

Date of Hearing: June 12, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 1445 (Cortese) – As Amended April 18, 2024

**SENATE VOTE:** 34-5

**SUBJECT:** Governing boards: pupil members: expulsion hearing recommendations

**SUMMARY:** Authorizes a school district governing board, a charter school governing body, or an entity managing multiple charter schools, to allow student board members to make restorative justice recommendations that may be considered by the board or body in closed session expulsion hearings; and requires the board or body to provide limited case information to the student board member, subject to the approval of the student being considered for expulsion and their parent or guardian, and to relevant state and federal privacy protections. Specifically, **this bill:**

- 1) Authorizes a school district governing board, a charter school governing body, or an entity managing multiple charter schools, to allow student board member(s) to make restorative justice recommendations that may be considered by the board in closed session expulsion hearings.
- 2) Requires, if the governing board authorizes student board members to make such recommendations, that the governing board disclose limited case information on the relevant closed session expulsion item to the student board member(s) to facilitate those recommendations.
- 3) Requires the disclosure of any expulsion case information to student board members to be made only with the voluntary, written consent of the student involved in the expulsion case, their parent or guardian, and consistent with federal and state privacy laws and regulations.

**EXISTING LAW:**

- 1) Authorizes a student enrolled in a high school of a school district, county office of education (COE), or charter school to petition the governing board or body to appoint one or more student members to the governing board or body. Requires each student member to have the right to attend all meetings of the governing board of the school district except executive sessions, to receive all relevant materials, and to have preferential voting rights. (Education Code (EC) 35012)
- 2) 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 specified offenses, while on school grounds, while going to or coming from school, during the lunch period whether on or off the campus, or during or while going to or coming from a school sponsored activity. (EC 48900, 48900.2, 48900.3, 48900.4, 48900.7)
- 3) Includes the provisions on suspension and expulsions for specified offenses to apply to students in charter schools. (EC 48901.1)

- 4) 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;
  - h) After school programs that address specific behavioral issues or expose students to positive activities and behaviors; and
  - 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 48900.5 and 48900.6)
- 5) 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)
- 6) Requires the principal or superintendent to immediately suspend and recommend expulsion of a student if it is determined that they committed any of the following acts at school or a school activity:
  - a) Possessing, selling, or otherwise furnishing a firearm;

- b) Brandishing a knife at another person;
  - c) Unlawfully selling a controlled substance, as defined;
  - d) Committing or attempting to commit sexual assault or sexual battery; or
  - e) Possession of an explosive. (EC 48915)
- 7) Authorizes a governing board, upon voting to expel a student, to suspend the enforcement of the expulsion order for up to one year and, as a condition of the suspension of enforcement, assign the student to a school, class, or program that is deemed appropriate for the rehabilitation of the student. During the period of the suspension of the expulsion order, the student is deemed to be on probationary status. Upon satisfactory completion of the rehabilitation assignment, the governing board is required to reinstate the student in a school in the district and may order the expungement of records of the expulsion proceedings. (EC 48917)
- 8) Requires the California Department of Education (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 local educational agencies (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:** This bill has been keyed as non-fiscal by the Office of Legislative Counsel.

**COMMENTS:**

***Need for the bill.*** According to the author, “Excluding student board members from the expulsion hearing process deprives students of the opportunity to advocate for their peers. Restorative justice alternatives are necessary to protect our most vulnerable student populations by ensuring they remain in school while emphasizing the importance of collaboration and community involved conflict resolution.

By focusing on repairing harm and strengthening connections amongst affected individuals, peers, teachers, and the wider school community, we can provide students with the support they need. All parties should have the opportunity to contribute to the resolution process, shifting the school board's role from authority to facilitator and promoting student-centered problem-solving.

I’ve seen the benefits of restorative justice initiatives first hand. In 2011, as a Santa Clara County Supervisor, I established the Santa Clara County Peer Court. Under Peer Court, juries composed of teenage peers judge low-level juvenile offenders facing their first misdemeanor charges. Peer Court has proven to be a cost-effective method of advancing restorative justice while allowing young people to avoid the juvenile system.”

***Student board members in California.*** Current law requires the governing board of a school district, county board of education, and governing body of a charter school, to include a student board member if a petition signed by a specified number of high school students is brought before the governing board. The California School Boards Association estimates that approximately half of all school district governing boards include a student board member.

Current law requires that school district student board members be seated with the regular members of the governing board of the school district, and be recognized as a full member of the governing board at the meetings, including receiving all open meeting materials presented to the regular members at the same time the materials are presented to the regular members, being invited to staff briefings of regular members or being provided a separate staff briefing within the same timeframe as the staff briefing of regular members, being invited to attend other functions of the governing board of the school district, such as forums, meetings with pupils and parents, and other general assemblies, and participating in the questioning of witnesses and the discussion of issues.

Student board members have preferential voting rights, defined as a formal expression of opinion that is recorded in the minutes and cast before the official vote of the governing board of the school district. A preferential vote may not serve in determining the final numerical outcome of a vote. No preferential vote is permitted on matters subject to closed session discussion.

This bill would authorize governing boards and bodies to permit student board members to submit recommendations regarding restorative justice options for board members to consider on an expulsion case being discussed in a closed session. It would not authorize student board members to participate in the closed session discussion.

***Importance of student voice.*** Research identifies the importance of student voice in influencing education policy and practice. Student voice may be defined as student input in their education, ranging from input into the instructional topics, the way students learn, the way schools are designed, and more. Numerous surveys show that students do not feel engaged in school, especially in later years, which can be an impediment to success in their academic career. Therefore, ensuring that all students are engaged by increasing access to rigorous coursework and providing the necessary supports for success is paramount. Equally important is the need to ensure students have a voice in their education. Schools should empower students to influence instruction, school climate, and education policies. In addition, teachers, school administrators, and policymakers should adopt practices or structures that allow students to share their perspectives—and make their voices heard. Increasing student voice is particularly important for historically marginalized populations, including students from Black, Latinx, Native American, and low-income communities, as well as students with disabilities. (Benner, 2019)

One study of a large school district in Kansas found a consistent, positive relationship between a school's responsiveness to student voice and students' grades and attendance. Responsiveness to student voice was related to higher grade point averages, fewer absences, and less chronic absenteeism. (Kahne, 2022)

***When is a student recommended for expulsion?*** Expulsion is the most serious disciplinary action a school administrator may recommend, and a school district may impose on a student. Expulsion can only occur through the action of the school district governing board, but administrators have an important role in recommending expulsion. Due process procedures for student expulsion require that a student is entitled to a hearing within 30 school days after that

determination unless the student or parents or guardians request in writing that the hearing be postponed.

The local governing board has the authority to suspend the enforcement of an expulsion order and assign the student to a school, class, or program that is deemed appropriate for their rehabilitation at any time after voting to expel a pupil. The student is considered on probationary status during the suspension period for the expulsion order. Upon successful completion of the program, the student is to be returned to a school in the district and the records of the expulsion proceedings may be expunged.

***California expulsions have declined, but disproportionality remains.*** Data from the CDE shows that while the number of expulsions decreased over the 10-year period from 2012-13 to 2022-23, the number of African American students expelled remains significantly above their proportionate enrollment. Total expulsions dropped by 44% over the 10-year period, from 8,564 in 2012-13 to 4,750 in 2022-23. African American students made up 6% of enrollment in 2012-13 and 5% in 2022-23, but received 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 a Section 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 Learning Policy Institute (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).

***CDE is currently 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).

***Student privacy.*** This bill requires the governing board or body to disclose limited case information pertaining to a closed session expulsion hearing to student board members to allow them to make restorative justice recommendations to the board, only when permission to disclose such information is provided by the student involved in the expulsion case and their parent or guardian. The bill also requires that any such information be provided consistent with all state and federal privacy laws, including FERPA.

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of students' personal records held by educational agencies or institutions that receive federal funds under programs administered by the U.S. Secretary of Education. FERPA controls the disclosure of recorded information maintained in a pupil's education record. FERPA generally limits access to all student records, and for example, only school staff with a legitimate educational interest in the information should be able to access it. FERPA also requires schools to include in their annual notices to parents a statement indicating whether the school has a policy of disclosing information from the education file to school officials, and, if so, which parties are considered school officials and what the school considers to be a legitimate educational interest.

***Arguments in support.*** The California Association of Student Councils, sponsor of the bill, writes, "Although California has made strides in recent years to address overly punitive actions in schools, low-income students, students with disabilities, and students of color are still expelled at higher rates compared to their peers. The CDE data shows that expulsion trends are returning to pre-pandemic levels. In the 2022-23 school year, 4,718 students were expelled. Of those students, 88% were considered low-income. Even more troubling, a quarter (1,036) were students with disabilities, nearly twice as many as the previous year. Despite Black students accounting for 4.7% of California's student population, they were 12% of all students expelled. Restorative justice alternatives are necessary to protect our most vulnerable student populations by ensuring they remain in school while emphasizing the importance of collaboration and community-involved conflict resolution. SB 1445 ensures that the student perspective is considered as part of the school community seeking to produce more restorative outcomes for our students without direct involvement in the confidential hearing process."

***Related legislation.*** SB 691 (Portantino) of the 2023-24 Session would increase the number of students appointed to the State Board of Education (SBE) to serve as student board members from 1 to 3 and provide the two additional student board members with preferential voting rights; remove the requirement that the mandatory truancy notification letter include references to parents or guardians being subject to prosecution for failing to ensure their child attends school and a student may be subject to prosecution for truancy.

AB 275 (Ward), Chapter 321, Statutes of 2023, authorizes a governing board of a school district, county board of education, and charter school governing board to award a student member elective course credit or financial compensation, or both while serving as a student member.

AB 824 (Bennett), Chapter 669, Statutes of 2021, authorizes a student petition requesting that a COE or the governing body of a charter school appoint one or more student board members to be submitted to a board or body operating one or more high schools.

AB 261 (Thurmond), Chapter 257, Statutes of 2017, provides that a student member of the governing board of a school district has preferential voting rights.

SB 468 (Leyva), Chapter 283, Statutes of 2017, modifies the requirement that school district governing boards provide a student board member with materials presented to the board members to specify that the student members are to receive all open meeting materials at the same time the materials are presented to the board members, and requires governing boards to invite the student member to staff briefings provided to board members or offer a separate briefing within the same timeframe as the briefing of board members.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Student Councils  
Communities United for Restorative Youth Justice  
Fresh Lifelines for Youth  
SIATech Academy South High School  
Young Women's Freedom Center  
Youth Will

**Opposition**

None on file

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