

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 939 (Umberg) – As Amended April 23, 2024

**[Note: This bill is double referred to the Assembly Higher Education Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SENATE VOTE:** 37-0

**SUBJECT:** Educational equity: schoolsite and community resources: neurodivergent pupils

**SUMMARY:** Requires that the California Department of Education (CDE) assess whether local educational agencies (LEAs) have included information and resources on the support of neurodivergent students in their anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies; requires the Superintendent of Public Instruction (SPI) to post a list of statewide resources supporting students subjected to bullying on the basis of neurodiversity; requires each LEA to post resources related to neurodiversity on their websites; and requires CDE to include information on supporting neurodivergent students in their online bullying training module. Specifically, **this bill:**

- 1) Requires that the CDE, through its regular Categorical Program Monitoring process, assess whether LEAs have provided information on existing schoolsite and community resources related to the support of neurodivergent students to certificated schoolsite employees serving students in grades 7 to 12.
- 2) Requires the SPI to post and annually update on the CDE's website, and provide to each school district, COE, and charter school, a list of statewide resources, including community-based organizations that provide support to youth, and their families, who have been subjected to school-based discrimination, harassment, intimidation, or bullying on the basis of neurodiversity. Requires that these resources include those developed by the University of California (UC) and the California State University (CSU) Collaborative for Neurodiversity and Learning (Collaborative).
- 3) Requires each LEA, by the beginning of the 2025-26 school year, to ensure that resources related to neurodiversity developed by the Collaborative are readily accessible in a prominent location on the LEA's website and easily accessible by parents, guardians, and students.
- 4) Requires that the online training module that the CDE is tasked with developing on bullying and cyberbullying include information about how to support students who are bullied for being or perceived as being neurodivergent and include links to resources on neurodiversity developed by the Collaborative.

**EXISTING LAW:**

- 1) Prohibits discrimination on the basis of the actual or perceived characteristics of 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 set forth in Section 422.55 of the Penal Code, including immigration status, in any program or

activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (Education Code (EC) 220)

- 2) Requires the CDE to monitor, through its federal program monitoring process, whether LEAs have:
  - a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics defined as hate crimes, immigration status, disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy must include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district;
  - b) Adopted a process for receiving and investigating complaints relating to discrimination, harassment, intimidation, and bullying;
  - c) Publicized antidiscrimination, anti-harassment, anti-intimidation, and anti-bullying policies, including information about the manner in which to file a complaint, to students, parents, employees, agents of the governing board, and the general public;
  - d) Provided certificated school employees in schools serving students in grades 7 to 12, information on existing schoolsite and community resources related to the support of LGBTQ+ students, or related to the support of students who may face bias or bullying on the basis of religious affiliation, or perceived religious affiliation;
  - e) Posted the policy in all schools and offices, including staff lounges and student government meeting rooms;
  - f) Maintained documentation of complaints and their resolution for a minimum of one review cycle;
  - g) Ensured that complainants are protected from retaliation and that their identity remains confidential, as appropriate; and
  - h) Identified a responsible LEA officer for ensuring compliance. (EC 234.1)
- 3) Requires the CDE, by July 1, 2021, to develop resources or, as appropriate, update existing resources for in-service training on schoolsite and community resources for the support of LGBTQ+ students, and strategies to increase support for LGBTQ+ students and improve overall school climate. Requires the resources to be designed for use in schools operated by a school district, COE, and charter schools serving students in grades 7 to 12, inclusive. Encourages schools serving students in grades 7 to 12 to use these resources to provide training at least once every two years to teachers and other certificated employees. (EC 218)
- 4) Defines schoolsite resources to support LGBTQ students as including:
  - a) Peer support or affinity clubs and organizations;
  - b) Safe spaces for LGBTQ pupils;

- c) Anti-bullying and harassment policies and related complaint procedures;
  - d) Counseling services;
  - e) School staff who have received anti-bias or training aimed at supporting LGBTQ youth;
  - f) Health and curriculum materials that are inclusive of, and relevant to, LGBTQ youth;
  - g) Suicide prevention policies and related procedures;
  - h) Policies relating to use of school facilities, including bathrooms and locker rooms; and
  - i) Policies and procedures to protect the privacy of LGBTQ pupils. (EC 218)
- 5) Defines community resources for the support of LGBTQ students as:
- a) Local community-based organizations that provide support to LGBTQ youth; and
  - b) Local physical and mental health providers with experience in treating and supporting LGBTQ youth. (EC 218)
- 6) Requires the CDE to display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, cyber sexual bullying, and bullying on its website. (EC 234.2)
- 7) Requires the CDE to develop, and post on its website, a model handout describing the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. (EC 234.3)
- 8) Requires a charter school to include in its petition to establish the charter school the procedures that the charter school will follow to ensure the safety of students and staff (EC 47605).

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- This bill could result in ongoing reimbursable state mandated costs for school districts to provide resources to staff to support students who are neurodivergent. A precise estimate is unknown but could potentially be in the low hundreds of thousands of dollars each year (Proposition 98 General Fund); and
- The CDE indicates that any administrative costs would be minor and absorbable within existing resources.

**COMMENTS:**

***Need for the bill.*** According to the author, “SB 939 helps and acknowledges pupils with neurodivergence, which is spectrum of differences in brain function and behavioral traits encompassing conditions such as Autism Spectrum Disorder, ADHD, Dyslexia, and more. As

our understanding of diversity and inclusion evolves, the legal framework that protects and uplifts every student must evolve as well. Historically, students with neurodivergent conditions have faced unique challenges in educational settings, ranging from misunderstanding and stereotypes to bullying and discrimination. This not only hinders students' academic growth but also affects their emotional and social development. SB 939 therefore seeks to amend Section 234.1 of the Education Code to explicitly include protections for neurodivergent students, ensuring they receive the same rights to a safe and positive learning environment as their peers.”

***What does neurodivergent mean?*** Neurodiversity is a term that acknowledges differences in brain function and that people learn, think, and behave differently from each other. According to the Child Mind Institute:

The term neurodiversity was coined in the 1990s to fight stigma and promote acceptance of people with autism. But it also includes other conditions that involve neurological differences, such as ADHD and learning disorders like dyslexia and dyscalculia. The neurodiversity movement was launched by Judy Singer, an Australian sociologist who is herself on the autism spectrum. Singer saw neurodiversity as a social justice movement, to promote equality of what she called “neurological minorities” — people whose brains work in atypical ways. As she defined them, those minorities included people with autism as well as ADHD and learning differences. Singer felt that these differences should not be viewed as deficits, but rather as normal and potentially valuable variations on the way brains work.

Neurodiversity is not referenced in the Education Code or defined in the protected classes within the Penal Code. Neurological and developmental conditions such as autism, learning disabilities, or ADHD are protected against harassment, intimidation, or bullying on the basis of disabilities. ***The Committee may wish to consider*** whether it is necessary to establish neurodiversity in the Education Code by suggesting it as a protected class specifically relating to bullying, particularly given the lack of a specific or clear definition.

***Existing schoolsite and community resources on bullying.*** This bill requires LEAs to provide information to teachers in grades 7-12 information on existing schoolsite and community resources related to supporting students who are neurodivergent. The CDE’s website currently contains a page dedicated to bullying prevention training and resources, which include prevention strategies, links to outside resources (such as information about bullying of youth with disabilities and special health needs from [stopbullying.gov](http://stopbullying.gov)), and the Online Bullying Training Module and Bullying Presentation created by CDE.

CDE’s online bullying module includes a chapter specific to bullying of students with disabilities. The online bullying module assists all school staff, school administrators, parents, students, and community members in increasing their knowledge of the dynamics of bullying. The module identifies the different acts of bullying and provides suggestions on strategies to utilize to address bullying. CDE also provides a free training that provides guidance on how to take a public health approach to bullying prevention with long-term, community-wide prevention strategies.

***Collaborative for Neurodiversity and Learning.*** In 2019, a higher education budget trailer bill (SB 77, Committee on Budget and Fiscal Review, Chapter 53, Statutes of 2019) established the UC and CSU Collaborative for Neurodiversity and Learning. The stated goal of this initiative is to bring together the state’s resources and leading experts in brain research and K-12 education

to strengthen educational support and new teaching methods for children with diverse learning needs, including children with dyslexia and literacy issues. The Collaborative is to do all of the following:

- a) Develop a network of brain researchers and educators to share new knowledge on neurodiversity;
- b) Identify and develop links between brain research and classroom practice;
- c) Create a framework for embedding neurodiversity knowledge into the teacher education programs at UC and CSU; and
- d) Provide an opportunity for innovative experts in neuroscience and education to collaborate and develop new approaches for teaching and learning based on knowledge gained from brain research around learning differences, such as dyslexia.

The Collaborative is also tasked with providing leadership on the development and testing of new classroom interventions and teaching practices for literacy learning issues based on brain research at K-12 public schools. The Collaborative is to establish an evaluation team, composed of participants from CSU and UCLA to measure the impact of the new classroom interventions and teaching practices at participating schools and identify which interventions and practices are most effective for neurodiverse learners.

The Collaborative is further tasked with supporting the development of a progressive teacher training curriculum to be integrated into professional preparation programs leading to a preliminary teaching credential that will have a long-term impact on supporting neurodiverse learners.

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

- 1) Remove Section 1 of the bill regarding the requirement that CDE’s Categorical Monitoring Process include the assessment of LEA’s provision of resources on supporting neurodivergent students.
- 2) Remove the requirement that CDE provide a list of statewide resources to each school district, COE, and charter school, and require that CDE notify local educational agencies of the availability of these resources.

***Arguments in support.*** The California State Association of Psychiatrists writes, “The population of neurodivergent youth is rapidly increasing, largely impacting educational institutions. According to the National Center for Education Statistics, in 2021–22, the number of students ages 3–21 receiving Individuals with Disabilities Education Act services in the United States increased from 6.4 million in the 2010–11 school year to 7.3 million in the 2021–22 school year. Taken as a percentage of total public school enrollment, this equates to an increase from 13 to 15 percent of all students.

Neurodivergent youth are often the prevalent victims of bullying, and the number of neurodivergent youth is higher in California compared to other areas. For example, according to the Journal of Attention Disorders, nearly half of children with Attention Deficit Hyperactivity

Disorder are victims of bullying — more than double the amount of bullying experienced by neurotypical peers. Additionally, the autism diagnosis rate in California is 1:26, much higher than the national average of 1:36. Although the numbers have risen over the years, there has not been sufficient priority placed on building awareness and education.

SB 939 directly addresses the need for higher levels of awareness regarding neurodivergence within the general student body by requiring local educational agencies to incorporate comprehensive policies, establish clear complaint procedures, and provide adequate resources for neurodivergent students.”

**Related legislation.** AB 1955 (Ward) of the 2023-24 Session would require the CDE to develop resources and strategies to support LGBTQ students and their families; prohibit a public school employee, contractor, or board member, from retaliating or taking adverse action against any employee for supporting a student in the exercise of their rights; conducted their work activities consistent with state law or employer obligations; provided instruction to students consistent with the current content standards, curriculum frameworks, and instructional materials adopted by the State Board of Education (SBE); prohibit an employee or contractor from being required to disclose any information related to a student’s sexual orientation, gender identity, or gender expression to any other person without the student’s consent; prohibit public schools from enacting or enforcing any policy requiring an employee or contractor to disclose any information related to a student’s sexual orientation, gender identity, or gender expression, without the student’s consent; and require that any such policy be invalid and have no force or effect.

AB 5 (Zbur), Chapter 220, Statutes of 2023, requires the CDE to complete the development of an online training curriculum and online delivery platform by July 1, 2025, and requires LEAs to provide and require at least one hour of training annually to all certificated staff, beginning with the 2025-26 school year through the 2029-30 school year, on cultural competency in supporting LGBTQ+ students. Requires the LEA to maintain documentation on the completion of the training by each employee, as specified.

AB 493 (Gloria) Chapter 775, Statutes of 2019, requires that, no later than July 1, 2021, the CDE develop resources or update existing resources for in-service training on schoolsite and community resources for the support of LGBTQ students, for use in LEAs, including charter schools serving students in grades 7-12. Requires the CDE to periodically provide online trainings on this topic that can be accessed on a statewide basis.

AB 827 (O’Donnell), Chapter 562, Statutes of 2015, requires the CDE, as part of its compliance monitoring, to assess whether LEAs have provided information to certificated staff serving grades 7-12 on schoolsite and community resources for LGBTQ students.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Autism Speaks  
California Charter Schools Association  
California State Association of Psychiatrists  
California State PTA  
Church State Council

**Opposition**

None on file

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