

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 691 (Portantino) – As Amended April 29, 2024

SENATE VOTE: 31-7

SUBJECT: State Board of Education: student members: truancy notifications

SUMMARY: Increases the number of students appointed to the State Board of Education (SBE) to serve as student board members from 1 to 3 and provides the two additional student board members with preferential voting rights; removes 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 that a student being subject to prosecution for truancy. Specifically, **this bill:**

- 1) Increases the number of students appointed to the SBE to serve as student board members from 1 to 3 and provides the two additional student board members with preferential voting rights.
- 2) Removes the requirement that the notification to a parent or guardian, upon a student being classified as a truant, include the following:
 - a) That parents or guardians who fail to compel their child to attend school may be guilty of an infraction and subject to prosecution; and
 - b) That the student may be subject to prosecution.
- 3) Requires the notification to a parent or guardian upon a student being classified as a truant to include, among other items:
 - a) That mental health and supportive services may be available to the student and the family;
 - b) That school personnel look forward to meeting with the student and family to develop strategies to support and welcome the student at school; and
 - c) That research shows that missing 10% of school or about 18 days negatively affects a student's academic performance, that poor attendance can influence whether students read proficiently by the third grade or will be held back, and that by the sixth grade, chronic absenteeism becomes a leading indicator that a student will drop out of high school.

EXISTING LAW:

- 1) Requires the Governor to appoint a student member to the SBE to serve for no more than one term of one year beginning on August 1 as a voting member with the full rights and duties of the other 10 members of the SBE. (Education Code (EC) 33000.5)

- 2) Authorizes a student enrolled in a high school of a school district, county office of education (COE), or a 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 and to have preferential voting rights. (EC 35012)
- 3) Requires a student between the ages of 6 and 18 to attend school full-time in the school district where either parent or legal guardian resides, except as specified. (EC 48200)
- 2) Defines a "truant" as any student subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year. (EC 48260)
- 3) Requires a school district, upon a student's initial classification as a truant, to notify the student's parent or guardian of the following:
 - a) The student is truant;
 - b) The parent or guardian is obligated to compel the attendance of the student at school;
 - c) Parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution;
 - d) Alternative educational programs are available in the school district;
 - e) The parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the student's truancy;
 - f) The student may be subject to prosecution; and
 - g) It is recommended that the parent or guardian accompany the student to school and attend classes with the student for one day. (EC 48260.5)
- 4) Requires that any student who has once been reported as a truant and who is again absent from school without a valid excuse or tardy for one or more days be reported again to the attendance supervisor or the superintendent of the district. (EC 48261)
- 5) Requires that any student reported as truant three or more times per school year be deemed a habitual truant once an appropriate district employee has made a conscientious effort to hold at least one conference with the student's parent or guardian and the student. (EC 48262)
- 6) Authorizes a school district to refer a student who is a habitual truant, is a chronic absentee, or is habitually insubordinate or disorderly during attendance at school to a school attendance review board (SARB) or to the probation department for services. (EC 48263)
- 7) Requires that a student who is absent from school without a valid excuse for 10% or more of the schooldays in one year be deemed a chronic truant, subject to the school district having taken specified actions. (EC 48263.6)

- 8) Authorizes an attendance supervisor or designee, a peace officer, a school administrator or designee, or a probation officer to arrest or assume temporary custody, during school hours, of any minor subject to compulsory education found away from their home and who is absent from school without a valid excuse, and requires the person arresting or assuming temporary custody to deliver the minor to the parent or guardian or to the school from which the student is absent, or to a non-secure youth service or community center designated by the school district for counseling prior to returning the student to their home or school, or if the student is a habitual truant, the student must be brought before the probation officer of the relevant county. (EC 48264 and 48265)
- 9) Authorizes the school district to take the following actions:
 - a) The first time a truancy report is issued, the student and their parent or guardian may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve attendance;
 - b) The second time a truancy report is issued within the same school year, the student may be given a written warning by a peace officer, the record may be maintained at the school and at the law enforcement agency, and the student may be assigned to an afterschool or weekend study program;
 - c) The third time a truancy report is issued within the same school year, the student is classified as a habitual truant and may be referred to and required to attend a SARB or truancy mediation program or comparable program; and
 - d) The fourth time a truancy report is issued within the same school year, the student may be within the jurisdiction of the juvenile court that may adjudge the student to be a ward of the court and would be required to do one or more of the following:
 - i) Complete court-approved community service sponsored by either a public or private nonprofit agency for 20-40 hours over a 90-day period, during a time other than the pupil's hours of school attendance or employment. The probation officer must report to the court the failure of the pupil to comply;
 - ii) Payment of a fine by the pupil of not more than \$50; or
 - iii) Attendance of a court-approved truancy prevention program. (EC 48264.5)
- 10) Authorizes a court to render judgment that the parent or guardian of a pupil who is a truant be required to deliver the student to school at the beginning of each schoolday for the remainder of the school term. (EC 48268)
- 11) Authorizes a SARB to be established at the local and county level to provide intensive guidance and coordinated community services to meet the needs of students with school attendance or school behavior problems. (EC Section 48320)
- 12) If a minor between 12 and 17 years of age, inclusive, has four or more trancies within one school year, or a SARB or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or if the

minor fails to respond to directives of a SARB or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court, which may adjudge the minor to be a ward of the court. However, states the intent of the Legislature that a minor who is described in this subdivision, adjudged a ward of the court pursuant solely to this subdivision, or found in contempt of court for failure to comply with a court order not be held in a secure facility and not be removed from the custody of the parent or guardian except for the purposes of school attendance. (Welfare and Institutions Code (WIC) 601)

- 13) Makes a parent or guardian of a student who is in kindergarten through 8th grade and is a chronic truant, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, guilty of a misdemeanor punishable by a fine not exceeding \$2,000 or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. A parent or guardian guilty of a misdemeanor may participate in the deferred entry of judgment program, as defined. (Penal Code (PEN) 270.1)
- 14) Defines "chronic absentee" as a student who is absent on 10% or more of the schooldays in the school year. (EC 60901)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, "Including sufficient student representation on the SBE is crucial for the decision-making process when facing public school issues. Actively involving students to help address new challenges is key to ensure that SBE policies and initiatives align with the changing needs and perspectives of the student body. This approach empowers students to have a voice in shaping the changes that directly affect the public school system.

It is also necessary to address the language in existing law that threatens to prosecute parents, guardians, and students if they have 3 or more unexcused absences. Punitive approaches to address truancy contradict an emerging body of research showing that positive problem solving methods are more effective. Best practices avoid punitive messaging and instead encourage communication between schools and families to develop solutions together to reduce trancies."

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.

At the state level, the Governor annually appoints one high school senior to SBE for a one-year term. The student member functions as a regular voting member of the SBE.

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,

California's approach to truancy. California's truancy process begins with the first notification of truancy. School districts must notify the parent or guardian the first time that a student is designated as truant after the student has three combined unexcused absences or tardies during the school year. In addition, the student and parents may be requested to attend a meeting with a school counselor or other school designee "to discuss the root cause of the attendance issue and develop a joint plan to improve the pupil's attendance."

Required Information for T1 Letter:

- 1) The student is truant;
- 2) The parent is obligated to compel the student's attendance at school;
- 3) If the parent fails to comply with the obligation to send the child to school then the parent may be guilty of an infraction under Education Code section 48290 et seq.;
- 4) Alternative educational programs are available in the district if the student requires one;
- 5) The parent has the right to meet with the school officials to discuss the truancy;
- 6) The student may be subject to prosecution under Education Code section 48264 for truancy;
- 7) The student may be subject to suspension, restriction, or delay of his or her driving privileges under Vehicle Code section 13202.7; and,
- 8) It is recommended that the parent attend school with the student for one day.

The initial truancy notification (often known as the T1 letter) must provide seven pieces of information, as shown in the figure to the left. (The restrictions on driving privileges no longer apply.) The objective of the notification is not only to notify the parent that the student is legally truant, but also to inform the parents of their rights and legal requirements, the consequences of truancy, and the resources available to help them resolve the problem. This bill proposes to remove references in the required notification to the parent and student being subject to prosecution.

Source: In School + On Track, California Attorney General Kamala Harris, 2013

The second truancy notification is required if a student who has once been reported truant is again absent or tardy in excess of 30 minutes from school without a valid excuse one more day after the first report of truancy, namely if the student incurs a fourth unexcused absence or tardy within the school year, then the school is legally required to report the student again as a truant to the attendance supervisor or the superintendent of the school district. Although the law requires reporting the second truancy to the attendance supervisor or the superintendent, there is no requirement that the parent or guardian be notified of the second truancy.

The third notification of truancy triggers a designation as a "habitual truant." Upon a fifth unexcused absence or tardy in excess of 30 minutes in a school year, the district must give the parent or guardian a mandatory notification of the student's third truancy by making a conscientious effort to hold at least one meeting with the student and his or her parent or guardian. After the third report of truancy, if the school and/or district has properly reported the first and second truancy and made a conscientious effort to meet with the parent at least once, the student will be deemed a "habitual truant."

Once a student has been deemed a habitual truant, the student and their parent or guardian may be referred to a SARB and required to attend a SARB hearing. SARBs function as an intermediate step between schools and prosecuting authorities. At a hearing, SARB committee members identify the core problem and its contributing factors through discussion with the parents of the truant student and the student in order to tailor strategies to improve the student's attendance. By doing so, the SARB members can determine if available community resources –

such as county health care services, county welfare services, nutritional counseling, or alternative transportation options – can resolve the truancy problem.

If a SARB determines that available community resources can resolve the truancy problem, the SARB will refer the student and parent to the relevant services and may require proof of participation in those services. Many SARBs and the parents enter into what is commonly referred to as a SARB contract, its main goal being to improve student attendance. If a parent fails to respond to the directives of a SARB, either by failing to attend the SARB hearing in the first instance or by failing to comply with the SARB contract, then the SARB will generally refer the matter for criminal prosecution.

After a student is deemed a habitual truant, any subsequent unexcused absence within the same school year may be criminally prosecuted. Parents or guardians of a truant student may be charged and found guilty of a criminal infraction that carries a fine up to \$100 for a first conviction, a fine up to \$250 for a second conviction, and a fine up to \$500 for a third conviction. Instead of a fine, a court may – and often does – exercise its discretion and order the guardians to be placed in a parent education and counseling program.

A student is considered a chronic truant if he or she is absent without a valid excuse for 10% or more of the school days in the school year from the date of enrollment to the current date – provided that the school has complied with reporting the first and subsequent trancies to the superintendent or attendance supervisor, has sent the notification of first truancy to the parent and has made a conscientious effort to meet with the parent. As such, a student must first be habitually truant before later being classified as chronically truant. A district attorney may exercise their authority to charge the parent of a chronically truant student with a criminal misdemeanor when the guardian has failed to reasonably supervise and encourage the child's attendance. This statute only applies to parents of children who are at least six years old and up to the 8th grade.

Although prosecution of a misdemeanor can result in serious fines and even jail time, the law provides a mechanism to offer parents one final opportunity to improve their child's attendance before imposing such legal penalties. Under the statute, the district attorney and the superior court can decide to postpone a judgment (i.e., defer entry of judgment) and enroll the parent or guardian in a program designed to remove the barriers that are keeping a chronically truant child from school.

There are a multitude of steps school districts and law enforcement must take before anyone is eligible to be prosecuted. This multi-step process allows for early action, but also provides for escalated interventions when initial efforts fail to correct the problem. It is recommended that parents are imprisoned for truancy violations in only the most extreme cases. (DOJ, 2013)

This bill does not amend the truancy process, including the authority to prosecute a parent, guardian, or student, but rather removes the references to prosecution in the initial truancy notification.

Truancy versus chronic absenteeism. Truancy arises when a student is absent from school without an excuse, whereas chronic absenteeism refers to missing so much school for any reason that a student is academically at risk. Chronic absence is defined as missing 10% or more of school for any reason, including excused absences, unexcused absences or truancy, and suspensions. Left unaddressed, chronic absence can translate into students having difficulty

learning to read by Grade 3, reaching grade-level standards in middle school, and graduating from high school. Ensuring equitable opportunities to learn will require ongoing attention and action. (Chang, 2024)

Chronic absenteeism has risen significantly in recent years. Statewide chronic absence rates increased to a high of 30% in 2021-22 during the COVID-19 pandemic. In 2022-23, the overall chronic absence rate fell to 25%. Although this represents a decrease from the prior year, the rate is still more than double that of the average rate of 12% prior to the pandemic.

Chronic absences have a disproportionate impact on different subgroups of students. Students who are involved in the foster care system, are experiencing homelessness, and/or have been identified as having a disability have extraordinarily high levels of chronic absenteeism. In addition, Native American, Black, and Pacific Islander students also have especially high rates of chronic absences. See figure 1 below. (Chang, 2024)

Chronic absenteeism also varies significantly by grade level. Kindergarten chronic absence increased from the pre-pandemic level of 16% to 40% in 2021-22 and remained at 36% in 2022-23, the highest level among all grade levels. High school chronic absenteeism increased from the pre-pandemic level of 16% to 30% at the height of the pandemic and dropped to 26% in 2022-23. (Chang, 2024)

Factors contributing to chronic absenteeism. As noted in the figure below, students may be absent from school for a wide range of reasons, including myths relating to the importance of school attendance, barriers relating to student and family needs, an aversion to attending school, and a sense of disengagement from school.

Myths	Barriers	Aversion	Disengagement
Absences are only a problem if they are unexcused	Lack of access to health or dental care	Struggling academically or socially	Lack of engaging and culturally relevant instruction
Missing just 2 days per month won't affect learning	Chronic illness	Bullying	No meaningful relationships with adults in school
Sporadic absences aren't a problem	Trauma	Ineffective/exclusionary school discipline	Vulnerable to being with peers out of school vs. in school
Attendance only matters in the older grades	No safe path to school	Parents had negative school experience	Poor school climate
	Poor transportation	Undiagnosed disability	Discouraged due to lack of credits
	Housing instability		
	High mobility		
	Involvement with child welfare or juvenile justice system		

Source: *Portraits of Change, Attendance Works, 2017.*

Focus on support rather than punitive measures. Research suggests that improving attendance involves not just adopting proven, evidence-based practices but also discarding ineffective approaches. That means shifting away from a punitive response to truancy and using legal action only as a last resort, combining it with additional support when needed. It also means examining potential bias in deciding which absences are labeled unexcused and count toward truancy. When an absence is labeled unexcused, students can be denied course credit, lose the opportunity to make up missed work, be excluded from extracurricular activities, and eventually be taken to

court and fined. As absences accumulate, responses generally become more punitive. (Jordan, 2023)

One study found that punitive responses are unlikely to improve attendance when absences occur for reasons beyond the control of the student and their family, such as transportation challenges, the lack of access to health care, or bullying in the classroom. For instance, in many districts, a student who misses four consecutive days with the flu will have their absences excused if they show up with a doctor's note, but not if they couldn't get in to see a doctor. Overuse of the unexcused absence label could undermine efforts to partner with students and families to identify the underlying challenges that cause students to miss school. (McNeely, 2021)

These policies also exacerbate disparities. A recent analysis found that socioeconomically disadvantaged students are much more likely to have their absences labeled unexcused. This is also true for Black, Native American, Latino and Pacific Islander students, compared to White, Asian American and Filipino students. Black students experience the largest disparity. These disparities cannot be fully explained by poverty since they persist across differences in socioeconomic status. (Policy Analysis for California Education, 2023)

Strategies that rely on court action alone have not proven effective. Research suggests that an arrest, court involvement, and/or system supervision for youth who are truant or commit other low-level offenses actually decreases their likelihood of attending school and completing high school. One study notes that taking punitive measures such as barring students from attending in-person classes, automatic suspensions, or expulsions or requiring attendance in alternative schools makes it harder, not easier, for students to stay connected to the positive adults, peers, and activities that are critical to successful education. (Council of State Governments, 2020)

Improving communication about attendance policies and practices. A recent paper on addressing the disparities in chronic absenteeism notes that how information about unexcused absences and their consequences is communicated to students and families can have a tremendous impact on whether students and families feel they can openly discuss the barriers they face to getting to school. (Jordan, 2023) Both the tone and clarity of the language used in handbooks, websites, and letters are extremely important. The tone should convey that school staff are willing to work with parents, guardians, and students to maximize attendance and properly excuse absences.

As noted previously, this bill proposes to amend the initial truancy notification to remove references to prosecutions of students and parents or guardians.

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

- 1) Amend the language required in the notification to state that school personnel are available to support the student and the family in developing strategies to improve attendance.
- 2) Amend references to research on chronic absenteeism.
- 3) Change the operative date for the changes to the truancy notification to July 1, 2025.

Arguments in support. Generation Up writes, “Generation Up is a completely youth-led organization dedicated to educational equity, and one of our most fundamental guiding principles is that students should be represented at every step of the decision-making process in education. Students provide an invaluable window into the student experience and the needs of their peers. They can evaluate the implementation of policies on the ground, and ideate solutions that directly address the issues they face in their daily lives.

The California State Board of Education is, by statute, the governing and policy-making body of the State in regard to educational issues. The SBE is responsible for a wide range of responsibilities such as adopting regulations and standards, adopting curriculum frameworks, and authorizing and monitoring charter schools. The student member of the State Board of Education is one of the most influential offices a student can hold in California—they are able to weigh into the most pressing issues facing California students today and have a unique platform to uplift the student experience. However, with 5.8 million K-12 public school students enrolled in the state of California, a single student board member cannot effectively represent the diversity of backgrounds and experiences that exist in our state.

SB 691 (Portantino) enables a more effective representation of the student body by requiring the Governor to appoint three student members to the State Board of Education. These student members would be selected from a maximum of six semi-finalists nominated by the California Association of Student Councils. In addition to increasing the diversity of student experience represented on the Board, student leaders with at least one other student on their team are empowered to weigh in more frequently, speak with confidence, and stand by their decisions, which enables more effective governance and greater representation of the student perspective.”

Related legislation. AB 2771 (Mainschein) of the 2023-24 Session would require the California Department of Education (CDE) to post information on its website about methods of reducing chronic absenteeism by the beginning of the 2026-27 school year.

AB 2815 (O’Donnell), Chapter 829, Statutes of 2016, authorizes a supervisor of attendance to provide specified support services and take specified interventions.

AB 275 (Ward) of the 2023-24 Session would authorize a governing board of a school district, county board of education, and charter school governing board to award a pupil member elective course credit or financial compensation, or both while serving as a pupil member

AB 417 (Bennett) of the 2023-24 Session would authorize a pupil who is enrolled in a high school that is under the jurisdiction of the county board of education to be selected to serve as a member of the county board of education if no petition is submitted to select a pupil.

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

SB 1236 (Glazer) of the 2021-22 Session would have authorized the governing board of a school district to adopt resolutions to make each preferential voting pupil member a full voting pupil member of the governing board and would have authorized the governing board to restrict by resolution a full voting pupil member from voting on certain matters. This bill was held in the Assembly Education Committee.

AB 709 (Bonta), Chapter 437, Statutes of 2019, requires pupil members of a governing board of a school district be appointed to subcommittees in the same manner as other board members, among other requirements.

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

SB 468 (Leyva), Chapter 283, Statutes of 2017, modifies the existing requirement that school district governing boards provide the 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 provide a separate briefing within the same timeframe as the briefing of board members.

REGISTERED SUPPORT / OPPOSITION:

Support

California State PTA
Generation Up

Opposition

None on file

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