

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2575 (Santiago) – As Amended April 5, 2018

SUBJECT: High school and community college dual enrollment: College and Career Access Pathways partnerships: private schools

[This bill was double referred to the Assembly Higher Education Committee and was heard by that committee as it relates to issues under its jurisdiction.]

SUMMARY: Authorizes the governing body of a private school, including a parochial school, to enter into a College and Career Access Pathways (CCAP) partnership agreement with the governing board of a community college district, and requires the CCAP partnership agreement to comply with all applicable requirements, as specified.

EXISTING LAW:

- 1) Authorizes the governing board of a school district, upon recommendation of the principal of a student's school of attendance, and with parental consent, to authorize a student who would benefit from advanced scholastic or vocational work to attend a community college as a special part-time or full-time student. Additionally, current law prohibited a principal from recommending, for community college summer session attendance, more than five percent of the total number of students in the same grade level and exempted from the five percent cap a student recommended by his or her principal for enrollment in a college-level summer session course if the course in which the pupil was enrolled met specified criteria. These exemptions were repealed on January 1, 2014 (Education Code (EC) Section 48800, et seq.).
- 2) Prohibits a pupil enrolled in a public school from being required to pay a pupil fee for participation in an educational activity; and, specifies that all of the following requirements apply to the prohibition:
 - a) All supplies, materials, and equipment needed to participate in educational activities shall be provided to pupils free of charge;
 - b) A fee waiver policy shall not make a pupil fee permissible;
 - c) School districts and schools shall not establish a two-tier educational system by requiring a minimal educational standard and also offering a second, higher educational standard that pupils may only obtain via payment of a fee or purchase of additional supplies that the school district does not provide; and,
 - d) A school district or school shall not offer course credit or privileges related to educational activities in exchange for money or donations of goods or services from a pupil or a pupil's parents or guardians, and a school district or school shall not remove course credit or privileges related to educational activities, or otherwise discriminate against a pupil, because the pupil or the pupil's parents or guardians did not or will not provide money or donations of goods or services to the school district or school (EC Section 49011).

- 3) Requires the California Community Colleges (CCC) Chancellor's Office (CCCCO) to report to the Department of Finance and Legislature annually on the amount of full-time equivalent students (FTES) claimed by each CCC district for high school pupils enrolled in non-credit, non-degree applicable, and degree applicable courses; and provides that, for purposes of receiving state apportionments, CCC districts may only include high school students within the CCC district's report on FTES if the students are enrolled in courses that are open to the general public, as specified. Additionally, current law requires the governing board of a CCC district to assign a low enrollment priority to special part-time or full-time students in order to ensure that these students do not displace regularly admitted community college students (EC Sections 76001 and 76002).
- 4) Authorizes the governing board of a community college district to enter into a CCAP partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness; and authorizes the governing board of a community college district participating in a CCAP partnership agreement to exempt special part-time students, as specified, from various fee requirements, as specified (EC Section 76004).

FISCAL EFFECT: Unknown

COMMENTS:

College and Career Access Pathways partnership (CCAP). Community college districts have several statutorily authorized methods by which apportionment can be claimed for minors enrolled by the district. However, a variety of conditions must be met by CCC districts that admit special part-time students.

In an effort to expand the availability of dual enrollment programs to a broader range of students, AB 288 (Holden, Chapter 618, Statutes of 2015) created another category of special admit options, the CCAP. The intent of this new pathway was to serve lower achieving students in an effort to reduce remediation, increase degree completion, decrease time to degree, and stimulate interest in higher education among high school students for students who may not already be college bound or who are underrepresented in higher education.

Committee Staff understands that the program was structured to authorize a model more like the Long Beach Promise that offers dual enrollment as a pathway, rather than a series of disconnected individual courses, and to provide greater flexibility in the delivery of courses at the high school campus. Unlike other concurrent enrollment options, AB 288 authorized community colleges to offer courses that are closed to the general public if offered on a high school campus, to grant special admit students higher enrollment priority than currently possible, and to exceed the current 11-unit cap per semester if the student is receiving both a high school diploma and an associate's degree.

In exchange for the greater flexibility, CCAP program districts must meet a variety of requirements relative to instructors, job displacement, preserving access for adult students, and

allowances and apportionments. While districts may operate a dual enrollment partnership through an early college high school or middle college high school, they are prohibited from operating as a CCAP partnership unless they comply with the provisions established by AB 288.

Need for the bill. According to the author, "Servicing students should be based on the needs of the students and not the format of the education that they are being provided". The author contends that based on the positive impact of dual enrollment, the state should ensure that students who do not attend public schools should be afforded the same opportunities to benefit from dual enrollment as those students who attend public schools.

This measure will authorize private schools, including parochial schools, to be eligible to enter into CCAP agreements with their local community college districts.

This bill would result in using Proposition 98 funds to subsidize private education. Article XVI, Section 8 of the California Constitution states that Proposition 98 funds are to be "applied by the State for the support of the public school system." However, by entering into a CCAP agreement with a community college, Proposition 98 funds would subsidize private school instruction. Specifically, a private school would have a college-paid teacher provide instruction to high schoolers at the high school campus. The students could receive high school credit and the courses taught could satisfy the school's graduation requirements. Through the CCAP, the high school students would also be students of the college and therefore would generate full time equivalent student (FTES) funding. Thus, the college would receive Proposition 98 funding on behalf of those high school students and use a portion of that funding to pay the teacher. The school benefits by having the services of a publicly-funded teacher, while still being able to charge full tuition. Technically, entering into a partnership means the private school must abide by the CCAP rules, which would mean they could not charge tuition for the courses taught by a college teacher. But in reality, this would be impossible to monitor and enforce. This arrangement not only enables private schools to enter into a CCAP agreement, it provides a strong fiscal incentive to do so. Although there would be no direct appropriation to a private school, the in-kind contribution in the form of subsidized instruction could be substantial statewide, drawing Proposition 98 funding away from the public school system.

This bill may violate the constitutional prohibition against supporting or sustaining religious schools. All private schools, including religious or parochial schools, would be able to participate in a CCAP under this bill. Article XVI, Section 5 of the California Constitution states:

"Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college or university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination."

The author's office asserts that this bill does not violate this prohibition, because it does not make an appropriation or direct monetary contribution to a sectarian school. However, the prohibition also applies to granting "anything to or in aid of" a sectarian school. Providing an in-kind contribution through publicly-subsidized instruction may be prohibited by this provision.

Related legislation. AB 2891 (Holden), which will be heard by this Committee today, authorizes charter schools to be eligible to participate in the CCAP.

AB 2871 (Eduardo Garcia), which is pending a hearing by this Committee, in part, commencing with the 2019–20 school year, authorizes a high school district within the county and the community college to allow high school teachers of the district, who do not already have a master’s degree in their subject area, to teach a college course on the high school campus pursuant to a CCAP agreement, if the teachers have been deemed qualified, as specified.

ACR 150 (Limón), which is pending referral by the Senate Rules Committee, recognizes the week of March 18, 2018, to March 24, 2018, inclusive, as Dual Enrollment Week in California.

Prior legislation. There have been many bills introduced in the last several years that attempt to address concurrent enrollment and the five percent cap, including, but not limited to the following bills:

- 1) AB 2364 (Holden), Chapter 299, Statutes of 2016, in part, required a community college district to exempt all special part-time students, as specified, from nonresident fees and allows these students to be reported as resident FTES to receive associated state apportionments.
- 2) AB 288 (Holden), Chapter 618, Statutes of 2015, in part, until January 1, 2022, authorized the governing board of a community college district to enter into a CCAP partnership with the governing board of a school district within its immediate service area, as specified, to offer or expand dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education with the goal of developing seamless pathways from high school to community college for career-technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.
- 3) AB 1451 (Holden), of 2014, which was held on the Senate Appropriations Committee Suspense File, was similar in nature to AB 288 of 2015.
- 4) AB 1540 (Hagman), of 2014, which was held on the Assembly Appropriations Committee Suspense File, would, in part, specify that the governing board of a school district may authorize a pupil, at the recommendation of a community college dean of a computer science department or another appropriate community college computer science administrator, and with parental consent, to attend a community college during any session or term as a special part-time or full-time student and to undertake one or more computer science courses offered at the community college.
- 5) AB 2352 (Chesbro), of 2014, which was held on the Senate Appropriations Committee Suspense File, would, in part, remove early and middle college high school students concurrently enrolled at a CCC from receiving low priority admission status.
- 6) AB 160 (Portantino), of 2011, which was held on the Senate Appropriations Committee Suspense File, removed certain restrictions on concurrent enrollment and authorized school districts to enter into partnerships with CCC districts to provide high school pupils

opportunities for advanced scholastic work, career technical education, or other coursework at CCC campuses.

- 7) AB 230 (Carter), Chapter 50, Statutes of 2011, exempted a pupil attending a middle college high school from the requirement that CCC governing boards assign a low enrollment priority to concurrent enrollment students if that pupil is seeking to enroll in a CCC course that is required for the pupil's middle college high school program.
- 8) SB 1437 (Padilla), Chapter 718, Statutes of 2008, extended the sunset date from January 1, 2009 until January 1, 2014 for which AB 1451 of 2014 sought to further extend the sunset.
- 9) SB 1303 (Runner), Chapter 648, Statutes of 2006, exempted from the specified five percent cap on CCC summer session enrollment, a pupil recommended by his or her principal if the pupil met specified criteria.

REGISTERED SUPPORT / OPPOSITION:

Support

California Language Teachers Association
California Catholic Conference, Inc.
Los Angeles Community College District

Opposition

None received

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