

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 772 (Lowenthal) – As Amended April 1, 2025

SUBJECT: Suspensions and expulsions: off-campus acts: model policy

SUMMARY: Requires the California Department of Education (CDE) by June 30, 2026, to develop, post on its website, and distribute to local educational agencies (LEAs), a model policy appropriate for schools serving grades 4-12 on how to address acts of cyberbullying occurring outside of school hours. Also requires LEAs to adopt the model policy by July 1, 2027, and to provide copies to staff, students, and parents. Specifically, **this bill:**

- 1) Requires the CDE by June 30, 2026, to develop, post on its website, and distribute to LEAs a model policy on how to address acts of cyberbullying occurring outside of school hours, provided that, when engaged in outside of the campus, the act is sufficiently severe or pervasive to have the actual and reasonably expected effect of creating an intimidating or hostile educational environment.
- 2) Authorizes the CDE in consulting with relevant stakeholders in the development of the policy to use existing resources or frameworks, including but not limited to, the Multi-tiered system of support (MTSS), which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support (PBIS), used to help students 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.
- 3) Requires that the model policy be appropriate for LEAs serving students in grades 4-12.
- 4) Requires LEAs to adopt the model policy developed by the CDE by July 1, 2027, and to provide a copy of the adopted policy to each of its credentialed employees, enrolled students, and the parents or guardians of enrolled students, and authorizes the provision of this policy to parents and guardians to be part of the annual notification requirement.
- 5) Defines LEA as a school district, county office of education (COE), or charter school.

EXISTING LAW:

- 1) Declares that all students have the right to participate fully in the educational process, free from discrimination and harassment, and that harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution. Also expresses the intent of the Legislature that each public school undertakes educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity. (Education Code (EC) 201)

- 2) 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. (EC 220)
- 3) Declares that every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right, and that a law may not restrain or abridge liberty of speech or press. (California Constitution, Article 2, Section 2)
- 4) States the policy of the State of California to ensure that all LEAs continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities. (EC 234)
- 5) Defines “bullying” as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils, as defined, directed toward one or more pupils that has or can be reasonably be predicted to have the effect of one or more of the following:
 - a) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property;
 - b) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil’s physical or mental health;
 - c) Causing a reasonable pupil to experience substantial interference with the pupil’s academic performance; and
 - d) Causing a reasonable pupil to experience substantial interference with the pupil’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

Defines “electronic act” as the creation or transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

- a) A message, text, sound, video, or image;
- b) A post on a social network internet website, including, but not limited to: (I) posting to or creating a burn page; (II) creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed above; (III) creating a false profile for the purpose of having one or more of the effects listed above;
- c) An act of cyber sexual bullying. (EC 48900 (r))

- 6) Requires LEAs to adopt policies and procedures for preventing acts of bullying, including cyberbullying, by December 31, 2019. (EC 234.4)
- 7) Requires LEAs to ensure that specified information is readily accessible in a prominent location on the LEA's website, including the LEA's anti-cyberbullying procedures. (EC 234.6)
- 8) 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)
- 9) 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)
- 10) Requires school districts and COEs to develop a comprehensive school safety plan for its schools and encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying, including cyberbullying. (EC 32282)
- 11) 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 and 47605.6).
- 12) Requires the CDE to develop and post on its website an online training module to assist all school staff, administrators, parents, students, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. (EC 32283.5)
- 13) Prohibits a student 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 student has committed specified offenses while on school grounds, while going to or coming from school, during the lunch period whether on or off the campus or during or while going to or coming from a school sponsored activity. (EC 48900, 48900.2, 48900.3, 48900.4, 48900.7)
- 14) Includes the prohibition on suspension and expulsions for specified offenses to apply to students in charter schools. (EC 48901.1)
- 6) 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) A conference between school personnel, the student's parent or guardian, and the student;
 - b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support personnel for case management and counseling;
 - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, develop and implement individualized plans to address the behavior in partnership with the student and his or her parents;

- d) Referral for a comprehensive psychosocial or psychoeducational assessment;
 - e) Enrollment in a program for teaching prosocial behavior or anger management;
 - f) Participation in a restorative justice program;
 - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus; and,
 - h) After school programs that address specific behavioral issues or expose students to positive activities and behaviors. (EC 48900.5)
 - i) Community service, including but not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. (EC 48900.6)
- 15) Requires the CDE, by June 1, 2024, to develop evidence-based best practices for restorative justice practice implementation on a school campus and make these available on the department website for use by LEAs to implement restorative justice practices as part of efforts to improve campus culture and climate. Also requires the CDE to consult with school-based restorative justice practitioners, public school educators, students, community partners, and nonprofit and public entities in developing the best practices, and to the extent feasible, take into account other programs and resources, as specified. (EC 49055)

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, “Bullying and harassment amongst peers in school is not a new phenomenon; however, the digital age and rise of social media has drastically changed the landscape by expanding how and when classmates communicate with one another. Bullying and harassment are no longer limited to the school day; bullies are empowered to continue their harassment through social media platforms, posts, text messages – circulating harmful or humiliating content to the pupil they are bullying or to a wider audience. After-school bullying follows the pupil back to school and into the classroom, creating a hostile environment at school.

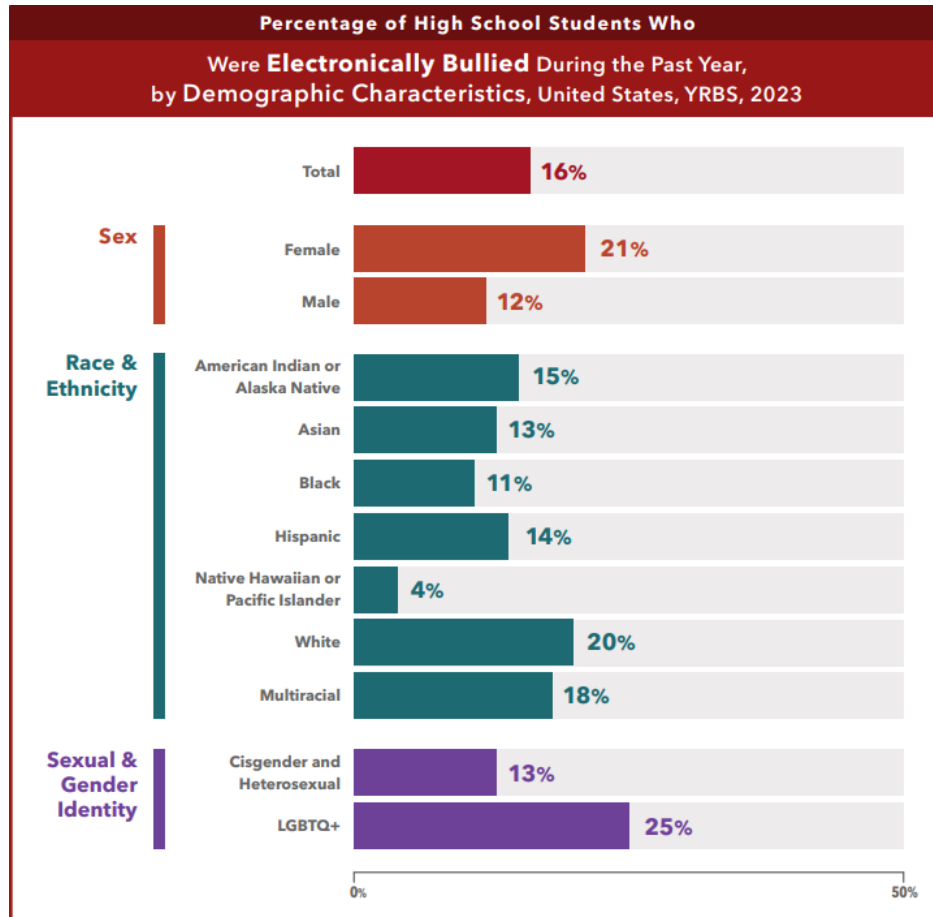
AB 772 requires that the CDE develop a model policy aimed at addressing bullying and cyberbullying that occurs outside of school hours. The bill will help provide districts with the necessary clarification on actions they can take to ensure all of our kids can enjoy a safe and productive learning environment, during school and after school.”

Current law authorizes school officials to address bullying. California law authorizes administrators to suspend, or recommend for expulsion, a student who has engaged in bullying at school or during school activities. This includes bullying by an electronic act originating on or off the schoolsite. This would suggest that school administrators have the authority to address cyberbullying actions regardless of whether the actions take place on the schoolsite or not.

Key provisions of this bill. This bill requires the CDE to develop a model policy for schools on addressing acts of cyberbullying occurring outside of school hours when they have a significant impact on the school environment. It also requires LEAs to adopt the model policy. ***The Committee may wish to consider*** the scope of responsibility of school administrators and whether they should be held accountable for actions taken by students outside of the purview of the school.

What is electronic bullying? Electronic bullying, or cyberbullying, is defined as “bullying that takes place over digital devices like cell phones, computers, and tablets. Cyberbullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Some of the most common cyberbullying tactics include:

- Posting comments or rumors about someone online that are mean, hurtful, or embarrassing;
- Threatening to hurt someone or telling them to kill themselves;
- Posting a mean or hurtful picture or video;
- Pretending to be someone else online in order to solicit or post personal or false information about someone else;
- Posting mean or hateful names, comments, or content about any race, religion, ethnicity, or other personal characteristics online;
- Creating a mean or hurtful webpage about someone; and
- Doxing, an abbreviated form of the word documents, is a form of online harassment used to exact revenge and to threaten and destroy the privacy of individuals by making their personal information public, including addresses, social security, credit card and phone numbers, links to social media accounts, and other private data. (Stopbullying.gov)

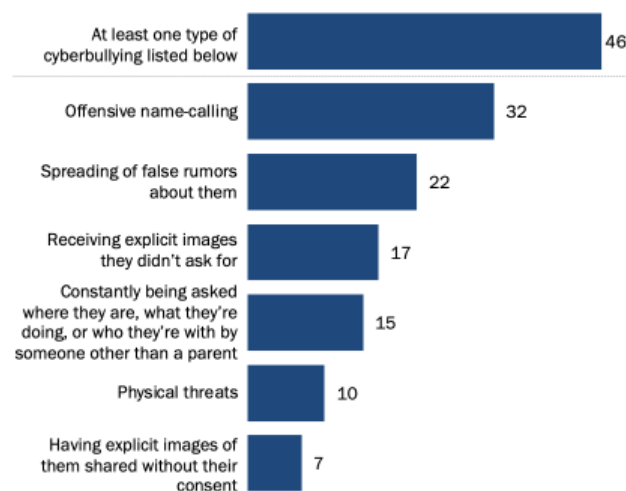


Half of U.S. teens report online harassment or bullying. Researchers note that while bullying existed long before the internet, the rise of smartphones and social media has brought a new and more public arena into play for this aggressive behavior. Nearly half of U.S. teens ages 13 to 17 (46%) report ever experiencing at least one of six cyberbullying behaviors asked about in a Pew Research Center survey conducted in 2022. The most commonly reported

behavior in this survey was name-calling, with 32% of teens saying they have been called an offensive name online or on their cellphones. Smaller shares say they have had false rumors spread about them online (22%) or have been sent explicit images they didn't ask for (17%)

Nearly half of teens have ever experienced cyberbullying, with offensive name-calling being the type most commonly reported

% of U.S. teens who say they have ever experienced ___ when online or on their cellphone



Research identifies adverse impacts of suspensions and expulsions. The trend in recent years, both in California and nationally, has been to reduce the rates of suspension and expulsion. A large body of research has identified adverse impacts of suspensions and expulsions, including the following.

- 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;
- 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; and
- 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.

This bill does not call for an increase in suspensions or expulsions, but it could be an unintended consequence as a result of increased attention to cyberbullying acts by students outside of the regular schoolday.

Impacts of exclusionary discipline policies. Research suggests that harsh discipline practices and the over-policing of students of color that occurs in many schools have undermined the creation of safe and inclusive learning environments. Disproportionalities in suspension and expulsion rates between students of color and their white peers appear as early as preschool and continue through the K-12th grades. Black youth often receive harsher punishments for minor offenses and are more than twice as likely as white students to receive a referral to law enforcement or be subject to a school-related arrest. (Learning Policy Institute (LPI), March 2021).

One study, *Educational and Criminal Justice Outcomes 12 Years After School Suspension*, (Rosenbaum, 2018) notes that “school suspensions aim to obtain better behavior from the punished student and maintain school norms by removing students. Suspension removes disruptive students from schools temporarily and may improve school climate by reducing peer influences to engage in deviant behavior.” The study goes on to note that a body of research has found that suspended students are more likely to:

- Engage in antisocial behavior;
- Have involvement with the criminal justice system;
- Be arrested both during the month of suspension and within a year of suspension; and
- Use marijuana and tobacco.

The study also cites various longitudinal research findings, including:

- Youth suspended in ninth grade were less likely to graduate high school, graduate on time, and enroll in postsecondary education; and
- Twelve years after suspension, suspended youth were less likely to have earned a degree or high school diploma and were more likely to have been arrested or be on probation.

Some researchers conclude that “suspensions may act more as a reinforcer than a punisher for inappropriate behavior. Other research raises doubts as to whether harsh school discipline has a deterrent value. Frequent use of suspension alone has no measurable positive deterrent or academic benefit to either the students who are suspended or to non-suspended students.” (Losen, 2011). The American Academy of Pediatrics states, “Without the services of trained professionals, such as pediatricians, mental health professionals, and school counselors, and without a parent at home during the day, students with out-of-school suspensions and expulsions are far more likely to commit crimes.”

Researchers have pointed out that “many suspended students find school to be challenging and experience suspension from school as a reward. Suspensions may be reinforcing and even incentivizing the very behavior they are meant to correct.” (Rumberger, 2017)

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.”

Rates of suspension/expulsion have dropped dramatically. According to CDE data on discipline in California public schools, from 2011-12 to 2023-24:

- Total suspensions for all offenses dropped 57%, from 709,702 to 307,774; and
- Total expulsions for all offenses dropped 58%, from 9,758 to 4,133.

California has invested in alternatives to suspension and expulsion to improve school climate and culture. In recent years, the Legislature has allocated resources specifically designed to improve school climate and reduce exclusionary disciplinary practices. These include, but are not limited to, significant investments in:

- Multi-Tiered Systems of Support (MTSS) to encourage LEAs to establish and align school wide, data-driven systems of academic and behavioral supports to more effectively meet the needs of California’s diverse learners in the most inclusive environment;
- Community Schools are public schools that serves prekindergarten through grade 12 and have community partnerships that support improved academic outcomes, whole-child engagement, and family development. Community school partnership strategies include integrated support services, extended learning time, and collaborative leadership and practices for educators and administrators. Community schools can increase equitable student learning outcomes by addressing the conditions for teaching and learning. Community schools support the needs of the whole child by strengthening family and

community foundations with approaches that sustain mental and behavioral health through healing-centered practices, social–emotional learning, and restorative justice;

- Social and emotional learning (SEL) is defined as the process through which all young people and adults acquire and apply the knowledge, skills, and attitudes to: develop healthy identities; manage emotions and achieve personal and collective goals; feel and show empathy for others; establish and maintain supportive relationships; and make responsible and caring decisions;
- Restorative justice (RJ) practices in school include: staff and students having a shared vocabulary that enables them to express feelings in a healthy productive way and to criticize the deed, not the doer; impromptu student conferences used to redirect a student’s behavior in a way that minimizes disruption to instructional time; and restorative circles structured processes guided by a trained facilitator with a strong emphasis on the importance of listening, facilitated by using a talking piece;
- Positive Behavior Interventions and Support (PBIS) is a schoolwide approach to discipline that is intended to create safe, predictable, and positive school environments. When PBIS is implemented with fidelity, schools see fewer students with serious behavior problems and an overall improvement in school climate. The key PBIS practices include: clearly defining behavioral expectations of the school community; proactively teaching what those expected behaviors look like in various school settings on a regular basis; frequently recognizing students who comply with behavioral expectations; administering a clearly defined continuum of consequences for behavioral violations; and continuously collecting and analyzing data to assess students’ responsiveness to the behavioral supports provided.

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

- 1) Require that the CDE model policy addressing cyberbullying outside of school hours specify that LEAs are authorized, but not required, to address these acts; and that this does not impose liability on an LEA for failing to address those acts.
- 2) Require that LEAs adopt a policy on addressing acts of cyberbullying occurring outside of school hours, and specify that they may adopt the model policy developed by the CDE or a locally adopted policy with input from stakeholders.
- 3) Remove the requirement that LEAs provide the model policy to each employee, student, and parent, and instead require that the policy to be posted on the website of the LEA and of each school within the LEA.

Related legislation. AB 2351 (Lowenthal) of the 2023-24 Session would have authorized a student to be suspended from school or recommended from expulsion on the basis of specified acts taking place outside of school hours, provided that conduct that is speech or other communication, when engaged in outside of the campus, is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, or invading the rights of either school personnel or pupils by creating an

intimidating or hostile educational environment. This bill was held in the Assembly Appropriations Committee.

AB 2711 (Ramos) Chapter 840, Statutes of 2024, prohibits the suspension of students enrolled in grades 1-12 who voluntarily disclose their use of a controlled substance, alcohol, an intoxicant of any kind, or tobacco in order to seek help through services or supports and applies this prohibition for charter schools.

AB 1919 (Weber) of the 2023-24 Session would have required school districts to document any alternative means of correction used prior to the suspension of a student and, upon appropriation, an LEA, beginning July 1, 2026, to adopt at least one of the best practices for restorative justice practice implementation as identified by the CDE, contingent upon an appropriation. This bill was vetoed by the Governor with the following message:

I respect the author's commitment to expanding restorative justice practices in our schools. Providing students with alternative conflict resolution methods is an important strategy for improving the academic achievement and school environment for all students. Unfortunately, while contingent upon budget appropriation, this bill adds tens of millions in ongoing cost pressures to future budgets.

In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure. For this reason, I cannot sign this bill.

SB 274 (Skinner) Chapter 597, Statutes of 2023, prohibits the suspension or expulsion of a student enrolled in 6th through 12th grade in a public school on the basis of willful defiance until July 1, 2029, authorizes employees to refer students to school administrators for in-school interventions or supports, and requires that administrators document the actions taken in the student's record and inform the referring employee of those actions.

AB 1165 (McCarty) Chapter 22, Statutes of 2023, encourages LEAs to refer both the victim and perpetrator of an incident of racist bullying, harassment, or intimidation to a restorative justice program that suits the needs of both the victim and the perpetrator.

AB 2598 (Weber), Chapter 914, Statutes of 2022, requires the CDE to develop and post on its website by June 1, 2024, evidence-based best practices for restorative justice practices for LEAs to implement to improve campus culture and climate.

SB 419 (Skinner), Chapter 279, Statutes of 2019, commencing July 1, 2020, extends the permanent prohibition against suspending a pupil enrolled in kindergarten or any of grades 1 to 3 for disrupting school activities or otherwise willfully defied the valid authority of school staff to include grades 4 and 5 permanently; and to include grades 6 to 8, inclusive, until July 1, 2025; and applies these prohibitions to charter schools.

AB 34 (Ramos) Chapter 282, Statutes of 2019, requires LEAs, commencing with the 2020-21 school year, to provide specified bullying and harassment prevention information in a prominent location on their existing websites.

AB 1808 (Committee on Budget) Chapter 32, Statutes of 2018, removed the sunset on the prohibition on suspending a student in kindergarten through third grade or recommending a student in kindergarten through 12th grade for expulsion on the basis of willful defiance making these prohibitions permanent.

AB 667 (Reyes) Chapter 445, Statutes of 2017, 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.

AB 2845 (Williams) Chapter 621, Statutes of 2016, requires the CDE to assess whether LEAs have provided information to staff serving students in grades 7 through 12 on resources related to bullying due to religious affiliation and requires the CDE to post on its website a list of resources that support students who have been subject to school-based discrimination on the basis of actual or perceived religious affiliation, nationality, race, or ethnicity.

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

None on file

Opposition

None on file

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