

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 5 (Zbur) – As Amended April 17, 2023

SUBJECT: The Safe and Supportive Schools Act

SUMMARY: Requires the California Department of Education (CDE) to finalize the development of an online training delivery platform and online training curriculum to support lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ+) cultural competency training for teachers and certificated employees by July 1, 2025, and requires schools to provide at least four hours of training to school staff in schools serving students in grades 7 to 12, every three years beginning in 2025-26. Specifically, **this bill:**

- 1) Requires the CDE to finalize the development of an online training delivery platform and online training curriculum to support LGBTQ+ cultural competency training for teachers and certificated employees, by July 1, 2025, and authorizes the CDE to use resources appropriated in the Budget Act of 2021 for this purpose.
- 2) Removes the provision encouraging schools to use the resources developed by the CDE to provide training at least once every two years to teachers and other certificated staff serving students in grades 7 to 12.
- 3) Requires LEAs to provide at least four hours of training to teachers and other certificated employees serving students in grades 7 to 12, beginning with the 2025-26 school year, and every three years thereafter.
- 4) Requires the training developed by the CDE to include information on all of the following topics:
 - a) The creation of safe and supportive learning environments for LGBTQ+ pupils, including those with multiple intersecting identities, including, but not limited to, those who are members of the LGBTQ+ community, members of communities of color, immigrants, or people living with the human immunodeficiency virus (HIV);
 - b) Identifying LGBTQ+ youth who are subject to, or may be at risk of, bullying and lack of acceptance at home or in their communities;
 - c) The provision of targeted support services to LGBTQ+ youth, including counseling services;
 - d) Requirements regarding school anti-bullying and harassment policies, and complaint procedures;
 - e) Requirements regarding suicide prevention policies and related procedures;
 - f) Requirements regarding policies relating to use of school facilities, including, but not limited to, bathrooms and locker rooms;

- g) Requirements regarding policies and procedures to protect the privacy of LGBTQ+ pupils;
 - h) The importance of identifying local, community-based organizations that provide support to LGBTQ+ youth;
 - i) The importance of identifying local physical and mental health providers with experience in treating and supporting LGBTQ+ youth;
 - j) The formation of peer support or affinity clubs and organizations;
 - k) The importance of school staff who have received anti-bias or other training aimed at supporting LGBTQ+ youth; and
 - l) Health and other curriculum materials that are inclusive of, and relevant to, LGBTQ+ youth.
- 5) Requires LEAs, beginning in the 2025-26 school year, to provide a minimum of four hours of training to teachers and other certificated employees serving students in grades 7 to 11 every three years, and specifies that LEAs may provide longer, more frequent, or more elaborate relevant in-service training to meet the online training standards.
 - 6) Authorizes LEAs to provide the training using the online training curriculum and platform developed by the CDE, or with comparable in-service training using the resources developed by the CDE that meet the standards of the online training.
 - 7) Requires the CDE to ensure that the in-service training provided by a LEA as an alternative to the online training is substantially similar to, and meets the same standards of the online training.
 - 8) Requires LEAs electing to deliver training using the in-service method, to track and report to the CDE, the number of its teachers and other certificated employees who received the in-service training.
 - 9) Requires LEAs to ensure that teachers and other certificated employees complete the training on paid time during regular work hours or designated professional development hours, unless otherwise negotiated and mutually agreed upon with the employees' exclusive representative.
 - 10) Authorizes employees to complete the training individually or as part of a group presentation, and to complete the training in shorter segments, provided that the four hour total requirement is fulfilled within each three-year training cycle.
 - 11) Requires each LEA to ensure that 95% of certificated staff complete the training required within each three-year training period.
 - 12) Requires the CDE to provide a report to the Legislature, within three months after the conclusion of each three-year training period, detailing the percentage of each LEA's certificated staff who completed the online training and the percentage who received the alternate in-service training.

- 13) Defines “local educational agency” for purposes of this bill, as a school district, county office of education (COE), or charter school serving students in grades 7 to 12.

EXISTING LAW:

- 1) Prohibits discrimination on the basis 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 California Department of Education (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, and 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).
- 9) Requires schools districts, COEs, state special schools and diagnostic centers operated by the CDE, and charter schools to provide annual training, using the online training module provided by the State Department of Social Services (DSS), to their employees who are mandated reporters during the course of the school year, and to develop a process for all persons required to receive training within the first six weeks of each school year, or within the first six weeks of the person's employment. (EC 44691)

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

COMMENTS:

Need for the bill. According to the author, “Every child deserves to attend a safe and supportive school where they have the greatest possible opportunity to learn and succeed. Despite much progress, LGBTQ+ students still experience harassment, violence, and lack of affirmation in school settings far too often. These experiences can harm LGBTQ+ students’ school performance and success, self-esteem, and mental health and can reduce their desire to pursue post-secondary education. Lack of adequate support in schools results in high dropout rates, which leads to high rates of poverty, homelessness and engagement with the criminal justice system for LGBTQ+ people. AB 5 will provide public school teachers and staff, who are on the front lines of supporting California students, with the training and support they need to better serve LGBTQ+ and all students.”

LGBTQ+ students’ experiences impact academic outcomes. The Gay Lesbian Straight Education Network’s (GLSEN) 2021 National School Climate Survey of over 22,000 LGBTQ+ youth between the ages of 13 and 21 included the following findings:

- 82% of LGBTQ+ students reported feeling unsafe in school because of at least one of their actual or perceived personal characteristics;
- LGBTQ+ students most commonly avoided school bathrooms, locker rooms, and physical education or gym classes, with approximately 4 in 10 students avoiding each of these spaces because they felt unsafe or uncomfortable;
- 58% of students reported hearing homophobic remarks from their teachers or other school staff, and 72% of students reported hearing negative remarks about gender expression from teachers or other school staff;
- 97% of LGBTQ+ students heard “gay” used in a negative way (e.g., “that’s so gay”) at school; 68% heard these remarks frequently or often, and 94% reported that they felt distressed because of this language;
- 83% of LGBTQ+ students who attended school in-person at some point during the 2021-2022 academic year experienced in-person harassment or assault based on personal characteristics, including sexual orientation, gender expression, gender, religion, actual or perceived race or ethnicity, and actual or perceived disability;
- 31% were physically harassed (e.g., pushed or shoved) in the past year based on their sexual orientation, gender expression, or gender, 22% of LGBTQ+ students were physically harassed at school based on their sexual orientation, 21% based on gender expression, and 20% based on gender;
- 59% of LGBTQ+ students had experienced LGBTQ+-related discriminatory policies or practices at school. Some of the most common discriminatory policies and practices experienced by LGBTQ+ students were those that targeted students’ gender, potentially

limiting their ability to make gender-affirming choices and negatively impacting their school experience;

- Of the LGBTQ+ students who indicated that they were considering dropping out of school, 31% indicated that they were doing so because of the hostile climate created by gendered school policies and practices; and
- LGBTQ+ students who experienced higher levels of in-person victimization because of their sexual orientation:
 - Were nearly three times as likely to have missed school in the past month than those who experienced lower levels (61% vs. 23%);
 - Felt lower levels of belonging to their school community, performed poorer academically, (2.83 vs. 3.15 average GPA), and were nearly twice as likely to report that they did not plan to pursue any post-secondary education than those who experienced lower levels (17% vs. 9%);
 - Were nearly twice as likely to have been disciplined at school than those who experienced lower levels of victimization (61% vs. 34%); and
 - Had lower self-esteem and higher levels of depression than those who experienced lower levels of victimization.

The GSLEN report notes that “Students who feel safe and supported at school have better educational outcomes. LGBTQ+ students who have LGBTQ+-related school resources report better school experiences and academic success. Unfortunately, all too many schools fail to provide these critical resources.”

Schoolsite supports can improve outcomes for LGBTQ+ students. Several supportive factors at school appear to improve academic outcomes and improve safety for LGBTQ+ students. Research shows that LGBTQ+ students with many supportive educators feel safer at school, skip fewer classes, earn higher grades, and have fewer school-related problems than those without supportive educators (Russell, 2010). Students in schools with Gay Straight Alliance (GSA) clubs report less harassment and assault, are more likely to report these incidents when they occur, and are less likely to miss school because of safety concerns.

Evaluations from New York City, Illinois, and Massachusetts have found that teacher training helped to create safer environments for LGBTQ+ students. The U.S. Department of Health and Human Services, as part of its anti-bullying campaign, recommends that, “When youth reveal same-sex attractions and relationships, this is an opportunity for health, medical, and school professionals to better inform and support sexual minority youth by linking them with community resources and helping to overcome the tensions of parents, families, and peers.” Feelings of safety at school are stronger when students know where to get information and support about sexual orientation and gender identity, but research has also shown that some students in California schools are not aware of one of these key supports.

Creating safe and affirming learning environments for LGBTQ+ students. The 2021 GSLEN survey recommendations include the following ways that school-based supports can positively affect LGBTQ+ students' school experiences:

- Increasing student access to appropriate and accurate information regarding LGBTQ+ people, history, and events through inclusive curricula, and library and internet resources;
- Supporting student clubs, such as GSAs, that provide support for LGBTQ+ students;
- Providing professional development for school staff to improve rates of intervention and increase the number of supportive teachers and other staff available to students;
- Ensuring that school policies and practices, such as those related to dress codes and school dances, do not discriminate against LGBTQ+ students;
- Enacting school policies that provide transgender and gender nonconforming students equal access to school facilities and activities; and
- Adopting and implementing comprehensive bullying/harassment policies that specifically enumerate sexual orientation, gender identity, and gender expression in individual schools and districts, with clear and effective systems for reporting and addressing incidents that students experience.

CDE's LGBTQ+ training under development. As noted previously, the Budget Act of 2021 appropriated \$2.4 million to the CDE to develop an online training on schoolsite and community resources focused on strategies to support LGBTQ+ students. The original intent was for the training content to be complete by June 30, 2024, but the CDE has requested an extension until June 30, 2025 due to delays in establishing the necessary contracts.

The CDE, in collaboration, with the Los Angeles County Office of Education (LACOE) and Equality California, is developing the content. The current plan identifies 6 courses of one-hour each, for a total of six hours:

- Course 1: LGBTQ+ 101 & Intersectional Identities;
- Course 2: Historical Context of LGBTQ+ Individuals;
- Course 3: Affinity Clubs & Peer Groups;
- Course 4: Anti-bullying & Harassment;
- Course 5: Suicide Prevention, Education, & Resiliency; and
- Course 6: Facilitation.

Each course will be available in 20-minute modules. This bill would require four hours of training for certificated staff over a three-year period.

Current training requirements. The state has not typically mandated teacher training as this tends to be a locally bargained issue, based upon the needs of each school community and staff.

One exception is Mandated Reporter Training, which is required for all school staff annually and consists of a four-hour course. LEAs may impose other training requirements upon staff. One large school district in California requires the following of their staff:

- Administrator Certification;
- Bloodborne Pathogens Training;
- Breaking the Silence (Child Abuse Awareness);
- Child Abuse Awareness Training;
- Code of Conduct with Students;
- ELPAC Training;
- Implicit/Unconscious Bias;
- Injury Illness Prevention Program;
- IT Cyber Security Training;
- Sexual Harassment Training for Supervisors;
- Suicide Prevention and Awareness; and
- Workplace Harassment Prevention Training for Non-Supervisory Employees.

Many of these are required annually or bi-annually. This is in addition to the statewide requirement of four hours of Mandated Reporter Training. *The Committee may wish to consider* whether the additional four hours required by this bill is an excessive burden on teachers.

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

- 1) Remove the requirement for four hours of training over three years, and require an LEA to provide and require a minimum of one hour of training annually to all certificated employees, with a sunset after five years.
- 2) Specifies that a LEA is not prohibited from providing more frequent or longer training, provided that it is mutually agreed to with the employee's exclusive representative.
- 3) Remove the requirement for LEAs to report to the CDE the number of certificated employees who have received in-service training to meet the required training hours, and instead require LEAs to maintain documentation on the completion rate among certificated employees, and to post this information on the LEA website annually, and to make this information available, upon request by the CDE as part of its annual compliance monitoring of state and federal programs.
- 4) Remove the requirement that the CDE ensure that an individual LEA's in-service training meets the same standards as the required online training, and require that the LEA ensure that the training it is using meets the requirements, as specified.

- 5) Remove reference to a 95% compliance rate.
- 6) Require that the CDE monitor compliance with the training requirement as part of its annual compliance monitoring of state and federal programs.
- 7) Remove the requirement that the CDE provide a report to the Legislature at the conclusion of each three-year cycle detailing the percentage of each LEA's certificated employees who have completed the online training and the percentage who have received the alternative in-service training, and instead, require the CDE to report to the Legislature within nine months of the completion of the five-year training period, the data on LEA's compliance with this requirement that has been collected through the annual compliance monitoring.

Arguments in support. The California Federation of Teachers, a co-sponsor of the bill, writes "According to the GLSEN 2019 National School Climate Survey, more than 86% of LGBTQ+ students experienced harassment or assault based on personal characteristics (such as sexual orientation, gender expression, perceived religion, actual or perceived race, ethnicity, or disability), and nearly a fifth of LGBTQ+ students reported changing schools due to feeling unsafe or uncomfortable at school. In February 2023, the CDC released results from its 2021 Youth Risk Behavior Survey, which showed high levels of violence, depression, and suicidal thoughts among lesbian, gay, and bisexual youth. According to the findings, more than one in five of these students reported attempting suicide in the year before the survey, and at least 52% said they struggled with mental health. This is unacceptable. It is vital that California creates a school environment that accepts all students for who they are."

AB 5 would require LGBTQ+ training for all California public schools. The recognition of the basic human right for every student regardless of sexual orientation or gender expression should be held in the same esteem as any other civil right, and this bill provides educators the opportunity to hone in the supportive skills to meet this moment. This legislation is a critical step toward ensuring that all schools are safe and supportive."

Arguments in opposition. A number of individuals write in opposition stating that schools should focus on the curriculum and not on the training proposed in the bill.

Related legislation. SB 857 (Laird) of the 2023-24 Session would require the SPI, on or before July 1, 2024, to convene an advisory task force to identify the statewide needs of LGBTQ+ students and report its findings to the Legislature, the SPI, and the Governor by January 1, 2026.

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 2153 (Thurmond) of the 2017-18 Session would have required schools to provide in-service training to teachers on school site and community resources available for the support of LGBTQ students. This bill was vetoed by Governor Brown, who stated:

I signed AB 827 (O'Donnell) in 2015, which required the Department of Education, as part of its compliance monitoring, to assess whether local schools have provided information to

certificated staff serving of grades 7-12 on school site and community resources for LGBTQ students. Current law also requires the Department to monitor local schools to ensure the adoptions of policies prohibiting discrimination, harassment, intimidation, and bullying on the basis of sexual orientation, gender, gender identity, or gender expression.

If local schools find that more training or resources on this topic is needed, they have the flexibility to use their resources as they see best.

AB 827 (O'Donnell), Chapter 562, Statutes of 2015, as it passed this Committee, would have required schools to provide in-service training to teachers on school site and community resources available for the support of LGBTQ students. The bill was later amended to require 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

API Equality-LA
Brothers of the Desert
California Association for Health, Physical Education, Recreation and Dance
California Association of Local Conservation Corps
California LGBTQ Health and Human Services Network
California School-based Health Alliance
California School-Based Health Alliance
California State Council of Service Employees International Union (SEIU California)
California Teachers Association
Central California 2SLGBTQ+ Collaborative
CFT- a Union of Educators & Classified Professionals, Aft, Afl-cio
Equality California
Fresno Spectrum Center
Gender Spectrum
LGBTQ Center OC
LGBTQ Community Center of the Desert
LGBTQ+ Rural Resource Center
Los Angeles County
Lyon-Martin Community Health Services
NorCal OUTreach Project Center
Rainbow Pride Youth Alliance
San Diego LGBT Community Center
San Diego Pride
Santa Clarita Valley Democrats
Somos Familia Valle
State Superintendent of Public Instruction Tony Thurmond
Stonewall Alliance of Chico
The Santa Monica Democratic Club
The Source LGBT+ Center
Transgender Health and Wellness Center

Transyouth Liberation
1 Individual

Opposition

14 individuals

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