

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 576 (Levine) – As Amended March 22, 2017

SUBJECT: Pupil discipline: suspension and detention

SUMMARY: Requires a school official to notify the parent or guardian when a minor pupil has an interaction with a peace officer at school, is being considered for suspension, or has been issued detention. Specifically, **this bill**:

- 1) Requires the principal or other school official, to take immediate steps to notify the parent, guardian, or responsible relative when a minor pupil has an interaction with a peace officer at school during which the pupil receives a citation, is searched, detained, restrained, arrested, or questioned.
- 2) Requires the pupil's teacher, principal, or principal's designee to make a reasonable effort to contact the pupil's parent or guardian to notify them of an informal conference that is scheduled to occur, prior to suspension of the pupil.
- 3) Requires that, if a pupil has been issued detention for a particular action or behavior, the pupil's teacher make a reasonable effort to notify the parent or guardian that the pupil has been issued detention and may be considered for suspension if the pupil repeats the action or behavior. Does not apply to a suspension when an emergency situation has been determined to exist.
- 4) Defines detention as any type of punishment in which a pupil is held outside of instructional time for the purpose of discipline.

EXISTING LAW:

- 1) Requires a school official to take immediate steps to notify the parent, guardian, or responsible relative when a minor pupil is released to a peace officer for the purpose of removing the minor from the school premises, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse. (EC 48906)
- 2) Requires that suspension of a pupil by the principal or the district superintendent of school, be preceded by an informal conference conducted by the principal, designee or district superintendent, between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil. At the conference, the pupil must be informed of the reason for the disciplinary action and the evidence against him or her, and must be given the opportunity to present his or her version and evidence in his or her defense (ECS 48911).
- 3) Specifies that a pupil may be suspended without an informal conference prior to the suspension only if the principal or district superintendent determines that an emergency situation exists which constitutes a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to the suspension, both the parent and the pupil must be notified of the pupil's right to a conference.

The conference must be held within two school days, unless the pupil waives the right or is physically unable to attend. The conference must then be held as soon as the pupil is physically able to attend (EC 48911).

- 4) Specifies that a pupil suspended from school, but not being considered for expulsion, may be assigned by the principal to a supervised suspension classroom for the entire period of the suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff (EC 48911.1).
- 5) Prohibits a pupil 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 pupil has committed any of the following offenses:
 - causing, attempting to cause, or threatening to cause physical injury to another person; or willfully using force or violence upon another person, except in self-defense;
 - possessing, selling, or otherwise furnishing a firearm, knife, explosive, or other dangerous object, unless the student had obtained prior written permission to possess the item;
 - unlawfully possessing, using, selling or otherwise furnishing a controlled substance;
 - unlawfully offering, arranging or negotiating to sell a controlled substance, alcoholic beverage, or an intoxicant of any kind;
 - committing or attempting to commit robbery or extortion;
 - causing or attempting to cause damage to school property or private property;
 - stealing or attempting to steal school property or private property;
 - possessing or using tobacco, or products containing tobacco or nicotine products;
 - committing an obscene act or engaging in habitual profanity or vulgarity;
 - unlawfully possessing or unlawfully offering, arranging or negotiating to sell drug paraphernalia;
 - disrupting school activities or otherwise willfully defying the authority of supervisors, teachers, administrators, school officials or other school personnel engaged in the performance of their duties;
 - knowingly receive stolen school property or private property;
 - possessing an imitation firearm;
 - committing or attempting to commit a sexual assault or sexual battery;
 - harassing, threatening or intimidating a pupil who is a complaining witness or a witness in a school disciplinary proceeding in order to prevent the pupil from being a witness or retaliating against that pupil for being a witness, or both;
 - unlawfully offering, arranging to sell, or negotiating to sell the prescription drug Soma;
 - engaging in or attempting to engage in hazing;
 - engaging in the act of bullying, including, but not limited to, bullying committed by means of an electronic act (EC 48900).
- 6) Specifies that a pupil in kindergarten through 3rd grade cannot be suspended for disrupting school activities or otherwise willfully defying the valid authority of school personnel and that these acts shall not serve as grounds for any pupil from kindergarten through 12th grade to be recommended for expulsion. This provision becomes inoperative on July 1, 2018 (EC 48900).

- 7) Specifies additional grounds for suspension or recommendations for expulsion:
- committing sexual harassment (grades 4 through 12 only);
 - causing or attempting to cause, threatening to cause, or participating in an act of hate violence (grades 4 through 12 only);
 - engaging in harassment, threats, or intimidation against school district personnel or pupils that have the effect of disrupting classwork, creating substantial disorder and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment (grades 4 through 12 only); and,
 - making a terroristic threat against school officials or school property, or both. (EC 48900.2, 48900.3, 48900.4, 48900.7)
- 5) Encourages a school which has demonstrated an expulsion rate over 30% for the prior year, to consider implementing alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending the pupil off campus, including in-school suspensions, a progressive discipline approach using conferences between school staff, pupils and parents; referral to the school counselor, school psychologist, child welfare attendance personnel, or other school support service staff; detention; or study teams, guidance teams, resource panel teams, or other assessment-related teams. Does not preclude schools from suspending pupils to an off-campus site (EC 48911.2).

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author,

“Current law requires teachers and school administrators to contact parents or guardians when a student is suspended from school. However, there is no requirement for schools to notify parents when their child has received detention or when they are considering suspending the student. In certain circumstances parents are not informed about their child’s behavior within a reasonable timeline. A parent’s lack of knowledge and communication about a child’s conduct can lead to more frequent or severe punishments for students.

Furthermore, over the past two decades, police officers in the United States have increasingly displaced school administrators as disciplinarians, responding to minor offenses and conduct violations that pose no direct threat to personal safety. This increase in student-police interactions has funneled thousands of students into the school-to-prison pipeline and created adverse legal consequences for school districts.”

Rate of suspensions and expulsions declining but disparities persist. The California Department of Education reported that 243,603 students were suspended statewide in 2014-15, representing a 13% drop from the prior year and a 34% drop over the three year period since the Department began collecting suspension and expulsion data at the student level through the California Longitudinal Pupil Achievement Data System (CALPADS). A total of 6,611 students were expelled in 2014-15, representing a reduction of 14% from the prior year and 40% over the three year period.

The Department attributes a number of factors to the reduction in statewide suspension and expulsion rates, including a focus on successful alternatives to suspensions and expulsions, including restorative justice programs, as well as a variety of behavioral intervention strategies and supports. In addition, the passage of AB 420 (Dickinson) in 2013 limited suspensions and expulsions for willful defiance-related offenses.

The disproportionate incidence of suspensions and expulsions among certain populations of students, including African American students, has gained nationwide attention in recent years. This holds true in California, where African American students make up 6% of total statewide enrollment, but made up 16% of students suspended in both 2014-15 and the prior year.

Disparities in law enforcement-student interactions on school campuses. The ACLU of California in their report, “*The Right to Remain A Student*”, look at the recently released data from the U.S. Department of Education Civil Rights Data Collection for the 2013-14 school year, which included the following data on California K-12 schools:

- 22,746 students were referred to police and 9,540 students were arrested;
- Black students are three times as likely to be subjected to school-related arrest, as white students;
- Students with disabilities are three times as likely to be arrested, compared to students without disabilities;
- The average arrest rate in schools where more than 80% of the students are low-income is seven times the average arrest rate in schools where fewer than 20% of the students are low-income.

The U.S. Department of Education issued guidance to schools in the fall of 2016 on the role of school-based law enforcement officers. The letter acknowledges that these officers can help provide a safe learning environment and build trust. However, it goes on to state that the role and need for school resource officers is a local decision that must be made in consultation with law enforcement as well as school leaders, educators, families, students and the community. These officers must be responsibly and thoughtfully incorporated into school environments so as to minimize the need for citations and arrests.

This bill does not directly address the overall role of law enforcement on school campuses, but does require notification of parents when a student has specified interaction with a peace officer at school.

Importance of family involvement in improving student outcomes. A large body of research demonstrates the relationship between strong family engagement and positive student outcomes. A greater focus on family involvement activities also results in fewer students being sent to the principal’s office, given detention or in-school suspension. Researchers suggest that increasing communication and cooperation among the school, family and community leads to improved student behavior and school discipline.

Arguments in support. Supporters point to research showing that out-of-school suspensions and expulsions are counterproductive in creating safe and supportive learning environments. Any suspension should only be undertaken in consultation with the child's parent or guardian, both so the that the student's family can help correct disruptive behavior, and also so that teachers and administrators may be apprised of family stressors, unreported disabilities, or other potential causes of disruptive behavior. This discussion could highlight the need for counseling or other support services and could lead to fewer unnecessary suspensions.

Staff recommends an amendment to align the language in the various sections of the bill regarding contact with parents, and to ensure that the mode of communication is not limited to in-person or telephone.

Staff recommends an amendment to clarify that the requirement to notify parents or guardians when a student has a specified interaction with a peace officer applies to charter schools as well as schools within a school district.

Similar and prior legislation. AB 667 (Reyes) of this Session requires that, at the informal conference required before a student is suspended from school, the pupil be informed of other means of correction that were attempted before the suspension was imposed. This bill was heard in this Committee and is pending in Assembly Appropriations.

AB 420 (Dickinson), Chapter 660, Statutes of 2014 eliminated the authority to suspend a pupil enrolled in kindergarten through 3rd grade, and the authority to recommend for expulsion a pupil enrolled in grades kindergarten through 12th grade, for disrupting school activities or otherwise willfully defying the valid authority of school personnel engaged in the performance of their duties. The bill sunsets on July 1, 2018.

AB 1729 (Ammiano), Chapter 425, Statutes of 2012 reaffirmed that superintendents and school principals have the discretion to implement alternatives to suspension and expulsion and expanded the list of other means of correction that must be implemented prior to suspension or expulsion to address most student misbehavior.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
American Civil Liberties Union of California
California State PTA
Children's Defense Fund - California

Opposition

None on file

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