

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 323 (Portantino) – As Amended June 29, 2023

**SENATE VOTE:** 40-0

**SUBJECT:** Comprehensive school safety plans: individualized safety plans

**SUMMARY:** Requires schools to establish a school safety access and equity committee, and requires that committee to review the school's comprehensive safety plan to consider whether it is inclusive of the student population at the school, and to make recommendations to the school site council. Requires that, if the committee determines that any student cannot be reasonably assured of safety by the plan, it convene an individualized safety plan team to develop an individualized safety plan for the student. Specifically, **this bill:**

- 1) Requires, on or before October 1, 2025, and on or before October 1 every year thereafter, each school to establish a school safety access and equity committee. Requires that the committee include, but not necessarily be limited to, the following members:
  - a) A school administrator;
  - b) A special education teacher;
  - c) A school nurse; and
  - d) A school psychologist.
- 2) Requires the school safety access and equity committee to review the comprehensive school safety plan to consider whether the plan is inclusive of the specific student population at the school, and to recommend necessary changes to the schoolsite council. States that this requirement may not be interpreted to require the school safety and equity committee to convene in-person.
- 3) Requires that, if the school safety access and equity committee determines that any student attending the school cannot be reasonably assured of safety by the measures described in the comprehensive school safety plan, the committee convene an individualized safety plan team to develop an individualized safety plan for that student.
- 4) Requires the individualized safety plan team to consist of the following members:
  - a) A school administrator or designee;
  - b) A parent or guardian of the student, a representative selected by a parent, or both;
  - c) At the discretion of the parent, guardian, or school, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or

special expertise regarding the student shall be made by the party who invites the individual to be a member of the individualized safety plan team; and

- d) Whenever appropriate, the student.
- 5) Requires that the individualized safety plan describe adaptations to the comprehensive school safety plan, including, but not limited to:
  - a) Additional training of school personnel;
  - b) Safety equipment specific to the student's needs;
  - c) Alternative evacuation routes and shelter-in-place procedures; and
  - d) Anticipated logistical support, needed to reasonably ensure safety of the student.
- 6) Requires the school to provide a physical copy of a student's individualized safety plan to the parent or guardian and maintain physical copies in the school office and at any location in which the school maintains supplies for emergency procedures.
- 7) States that a student's individualized safety plan is a student record for purposes of applicable law regarding the privacy of student records, and its contents may be disclosed only to develop, maintain, or effectuate the plan.
- 8) Encourages and authorizes any student, employee, or parent to bring concerns about an individual student's ability to access the safety measures described in the comprehensive school safety plan to the school principal or designee.
- 9) Requires that, if the principal or designee reasonably determines there is merit to the concern, the principal convene a meeting of the individualized safety plan team.
- 10) Requires, following each safety incident or drill requiring use of the comprehensive school safety plan, the school safety access and equity committee to discuss whether the procedures included in the comprehensive school safety plan and each student's individualized safety plan were sufficient to reasonably ensure safety for all students and recommend changes to the schoolsite council or individualized safety plan team, as appropriate.
- 11) Requires, beginning July 1, 2025, before holding the public meeting to review the safety plan, the schoolsite council or school safety planning committee forward its comprehensive school safety plan to the school safety access and equity committee.
- 12) Requires that school safety plan include a a drop procedure, consistent with current guidelines from expert sources, instead of requiring that the plan include a drop procedure whereby each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and their back to the windows.

**EXISTING LAW:**

- 1) Requires each school district or county office of education (COE) to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. The schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (Education Code (EC) 32281)
- 2) Requires school safety plans to include:
  - a) An assessment of the current status of school crime committed on school campuses and at school-related functions.
  - b) Identification of appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including, among other things:
    - i) Disaster procedures, including adaptations for students with disabilities in accordance with the federal Americans with Disabilities Act (ADA) of 1990.
    - ii) Earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more students or more than one classroom.
    - iii) A drop procedure whereby each student and staff member takes cover under a table or desk, dropping to their knees, with the head protected by the arms, and the back to the windows.
    - iv) Protective measures to be taken before, during, and following an earthquake.
- 3) Requires school safety plans to be evaluated at least once a year, and requires an updated file of all safety-related plans and materials to be readily available for inspection by the public. (EC 32282)
- 4) Requires each school to adopt its school safety plan by March 1 and review and update its plan annually by March 1. Each school is required to annually report, in July, on the status of its school safety plan, including a description of key elements of the school safety plan in the annual school accountability report card. (EC 32286)
- 5) Requires the schoolsite council or school safety planning committee to hold a public meeting before adopting the school safety plan. Each school is required to forward its school safety plan to the school district or county office for approval, and school districts or county offices are required to annually notify the CDE, by October 15, of any school that is not in compliance. (EC 32288)
- 6) Requires the Superintendent of Public Instruction (SPI), if they determine that there has been a willful failure to make any report, to notify the school district or county office and assess a fine of up to \$2,000 against the district or county office. (EC 32287)

- 7) Requires charter schools to develop school safety plans and to update them by March of each year. (EC 47605, 47605.6)
- 8) Requires that IEPs include a description of the means by which the IEP will be implemented under emergency conditions in which instruction or services, or both, cannot be provided to the student either at the school or in person for more than 10 schooldays. (EC 56345)

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- The California Department of Education (CDE) indicates that the bill's requirements would result in significant, but unknown state mandated costs. Specifically, the bill requires new provisions to be considered and added to the IEPs of students with disabilities that are not required by federal law. Additionally, the bill requires an IEP meeting to be convened and an IEP revised each time a child moves to a new school site, not just to a new LEA. Further, there will likely be costs to an LEA for resolution of disputes related to the bill's requirements, either through due process proceedings or through state compliance complaints, or other avenues of alternate dispute resolution. Finally, this bill may create additional liability on the part of LEAs by requiring accommodations for emergency situations to be written into a student's IEP.
- By requiring LEAs to create and maintain an Inclusive School Emergency Plan, this bill could result in a reimbursable state mandate. The extent of these costs is unknown, but based on the existing Comprehensive School Safety Plan I and II mandates, the Proposition 98 General Fund costs could be in the low hundreds of thousands of dollars each year. A precise amount would ultimately depend on the scope of the activities that LEAs would need to comply which is not clearly defined in the bill. Further, this bill would expand the existing Comprehensive School Safety Plan mandates, potentially creating additional, unknown cost pressure on the K-12 Mandates Block Grant.
- The CDE indicates that it will likely incur additional, unknown costs related to this bill, as it requires LEAs to perform additional functions, which impacts CDE's special education monitoring. Specifically, CDE will need to update some of its monitoring activities to include the additional requirements for both IEP compliance and IEP meeting compliance, as well as implementation of the IEP accommodations in an emergency. In addition, CDE indicates there could be an increase in compliance complaints.

**COMMENTS:**

*Need for the bill.* According to the author, "Regardless of a student's race, gender, nationality, ability or disability, everyone deserves equal protection and care when it comes to their education. Students with disabilities, however, face different needs when responding to an emergency. These needs must be addressed prior to an emergency. Not everyone can get under a desk, walk down the stairs to safety, or calmly respond to the stress that comes with an emergency or an emergency drill. Ensuring that each student is included in their school's safety procedures is a critical responsibility for schools. Ensuring consistent standards of care is the responsibility of the Legislature. SB 323 is a proactive measure that protects all students by creating a comprehensive school safety plan that includes accommodations as needed for students who have disabilities. Armed with a comprehensive safety plan, school staff can act

with increased confidence and efficiency during an emergency, thereby improving odds for successful outcomes. SB 323 also protects schools by keeping them within Federal regulation.”

***School safety plans.*** Existing law requires each school to develop a school safety plan that includes procedures and policies to ensure student and staff safety at a school site. The components of the plan range from procedures for safe ingress and egress of pupils, parents and school employees; to disaster and emergency procedures such as those during and after earthquakes; to behavioral policies such as discrimination and harassment policies.

The school safety plan is developed by a school site council or a school safety planning committee. Current law requires a school to submit the school safety plan to the school district or county office of education (COE) for approval and requires the school district or COE to annually notify the CDE of any schools that have not complied with the requirement to develop a school safety plan. The SPI is authorized to impose a fine of not more than \$2,000 against a school district or COE for any willful failure to make any required report. According to the CDE, there has been no report of noncompliance by schools and no district or COE has been fined for willfully failing to report a school that has not developed a school safety plan.

***Student safety is part of a free and appropriate education (FAPE).*** Federal law mandates that every child receives a FAPE in the least restrictive environment. Children who experience difficulties in school, due to physical or psychiatric disorders, emotional or behavioral problems, learning disorders, or disabilities are entitled to receive special services or accommodations through the public schools. To support their ability to learn in school and participate in the benefits of any district program or activity, including emergency preparedness and school safety plans, the following three federal laws apply to children with special needs:

- ***Americans with Disabilities Act (ADA):*** The ADA provides “a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities...” and prohibits the exclusion of any qualified individual with a disability, by reason of such disability, from participation in or benefits of educational services, programs, or activities.
- ***Individuals with Disabilities Education Act (IDEA):*** The IDEA ensures services to children with special needs and defines 13 primary disability categories. These definitions guide how states define who is eligible for a FAPE under special education law.
- ***Section 504 of the Rehabilitation Act of 1973 (Section 504):*** Under Section 504, any student who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment and is regarded as having such an impairment is considered disabled. Typically, children covered under Section 504 either have impairments that do not fit within the eligibility categories of IDEA or that may not be as apparent as those covered under IDEA.

***Emergency planning for students with disabilities.*** The Readiness and Emergency Management for Schools (REMS) Technical Assistance Center, operating under contract with the U.S. Department of Education (USDOE) notes that providing for students with disabilities before, during and after an emergency is instrumental in ensuring their safety. The REMS recommends that schools:

- Include a disability specialist in school district or school site safety planning teams;

- Identify students' special needs;
- Maintain a confidential roster of students with special needs;
- Build on current accommodations, modifications, and services;
- Teach students with disabilities emergency response strategies; and
- Inform and train adults.

The REMS recommends that planning for students with disabilities be done by the core safety planning team.

***Multiple safety plans?*** This bill proposes to require, under specified circumstances, that schools develop individual safety plans for students.

Some students with disabilities and those with Section 504 plans may already have safety plans included in their IEPs or Section 504 plans. There may be further safety requirements in a school site's safety plan, as adaptations pursuant to the ADA are already required by current law.

In the event of an emergency, school staff and first responders need clear and accessible guidance on the safety needs of all students. ***The Committee may wish to consider*** that, if this bill were to become law, schools and first responders might have to navigate multiple planning documents in an emergency situation.

***Recommended Committee amendments.*** Staff recommends that the bill be amended to delete its current contents and instead:

- 1) Require that school disaster procedures include adaptations consistent with the IDEA and Section 504 of the Rehabilitation Act of 1973.
- 2) Require that the annual evaluation of the comprehensive school safety plan include a review to ensure that the safety plan includes appropriate adaptations for students with disabilities.
- 3) Authorize any student, employee, or parent to bring concerns about an individual student's ability to access emergency safety measures described in the comprehensive school safety plan to the school principal.
- 4) Require that, if the principal determines there is merit to the concern, the principal direct the school site council to make appropriate modifications to the safety plan as part of the annual evaluation process. State that the principal may direct the school site council to make such modifications prior to the annual evaluation.
- 5) Make all deliberations of the school site council related to individual students with disabilities for purposes of these requirements subject to applicable state and federal law regarding the privacy of student information.

***Arguments in support.*** Disability Rights California writes, "Careful planning and practice drills improve outcomes during a natural disaster or school shooting. While ADA dictates that all

schools be fully accessible, the special needs of students with disabilities can be unwittingly overlooked. Due to complications that arise when a person is disabled, some individuals are not able to follow an evacuation plan, earthquake, or lockdown protocols in the same manner as the general population. SB 323 will create a safer environment for students with disabilities.”

**Arguments in opposition.** The Association of California School Administrators writes, “While we wholeheartedly agree that schools should have plans in place to protect all students in the event of an emergency, we believe there should be a single school safety plan. Duplicative plans create confusion in the event of an emergency. It is critical that first responders have a single plan to reference when time is of the essence in an emergency. Emergency procedures should be included in the school safety plan where they are accessible and useful in the event of an emergency.”

**Related legislation.** SB 906 (Portantino) Chapter 144, Statutes of 2022, requires LEAs to annually provide information to parents or guardians about California’s child access prevention laws and laws relating to the safe storage of firearms; requires school officials to report to law enforcement any threat or perceived threat; and requires law enforcement or the school police to conduct an investigation and threat assessment, including a review of the Department of Justice’s (DOJ’s) firearm registry and a search of the school and/or students’ property by law enforcement or school police.

SB 671 (Portantino) of the 2023-24 Session would require school safety plans to include procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school.

AB 1747 (Rodriguez) Chapter 806, Statutes of 2018, requires charter schools to develop a school safety plan, including procedures for conducting tactical responses to criminal incidents; requires comprehensive school safety plans to include procedures for conducting tactical responses to criminal incidents; increases the CDE’s responsibilities relating to school safety plans; and requires schoolsite councils to also consult with the fire department and other first responder entities in the writing and development of the comprehensive school safety plan.

AB 58 (Rodriguez) of the 2015-16 Session would have made each COE the entity responsible for the overall development of all comprehensive school safety plans and requires school safety plans to include procedures in response to individuals with guns on school campuses. This bill was held in the Senate Appropriations Committee.

SB 49 (Lieu) of the 2013-14 Session would have required school safety plans to include procedures related to response to a person with a gun on campus, extends from annually to every third year the frequency of review of safety plans, and required charter school petitions to include a description of a school safety plan, as specified. This bill was held in the Assembly Appropriations Committee.

AB 549 (Jones-Sawyer), Chapter 422, Statutes of 2013, encourages all school safety plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campus, if the school district uses these people.

AB 680 (Block), Chapter 438, Statutes of 2011, authorizes a school district or COE, in consultation with law enforcement officials, to choose not to have its schoolsite council develop and write those portions of its comprehensive school safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the schoolsite and authorizes, instead, school district and COE administrators to write those portions of the school safety plan.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Autism Speaks

California Association for Behavior Analysis

California Association for Health, Physical Education, Recreation and Dance

Disability Rights California

Educate. Advocate.

National Association of Social Workers, California Chapter

**Opposition**

Association of California School Administrators

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