

Date of Hearing: June 21, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 607 (Skinner) – As Amended April 18, 2017

SENATE VOTE: 29-9

SUBJECT: Pupil discipline: suspensions and expulsions: willful defiance

SUMMARY: Eliminates the authority to suspend or recommend for expulsion any pupil in kindergarten or grades 1 through 5 who disrupts school activities or otherwise willfully defies the valid authority of supervisors, teachers, administrators or school officials, and prohibits until July 1, 2028, the suspension or recommendation for expulsion any pupil in grades 6 through 12 for that same act. Specifically, **this bill:**

- 1) Deletes the July 1, 2018 sunset date and makes permanent the prohibition against suspending, or recommending for expulsion, a pupil enrolled in kindergarten or any of grades one through three for disruption of school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, and extends this prohibition to pupils in kindergarten or any of grades one through five.
- 2) Extends the sunset date, from July 1, 2018 to July 1, 2028, on the prohibition on suspending, or recommending for expulsion, a pupil in any of grades six through twelve on the basis of disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- 3) Encourages, rather than authorizes, a superintendent of a school district or a principal to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior.
- 4) Expresses the intent of the Legislature:
 - a) To provide teachers and school administrators with the means to foster safe and supportive learning environments for all children in California.
 - b) To ensure that pupils who transfer between multiple classrooms and are taught by multiple teachers, be allowed to attend all remaining classes from which they have not been removed for disciplinary reasons.
 - c) To authorize the use of the California Department of Education's (CDE) Multi-Tiered System of Supports (MTSS) framework, which includes restorative justice practice, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

EXISTING LAW:

- 1) 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).
- 2) 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).
- 3) 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)
- 4) Requires that a suspension only be imposed when other means of correction fail to bring about proper conduct. Specifies that other means of correction may include, but are not limited to, the following:
- a conference between school personnel, the pupil's parent or guardian, and the pupil;
 - referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling;
 - study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents;
 - referral for a comprehensive psychosocial or psychoeducational assessment;
 - enrollment in a program for teaching prosocial behavior or anger management;
 - participation in a restorative justice program;
 - a positive behavior support approach with tiered interventions that occur during the schoolday on campus; and,
 - after school programs that address specific behavioral issues or expose pupils to positive activities and behaviors. (EC 48900.5)

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as non-fiscal.

COMMENTS:

Purpose. This bill permanently prohibits the suspension, or recommendation for expulsion, of Kindergarten through fifth grade students on the basis of willful defiance. The bill also prohibits the suspension or recommendation for expulsion of students in sixth through twelfth grade on the basis of willful defiance for an additional ten years, through July 1, 2028. The bill encourages the use of research-based alternatives to suspension or expulsion to improve behavioral and academic outcomes.

The bill does not alter the authority of a teacher to suspend a student of any age from that particular classroom for the current day and the following day. Existing law also authorizes the suspension or expulsion of a pupil in grades four through twelve if the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school personnel or other pupils, that is sufficiently severe or pervasive to have the effect of materially disrupting classwork, created substantial disorder, or invaded the rights of school personnel or pupils by creating a hostile educational environment.

Need for the bill. According to the author, “a growing body of research demonstrates that suspending students, no matter what the age, fails to improve student behavior and greatly increases the likelihood that the student will fail and/or drop out. Students can be suspended or expelled from schools for simply refusing to take off their hat or falling asleep during a lecture. These suspensions fall under the category “willful defiance” and often occur without consideration of the root of a student’s actions. Research confirms that students of color, students with disabilities, and LGBT students are disproportionately suspended or expelled for low level

subjective offenses. SB 607 seeks to keep students in school, increase student success rates and reduce dropout rates.”

Research identifies adverse impacts of suspensions and expulsions. A large body of research has identified adverse impacts of suspensions and expulsions:

- Students who experience out of school suspensions and expulsions are 10 times more likely to ultimately drop out of high school.
- Students who are suspended or expelled are much more likely to become involved in the juvenile justice system.
- Students who are excluded from classes lose instructional time which results in a loss of funding to the school.
- A student’s suspension or expulsion can have harmful effects on the family, including loss of wages or employment for the parent, particularly for single parents.
- Students who are suspended or expelled are often less likely to have supervision at home and are subject to the risk of further behavioral problems.

Rate of suspensions and expulsions declining steeply, but disparities persist. The California Department of Education (CDE) reported that 243,603 students were suspended once or more in 2014-15, representing a 13% drop from the prior year and a 34% drop over the three year period since CDE began collecting suspension and expulsion data at the student level through the California Longitudinal Pupil Achievement Data System (CALPADS). A total of 5,692 students were expelled in 2014-15, representing a reduction of 14% from the prior year and a 40% reduction over the same three year period.

With respect to the rate of suspensions for willful defiance, CDE data shows that the number of students involved in one or more suspensions during the school year dropped by 27%, from 108,175 students in 2013-14 to 79,168 students in 2014-15.

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 18-20% of the total number of suspensions for willful defiance-related offenses in both 2013-14 and 2014-15.

With respect to the age of students suspended or expelled for willful defiance offenses in 2014-15, the majority were high school students in grades nine through twelve (52%), followed by middle school students in grades six through eight (35%), and elementary school students in Kindergarten through fifth grade (13%).

Federal support for alternatives to suspension and expulsion. According to the U.S. Department of Education: “Teachers and students deserve school environments that are safe, supportive, and conducive to teaching and learning. Creating a supportive school climate—and decreasing suspensions and expulsions—requires close attention to the social, emotional, and behavioral needs of all students. Evidence does not show that discipline practices that remove students from instruction—such as suspensions and expulsions—help to improve either student

behavior or school climate. Suspensions are associated with negative student outcomes such as lower academic performance, higher rates of dropout, failures to graduate on time, decreased academic engagement, and future disciplinary exclusion. Interventions, school-wide and individual, that use proactive, preventative approaches, address the underlying cause or purpose of the behavior, and reinforce positive behaviors, have been associated with increases in academic engagement, academic achievement, and reductions in suspensions and school dropouts.”

Statewide school climate initiatives. In recent years, the Legislature has allocated resources specifically designed to improve school climate and reduce exclusionary disciplinary practices. These include the following:

- 1) **Multi-Tiered System of Support (MTSS).** Assembly Bill 104, Chapter 13, Statutes of 2015, appropriated \$10 million for Developing, Aligning, and Improving Systems of Academic and Behavioral Supports. The CDE conducted a competitive grant process and awarded the funds to the Orange County Department of Education (OCDE). An additional \$20 million, appropriated by Senate Bill 828, Chapter 29, Statutes of 2016, augmented the original grant award. The purpose of this program is to encourage local education agencies (LEAs) to establish and align schoolwide, data-driven systems of academic and behavioral supports to more effectively meet the needs of California’s diverse learners in the most inclusive environment. The initiative enables the OCDE to develop and disseminate statewide resources and technical assistance for this purpose. The OCDE will provide sub-grants to LEAs to engage them in a process to assess their strengths, coordinate supports to their LCAP and align their MTSS efforts with the eight state priorities.
- 2) **Learning Communities for School Success Program.** California voters passed Proposition 47 in November 2014, which reduced the penalties for certain non-violent, non-serious drug and property crimes. State savings resulting from these changes are to be spent on mental health and drug programs, kindergarten through twelfth-grade students, and crime victims. Subsequent legislation requires that 25 percent of the funds available through criminal justice system savings are to be allocated to the CDE for administration of a grant program to reduce truancy and support pupils who are at risk of dropping out of school or who are victims of crime. Co-joined legislation, AB 1014 (Thurmond) and SB 527 (Liu), established the *Learning Communities for School Success Program*, which will be funded through the savings in the criminal justice system.

A total of \$37 million has been appropriated for the first round of funding in 2016-17. LEAs with high dropout, suspension, and Free and Reduced Meal Program rates will be given priority. Approved LEAs will receive \$50 per student for each year of the three-year grant. Minimum three-year grants will be \$15,000 and maximum LEA grants will be \$2 million.

Increasing use of alternatives to suspension and expulsion in California. A number of school districts, including some of the largest in the state, have adopted board policies that prohibit the use of willful defiance as the basis for suspension or expulsion and are committing resources to effectively implement alternative models of correction, including restorative justice, Positive Behavior Intervention and Support (PBIS), and other evidence-based approaches. For example:

- San Francisco Unified School District: “Beginning in the fall of 2014, updating district policy to provide that no student shall receive a suspension or recommendation for expulsion/be expelled solely on the basis of “disruption/willful defiance”
- Los Angeles Unified School District: “Beginning Fall 2013, no student shall be suspended or expelled for a willful defiance offense”
- Oakland Unified School District: “Effective July 1, 2016, no student enrolled in grades T-Kindergarten through twelve grades may be suspended or expelled for disrupting school activities or willfully defying the authority of school personnel.”

Holding schools accountable for suspension and expulsion rates. California’s Local Control Funding Formula (LCFF) and Local Control and Accountability Plan (LCAP) requirements include school climate as one of the eight state priorities. All California school districts, county offices of education, and charter schools, are required to report and examine pupil suspension and expulsion rates on their LCAP and annual updates. It has been suggested that this requirement to clearly report disciplinary actions, in the aggregate as well as by subgroup, will increase pressure on schools to employ alternatives to suspension and expulsion.

Data needed to evaluate the current policy is not available. The most recent data available from the CDE on statewide suspensions and expulsions is for the 2014-15 school year. As the statewide prohibition on suspension or expulsions based upon willful defiance only became effective on January 1, 2015 upon the implementation of AB 420, there is insufficient data to determine the impact that this policy change may have had.

Concerns expressed about lack of support and insufficient training on effective alternatives. Teachers, administrators, and school board members have expressed concern with the extension of the prohibition on suspension and expulsion for willful defiance, particularly in the case of high school students. Although most agree that suspensions and expulsions are not necessarily the most effective approach and should only be used as a last resort, some object to removing the option without full implementation of effective alternative strategies. Many note that teachers and administrators have not been fully prepared or trained in effective classroom management or alternative strategies to suspension and expulsion. In addition, it is noted that many schools lack sufficient counselors, mental health professionals, or other support personnel necessary to effectively address the root causes of student misbehavior.

What is the appropriate length of time for a sunset of the bill’s provisions? The bill currently provides for a 10 year sunset on the prohibition on willful defiance as a basis for suspension or recommendation for expulsion in grades six to twelve. In order to allow time for these additional resources to be effectively deployed in schools and to allow additional time to collect data on the impact of prohibiting the use of exclusionary disciplinary actions for willful defiance, ***staff recommends*** that the bill be amended to extend the sunset for suspension and recommendations for expulsion for students in grades six through twelve for five additional years rather than ten years.

Should the provisions apply to all pupils? This bill would limit the use of suspension and expulsions on the basis of willful defiance in public schools within school districts, but not for charter schools. In order to ensure that all public school pupils have the same protections and ability to pursue their education, ***staff recommends*** that the bill be amended to specify that the

prohibitions on the use of willful defiance as a basis for suspension or expulsion would also apply to charter schools.

Related and prior legislation. AB 576 (Levine) of this Session would have required that a school employee make a reasonable effort to contact the pupil's parent or guardian to notify them that an informal conference has been scheduled prior to discuss the pupil's pending suspension. This bill would also have required that prior to consideration of suspension for a pupil who has been issued detention, the parent or guardian is informed of the detention and the possibility that the pupil may be considered for suspension if the action or behavior is repeated. The bill would also have amended the definition of detention. The bill was held in Assembly Appropriations Committee.

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 is currently pending in the Senate Appropriations Committee.

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. These requirements sunset 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

Advancement Project
American Civil Liberties Union of California
Black Organizing Project
California District Attorneys Association
California School Based Health Alliance
Children NOW (Co-Sponsor)
Coleman Advocates
Communities United for Restorative Youth Justice
Dolores Huerta Foundation
Education Trust West
Equal Justice Society
Fight Crime: Invest in Kids (Co-sponsor)
Genders and Sexualities Alliance Network
Khmer Girls in Action
Lawyers' Committee for Civil Rights of the San Francisco Bay Area (Co-Sponsor)
Legal Services for Children
Los Angeles County Office of Education
Los Angeles Unified School District

Mission Readiness
National Center for Youth Law
PolicyLink (Co-Sponsor)
Public Counsel (Co-Sponsor)
Sacramento City Unified School District
San Francisco Unified School District
Southeast Asia Resource Center
Youth Alive
Youth Justice Coalition (Co-Sponsor)

Opposition

None on file

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