioners, public school educators, students, community partners, and nonprofit and public entities in developing the best practices, and to the extent feasible take into account other programs and resources, as specified. (EC 49055)

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

COMMENTS:

Need for the bill. According to the author, “Restorative practices and restorative justice methods allow for greater understanding and community healing in addressing youth behavior. These practices also emphasize building strong relationships among students, staff, teachers, administrators, and parents while creating safe, productive learning environments for all.

AB 1919 would ensure that our educators and schools are equipped to effectively implement the best restorative justice practices developed by school-based restorative justice practitioners, community stakeholders, educators, and others. This bill will build upon AB 2598 and would help address remaining inequities within our public education system and improve school climate, which leads to increased attendance, reduced feelings of isolation, bullying, classroom disruption, truancy, antisocial behavior, and disputes among students.”

Adverse impacts of suspensions and expulsions. The trend in recent years, in California as well as nationally, has been to reduce the incidences of suspension and expulsion. A large body of research has identified the adverse impacts of suspensions and expulsions, including the following:

- Students who experience out-of-school suspensions and expulsions are 10 times more likely to ultimately drop out of high school;
- Students who are suspended or expelled are much more likely to become involved in the juvenile justice system;
- Students who are excluded from classes lose instructional time;
- A student’s suspension or expulsion can have harmful effects on the family, including loss of wages or employment for the parent, particularly for single parents; and
- Students who are suspended or expelled are often less likely to have supervision at home and are subject to the risk of further behavioral problems.

Research suggests that harsh discipline practices and the over-policing of students of color that occurs in many schools have undermined the creation of safe and inclusive learning environments. Disproportionalities in suspension and expulsion rates between students of color and their white peers appear as early as preschool and continue through the K-12th grades. Black youth often receive harsher punishments for minor offenses and are more than twice as likely as white students to receive a referral to law enforcement or be subject to a school-related arrest. (Learning Policy Institute (LPI), March 2021).

One study, *Educational and Criminal Justice Outcomes 12 Years After School Suspension*, notes that “school suspensions aim to obtain better behavior from the punished student and maintain

school norms by removing students. Suspension removes disruptive students from schools temporarily and may improve school climate by reducing peer influences to engage in deviant behavior.” The study goes on to note that a body of research has found that suspended students are more likely to:

- Engage in antisocial behavior;
- Have involvement with the criminal justice system;
- Be arrested both during the month of suspension and within a year of suspension; and
- Use marijuana and tobacco.

The study also cites various longitudinal research findings, including:

- Youth suspended in ninth grade were less likely to graduate high school, graduate on time, and enroll in postsecondary education; and
- Twelve years after suspension, suspended youth were less likely to have earned degrees or high school diplomas and were more likely to have been arrested or on probation. (Rosenbaum, 2018)

Some researchers conclude that “suspensions may act more as a reinforcer than a punisher for inappropriate behavior. Other research raises doubts as to whether harsh school discipline has a deterrent value. Frequent use of suspension alone has no measureable positive deterrent or academic benefit to either the students who are suspended or to non-suspended students.” (Losen, 2011). The American Academy of Pediatrics states, “Without the services of trained professionals, such as pediatricians, mental health professionals, and school counselors, and without a parent at home during the day, students with out-of-school suspensions and expulsions are far more likely to commit crimes.”

Researchers have pointed out that “many suspended students find school to be challenging and experience suspension from school as a reward. Suspensions may be reinforcing and even incentivizing the very behavior they are meant to correct.” (Rumberger, 2017).

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.”

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.

CRDC data show that there was an overall 2% decline in the use of exclusionary discipline practices in public schools in the U.S. from the 2015-16 school year to the 2017-18 school year. However, there was an increase during this period of school-related arrests, expulsions with educational services, and referrals to law enforcement. The data also shows a continued disproportionality in exclusionary practices during the 2017-18 school year:

- Black students accounted for 15.1% of total student enrollment in the U.S. and received 38.8% of expulsions with educational services and 33.3% of expulsions without educational services;
- Students with disabilities represented 13.2% of enrollment and received 23.3% of expulsions with educational services and 14.8% of expulsions without educational services;
- Boys accounted for 51.4% of enrollment and received 69.5% of in-school suspensions and 70.5% of out-of-school suspensions;
- 31.4% of Black students received one or more in-school suspensions and 38.2% received one or more out-of-school suspensions;
- 20.5% of students with disabilities received one or more in-school suspensions and 24.5% received one or more out-of-school suspensions;
- Black students with disabilities represent 2.3% of student enrollment, 6.2% received one or more in-school suspensions and 8.8% received one or more out-of-school suspensions; and
- Black students accounted for 28.7% of all students referred to law enforcement and 31.6% of all students arrested at school or during a school-related activity.

The GAO report review of research on the topic of disproportionate disciplinary actions 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 overrepresentation in school suspension is due to higher rates of misbehavior. African American students were referred more often for behaviors that seemed 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)

California suspensions and expulsions have declined, but disproportionality remains. Data from the CDE shows that while the number of suspensions and expulsions decreased over the 10-year period from 2012-13 to 2022-23, the number of African American students suspended or expelled remains significantly above their proportionate enrollment:

- Total suspensions for all offenses dropped 44%, from 609,810 to 337,507;

- African American students made up 6% of enrollment in 2012-13 and 5% in 2022-23, but received 19% of total suspensions in 2012-13 and 15% in 2022-23; and
- Total expulsions dropped by 44% over the 10-year period, from 8,564 in 2012-13 to 4,750 in 2022-23; and
- African American students accounted for 13% of total expulsions in 2012-13 and 12% in 2022-23.

Increasing use of alternatives to suspension and expulsion in California, including restorative justice. Current law requires that suspension be imposed only when other means of correction fail to bring, about proper conduct. Other means of correction include, but are not limited to:

- 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 the pupil's parents;
- Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program (IEP) or 504 plan;
- 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, including, but not limited to, those operated in collaboration with local parents and community groups.

What is restorative justice? The use of restorative justice and restorative practices in schools offers a respectful and equitable approach to discipline, as well as a proactive strategy to create a connected, inclusive school culture. Inspired by indigenous values, restorative justice is a philosophy and a theory of justice that emphasizes bringing together everyone affected by wrongdoing to address needs and responsibilities and to heal the harm to relationships as much as possible. The term "restorative practices" is used by a number of practitioners to describe how the concepts of restorative justice are utilized to create change in school systems. These practices are an alternative to zero-tolerance policies that mandate suspension or expulsion of students from school for a wide variety of misbehaviors that are not necessarily violent or dangerous. (Fix School Discipline, 2022)

According to the LPI, “Safe, supportive learning environments, where students feel a sense of belonging and where relational trust prevails, are the foundation of a restorative approach to education. Research shows that stable, caring relationships with teachers and other adults are linked to better school performance and engagement. Even one stable relationship with a committed adult can help buffer a child from the effects of serious adversity. Restorative structures, such as advisory systems, support community building and relationships and provide consistent opportunities for teachers to check in on students’ academic, social-emotional, and mental health needs and connect them to appropriate supports.” (LPI, March 2021).

Restorative practices in schools include:

- Staff and students have a shared vocabulary that enables them to express feelings in a healthy productive way and to criticize the deed, not the doer;
- Impromptu student conferences are used to redirect a student’s behavior in a way that minimizes disruption to instructional time; and
- Restorative circles are structured processes guided by a trained facilitator with a strong emphasis on the importance of listening, facilitated by using a talking piece.

Research generally supports the use of restorative practices. A growing body of research suggests that restorative practices are beneficial. Numerous studies have found that restorative practices are not only associated with improvements in student behavior (e.g., decreases in fighting and bullying), but also with a decrease in office referrals, classroom removals, suspensions, and expulsions. Studies also suggest a link between restorative approaches and improved school climate outcomes, including increased levels of student connectedness, improved relationships between students and teachers, and improved perceptions of school climate. (LPI, October 2021).

Another review of research on restorative initiatives concluded that results from case studies, district-wide correlational studies, and experimental trials convincingly demonstrate that when schools implement a restorative initiative, their out-of-school suspension rates decrease. The report further concludes that restorative initiatives have promise to narrow racial disparities in suspension as well as to foster positive student development. However, mixed findings indicate that the promise is not always realized. (National Education Policy Center, 2020).

Restorative justice in practice. The Oakland Unified School District is considered a model for restorative justice, having successfully operated their program since 2006. According to the district website, “Restorative Justice (RJ) is a set of principles and practices inspired by indigenous values used to build community, respond to harm/conflict, and provide individual circles of support for students. By building, maintaining, and restoring relationships between members of the entire school community, we help to create an environment where all students can thrive. Our program is implemented through a 3-tier, school-wide model”

- Tier 1: Community Building, characterized by the use of social emotional skills and practice (classroom circles) to build relationships, create shared values and guidelines, and promote restorative conversations following behavioral disruption. The goal is to build a caring, intentional, and equitable community with conditions conducive to learning;

- Tier 2: Restorative Processes, characterized by the use of non-punitive response to harm/conflict, such as harm circles, mediation, or family-group conferencing to respond to disciplinary issues in a restorative manner. This process addresses the root causes of the harm, supports accountability for the offender, and promotes healing for the victim(s), the offender, and the school community; and
- Tier 3: Supported Re-Entry, characterized by 1:1 support and successful re-entry of youth following suspension, truancy, expulsion, or incarceration. The goal is to welcome youth to the school community in a manner that provides wraparound support and promotes student accountability and achievement.

According to the OUSD, the restorative justice model is nested within their Multi-Tiered System of Support (MTSS) staffing investments at both the central office and at school sites.

Restorative justice implementation is key. Research suggests that integrating restorative approaches into school settings is complex and takes time. Studies have suggested that key elements include:

- Incorporating restorative practices as one of many strategies for improving school culture;
- Utilizing a whole school approach;
- Focusing on building staff buy-in and capacity;
- Developing meaningful accountability and data collection systems;
- Establishing district-level infrastructure; and
- Centering student and community voices. (LPI, October 2021)

Some restorative justice programs may yield mixed results due to poor implementation. There is strong evidence suggesting that restorative justice can reduce racial differences in exclusionary discipline, but poor implementation approaches undermine the positive outcomes restorative justice programs produce, including the following:

- Top-down approaches that lack the values of restorative justice are often ineffective as they do not consider whether the institutions are ready or willing to implement the new programs, which may lead to resistance and reluctant compliance;
- Approaches based on one restorative practice may ignore crucial components, such as the overemphasis on student participation while minimizing the importance of school personnel;
- Colorblind approaches may not consider the oppression and abuses of power that cultural minority students have endured;
- Approaches without adequate support, including a lack of training, feedback, and coaching for teachers; and

- Short-term and under-resourced initiatives, as without adequate resources and sustained commitment, schools can lose the gains a program may have produced.

The author notes that at least one study showed that partial commitment made little difference when compared to no implementation of restorative justice at all. (Morgan, 2021)

CDE developing best practices in restorative justice. AB 2598 (Akilah Weber), Chapter 914, Statutes of 2022 requires the CDE, by June 1, 2024, to develop evidence-based practices for restorative justice practice implementation on a school campus as part of efforts to improve campus culture and climate. The legislation encourages the CDE to take into account resources and best practices that have been identified or developed as part of the Scaling Up Multi-Tiered Systems of Support (MTSS) initiative, the California Community Schools Partnership Program, and resources developed by the CDE in support of social-emotional learning (SEL). According to the CDE, they expect to complete this work by the June 1st deadline.

This bill would require LEAs to adopt at least one of the best practices for restorative justice developed by the CDE by July 1, 2026.

Arguments in support. GLIDE writes, “AB 1919 builds on AB 2598, passed in 2022, which required the California Department of Education to work with stakeholders to develop a standard model to implement restorative justice best practices for local educational agencies and make them available on their website as part of efforts to improve campus culture and climate. Data shows that punitive and/or zero tolerance school discipline policies that rely on exclusionary punishments are ineffective and stand in the way of student achievement. Data also shows that these punitive discipline policies disproportionately impact Black students, particularly Black male students, and students with disabilities.

Restorative practices and restorative justice methods allow for greater understanding and community healing in addressing youth behavior. These practices also emphasize building strong relationships among students, staff, teachers, administrators, and parents while creating safe, productive learning environments for all.

AB 1919 would ensure that our educators and schools are equipped to effectively implement the best restorative justice practices developed by school based restorative justice practitioners, community stakeholders, educators, and others. This bill would help address remaining inequities within our public education system and improve school climate.”

Related legislation. AB 2598 (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 2351 (Lowenthal) of the 2023-24 Session would allow a student to be suspended from school or recommended for expulsion on the basis of specified acts taking place outside of school hours if specified conditions are met.

AB 2711 (Ramos) of the 2023-24 Session would, as of July 1, 2026, remove the possession of tobacco products and controlled substances on school grounds or at a school activity as bases for suspension from school, unless two documented unsuccessful interventions have been provided;

authorizes the removal of a student from campus for the day who is under the influence of a controlled substance, an alcoholic beverage, or an intoxicant, provided that the student is excused due to illness; would prohibit a student from being recommended for expulsion for possession, use or being under the influence of a controlled substance, alcohol, an intoxicant, or possession or use of tobacco products; prohibit disciplinary actions for students who disclose their use of tobacco, a controlled substance, or alcohol, or who are seeking help for services or supports; require LEAs to develop a plan for students who possess or use tobacco, a controlled substance, or alcohol on school property, in collaboration with specified individuals; identifying appropriate supports and interventions for students; require schools to refer students for supports and interventions and to review these with the student and their parents or guardians after four to six weeks to determine if further supports are required; and encourage schools to provide school-wide education and prevention activities.

SB 274 (Skinner), Chapter 597, Statutes of 2023, prohibits the suspension or expulsion of a student enrolled in 6th through 12th grade in a public school on the basis of willful defiance until July 1, 2029, authorizes employees to refer students to school administrators for in-school interventions or supports, and requires that administrators document the actions taken in the student's record and inform the referring employee of those actions.

AB 1165 (McCarty), Chapter 22, Statutes of 2023, encourages LEAs to refer both the victim and perpetrator of an incident of racist bullying, harassment, or intimidation to a restorative justice program that suits the needs of both the victim and the perpetrator.

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

AB 667 (Reyes), Chapter 445, Statutes of 2017, 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.

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 pupil 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 pupil enrolled in kindergarten through 3rd grade, and the authority to recommend for expulsion a pupil 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. These requirements sunset on July 1, 2018.

SB 1396 (Hancock) of the 2013-14 Session would have apportioned funds, contingent upon available funding, to a designated COE to establish a multi-tiered intervention and support program that includes, but is not limited to, the Schoolwide Positive Behavior Intervention and Support (PBIS) program and restorative practices. This bill was held in the Assembly Appropriations Committee.

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**

GLIDE

Opposition

None on file

Analysis Prepared by: Debbie Look / ED. / (916) 319-2087