

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
SB 857 (Laird) – As Amended June 26, 2023

**SENATE VOTE:** 35-0

**SUBJECT:** Advisory task force: LGBTQ+ pupil needs

**SUMMARY:** Requires the Superintendent of Public Instruction (SPI) by July 1, 2024, to convene an advisory task force of at least 15 members to identify the statewide needs of LGBTQ+ students and make recommendations to assist in implementing supportive policies and initiatives to address LGBTQ+ student education and well-being. Specifically, **this bill:**

- 1) Requires the SPI by July 1, 2024, to convene an advisory task force to identify the statewide needs of LGBTQ+ students and provide recommendations to assist in implementing supportive policies and initiatives to address LGBTQ+ student education and well-being within the state, including all of the following:
  - a) Pupil mental health and feelings of safety and support;
  - b) Inclusive and safe access to school facilities;
  - c) Inclusive instructional material and school curriculum;
  - d) Prevention of, response to, and oversight of, bullying and harassment to determine the effectiveness of policies and programs; and
  - e) Inclusive participation in campus activities.
- 2) Requires the advisory task force to include a minimum of 15 members representative of the following groups:
  - a) Eight students identifying as members of the LGBTQ+ community who are enrolled in a California high school;
  - b) One public school administrator currently employed by a local educational agency (LEA);
  - c) Two certificated public school teachers currently employed by an LEA;
  - d) Two mental health professionals, with a preference for those who practice LGBTQ+ affirming care;
  - e) One community LGBTQ+ advocate, with a preference for one with programmatic expertise; and
  - f) One representative from the Office of Health Equity established by the State Department of Public Health (CDPH).

- 3) Requires the SPI, or their designee, to select the members of the task force and, to the extent practicable, ensure that they represent the geographical, racial, ethnic, socioeconomic, cultural, physical, and educational diversity of California's LGBTQ+ community.
- 4) Requires the task force to report their findings and recommendations to the Legislature, the SPI, and the Governor, by January 1, 2026 and, at the request of any member, authorizes the report to include minority findings and recommendations.
- 5) Repeals the requirement to convene the advisory task force and submit a report as of January 1, 2028.

**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. The policy must include a statement that it applies to all acts related to school activity 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; maintained documentation of complaints and their resolution for a minimum of one review cycle; ensured that complainants are protected from retaliation and that their identity remains confidential; and identified a responsible LEA officer for ensuring compliance;
  - 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, including posting the policy in all schools and offices, including staff lounges and student government meeting rooms; and
  - 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. (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, county offices of education (COEs), 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) Authorizes a student to be suspended or recommended for expulsion based upon numerous acts, including engaging in bullying, defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward one or more pupils. (EC 48900)

- 9) Requires that instruction in social sciences include, among other items, a study of the role and contributions of lesbian, gay, bisexual, and transgender Americans, to the economic, political, and social development of California and the United States. (EC 51204.5)
- 10) Prohibits a teacher from giving instruction, and a school district from sponsoring any activity, that promotes a discriminatory bias on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation. (EC 51500)
- 11) Prohibits the state board and any governing board from adopting any textbooks or other instructional materials for use in public schools that contain any matter reflecting adversely upon persons on the basis of race or ethnicity, gender, religion, disability, nationality, or sexual orientation. (EC 51501)
- 12) Requires school districts and charter schools to provide students in grades 7 through 12 comprehensive sexual health education and HIV prevention education at least once in junior high or middle school and at least once in high school, to provide students with the knowledge and skills they need to develop healthy attitudes concerning adolescent growth and development, body image, gender, sexual orientation, relationships, marriage, and family. (EC 51930 and 51934)
- 13) Requires the governing body of an LEA serving students in kindergarten through 12<sup>th</sup> grade to adopt a suicide prevention policy, including addressing the needs of high-risk groups, including LGBTQ+ youth. (EC 215)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS:**

*Need for the bill.* According to the author, “Across this nation school campuses have become a battle ground in the fight for LGBTQ+ dignity and humanity. LGBTQ+ students often find themselves caught in the cross fire, lacking the support and resources they need to thrive. A safe and supportive school environment allows LGBTQ+ students to succeed academically and has a significant impact on their overall wellbeing. California continues to lead the nation in supporting LGBTQ+ youth both on and off the campus, through robust policy projections and budget allocations. However, we still have a long way to go. Many school districts lack the resources needed to implement these laws, face hostile local social climates that impede implementation, and lack awareness regarding existing legal requirements and the best ways to meet them.

School district administrators cannot address this issue alone, they need the input and expertise of all of those involved in creating a thriving environment for LGBTQ+ youth on school grounds in order to succeed. SB 857 brings students, teachers, and administrators together to ensure that authentic voices from the community are involved in discussions about how to create a safe and supportive environment for LGBTQ+ students, while providing the State Department of Education with valuable perspectives to ensure resources are efficiently allocated to implement existing laws and better support LGBTQ+ student needs.”

***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 than their peers, (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.”

***Increased suicide risk for LGBTQ+ students.*** Research finds that LGBTQ+ youth are between 2 and 7 times more likely to attempt suicide than their heterosexual peers. LGBTQ+ youth who report greater school connectedness and school safety also report lower suicidal ideation and fewer suicide attempts. In addition, lesbian and gay adolescents are at lower risk for attempting suicide if local school districts have anti-bullying policies that include sexual orientation. (Hatzenbuehler, 2014)

***LGBTQ+ students may be disproportionately disciplined.*** The U.S. Department of Education (USDOE) *Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates* (2023), points to the importance of creating learning environments that are safe, inclusive, supportive, and fair. Harsh or exclusionary discipline practices for students, including LGBTQ+ students can contribute to students feeling unwelcome, unsafe, and unsupported.

The report notes that research has found that LGBTQ+ students report they are more likely to be disciplined than their non-LGBTQ+ peers. For example, LGBTQ+ students of color report being suspended at twice the rate of their non-LGBTQ+ peers. Similarly, LGBTQ+ youth report being suspended for dress code violations or school offenses related to their identity expression, likely contributing to the disproportionate suspensions this group of students’ experiences. Almost all public school dress code policies contain rules with subjective language, which are at greater risk of being inconsistently enforced based on LGBTQ+ status as well as race, ethnicity, and disability.

***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 GLEN 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 schools and districts, with clear and effective systems for reporting and addressing student experiences.

***Are California schools providing a safe and supportive environment for LGBTQ+ students?***

Equality California conducted a survey of California’s 340 unified school districts in 2017. 38% of these or 130 districts responded and reported the following ways in which they are providing a safe environment for LGBTQ+ students:

- 100% had an existing policy prohibiting discrimination, harassment, intimidation, and bullying against students;
- 35% did not offer any cultural competency training, while other districts do require training of certificated and, in some cases, classified and administrative staff;
- 49% had established a process for changing a transgender or gender-nonconforming student’s name and gender in official student records;
- 86% reported that all schools in their district allow students to use all restrooms and/or locker rooms that correspond to their gender identity, and 65% reported having at least one gender-neutral restroom located in an area accessible to students;
- 50% reported that the contributions of LGBTQ+ individuals are taught in government, history, and/or social studies classes, and 68% reported that their sexual health curriculum incorporates discussions of relationships other than heterosexual relationships; and

- 91% have adopted a student suicide prevention policy, and 72% indicated that this policy specifically addresses the needs of LGBTQ+ youth in some way.

Equality California's *2019 Safe and Supportive Schools Report Card*, utilized these survey results to rank responding schools according to the degree to which the district had made progress in these key areas:

- 22 school districts or 17% were identified as spotlight districts and placed in the top tier, as they typically reported more extensive programs and policies to provide a safe and supportive school climate for LGBTQ+ students;
- 80 school districts or 62% were identified as foundational districts and placed in the middle tier as they reported some basic or initial steps toward fostering a safe and supportive school climate for LGBTQ+ students; and
- 28 school districts or 21% were placed in the lowest tier as they have made modest initial steps toward fostering LGBTQ+ inclusive school climates, but may lack the resources, understanding or commitment to fully implement the necessary programs and policies.

***The role of the school counselor in supporting LGBTQ+ students.*** The American School Counselor Association's (ASCA) recognizes the role of school counselors in addressing the challenges faced by LGBTQ+ youth:

School counselors promote equal opportunity and respect for students regardless of sexual orientation, gender identity or gender expression. School counselors recognize the school experience can be significantly more difficult for students with marginalized identities. School counselors work to eliminate barriers impeding LGBTQ+ student development and achievement. The school counselor works with all students through the stages of identity development and understands this may be more difficult for LGBTQ+ youth. It is not the school counselor's role to attempt to change a student's sexual orientation, gender identity or gender expression. School counselors recognize the profound harm intrinsic to therapies alleging to change an individual's sexual orientation or gender identity and advocate to protect LGBTQ+ students from this harm. School counselors provide support to LGBTQ+ students to promote academic achievement and social/emotional development. School counselors are committed to the affirmation of all youth regardless of sexual orientation, gender identity and gender expression and work to create safe and affirming schools.

***CDE's website includes resources to support LGBTQ+ students.*** The CDE website includes information on trainings, curriculum materials, peer support organizations, counseling services, as well as resources available statewide, as well as by county, to support LGBTQ+ students, educators, and families.

***Arguments in support.*** Equality California, on behalf of a number of organizations advocating for and supporting LGBTQ+ students, writes, "While states across the country are attacking LGBTQ+ students, particularly transgender and non-binary youth, SB 857 will send a powerful message that California is committed to ensuring that all students have an opportunity to succeed. Every student deserves to have a safe and supportive school environment where they can learn and succeed. Unfortunately, while California has passed a number of laws aimed at protecting LGBTQ+ students, many school districts lack the resources to implement these laws,



face hostile local social climates that impede implementation, or lack awareness regarding existing legal requirements and the best ways to meet them. According to Equality California Institute's 2022 Safe and Supportive Schools Report Card, 30% of school districts that responded to the survey had not adopted an anti-bullying policy that explicitly prohibits bullying on the basis of sexual orientation or gender identity. Nearly half (48%) of respondents had not adopted LGBTQ+ inclusive educational materials that are compliant with the FAIR Education Act.

It is critical to properly implement existing laws and policies to build a safe and supportive school climate for LGBTQ+ students. There are also many ways in which school districts can go above and beyond legal requirements in fostering safe and supportive school climates for their LGBTQ+ students and staff. The creation of an LGBTQ+ advisory task force will bring students, teachers, and administrators together to ensure that authentic voices from the community are actively involved in discussions about how to create a safe and supportive environment for LGBTQ+ students, while also providing the CDE with valuable perspectives to ensure that resources are efficiently allocated to implement existing laws and better support LGBTQ+ student needs.”

***Related legislation.*** AB 5 (Zbur) of the 2023-24 Session would require LEAs to provide and require at least 1 hour of training annually to certificated staff, beginning with the 2025-26 school year through 2029-30, on cultural competency in supporting LGBTQ+ students.

SB 760 (Newman) of the 2023-24 Session would require each school district, county office of education (COE), and charter school, serving students in kindergarten to grade 12, inclusive, to provide at least one all-gender restroom for student use at each of its schoolsites, by July 1, 2025.

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, requires 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.

SB 48 (Leno) Chapter 81, Statutes of 2011, adds persons with disabilities and LGBTQ+ Americans to the list of groups of people whose role and contributions must be accurately portrayed in social science instruction and instructional materials, and prohibits the SBE and the governing board of any school district from adopting textbooks or other instructional materials that reflect adversely upon a person's religion or sexual orientation.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

ACLU California Action  
American Association of University Women - California  
APLA Health  
Association of California School Administrators  
California Association of Student Councils  
California Charter Schools Association  
California Federation of Teachers  
California School-based Health Alliance  
California Teachers Association  
California Transcends  
California Youth Empowerment Network  
Citizens for Choice  
Dolores Huerta Foundation  
Equality California  
Essential Access Health  
Gender Spectrum  
Jewish Federation of Greater Los Angeles  
LGBTQ Center OC  
Los Angeles LGBT Center  
Los Angeles Unified School District  
Mental Health America of California  
National Center for Lesbian Rights  
Our Family Coalition  
Positive Images LGBTQIA+ Center  
Radiant Health Centers  
San Diego Pride  
Santa Clarita Valley Democrats  
State Superintendent of Public Instruction Tony Thurmond  
The Source LGBT+ Center  
The Women's Building  
Transyouth Liberation  
Viet Rainbow of Orange County

**Opposition**

None on file

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