
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1974 **Hearing Date:** June 13, 2018
Author: Gonzalez Fletcher
Version: May 2, 2018
Urgency: No **Fiscal:** Yes
Consultant: Lynn Lorber

Subject: Pupils: collection of debt.

SUMMARY

This bill prohibits public schools from billing a student or former student for a debt owed to the school.

BACKGROUND

Existing law:

- 1) Prohibits a public school from requiring a student to pay a student fee for participation in an educational activity, and provides for the following:
 - a) Requires that all supplies, materials, and equipment needed to participate in educational activities are to be provided to student free of charge.
 - b) Prohibits a fee waiver policy from making a student fee permissible.
 - c) Prohibits school districts and schools from establishing a two-tier educational system by requiring a minimal educational standard and also offering a second, higher educational standard that students may only obtain through payment of a fee or purchase of additional supplies that the school district or school does not provide.
 - d) Prohibits a school district or school from offering course credit or privileges related to educational activities in exchange for money or donations of goods or services from a student or a student's parents or guardians, and prohibits a school district or school from removing course credit or privileges related to educational activities, or otherwise discriminate against a student, because the student or the student's parents or guardians did not or will not provide money or donations of goods or services to the school district or school. (Education Code § 49011)
- 2) Applies these provisions to all public schools, including but not limited to charter schools and alternative schools. (EC § 49011)
- 3) Provides that the parent or guardian of a minor who willfully cuts, defaces, or otherwise injures any property belonging to a school district to be liable for all damages, as well as for all property belonging to the school district loaned to the minor and not returned. Existing law authorizes a school district to withhold the

grades, diploma, and transcripts of a student who is responsible for the damage. Existing law requires the school district to provide a program of voluntary work for the minor in lieu of the payment of monetary damages, if the minor and parent are unable to pay. (EC § 48904)

- 4) Defines a “pupil fee” as a fee, deposit, or other charge imposed on students, or a student’s parents or guardians, in violation of Section 49011 and Section 5 of Article IX of the California Constitution, which require educational activities to be provided free of charge to all students without regard to their families’ ability or willingness to pay fees or request special waivers, as provided for in *Hartzell v. Connell* (1984) 35 Cal.3d 899. A student fee includes but is not limited to all of the following:
 - a) A fee charged to a student as a condition for registering for school or classes, or as a condition for participation in a class or an extracurricular activity, regardless of whether the class or activity is elective or compulsory, or is for credit.
 - b) A security deposit, or other payment, that a student is required to make to obtain a lock, locker, book, class apparatus, musical instrument, uniform, or other materials or equipment.
 - c) A purchase that a student is required to make to obtain materials, supplies, equipment, or uniforms associated with an educational activity. (EC § 49010)
- 5) Defines “educational activity” as an activity offered by a school, school district, charter school, or county office of education that constitutes an integral fundamental part of elementary and secondary education, including but not limited to, curricular and extracurricular activities.
- 6) Prohibits certain schools that provide school meals through the federal National School Lunch Program or the federal School Breakfast Program from taking any action directed at a student to collect unpaid school meal fees. Existing law authorizes schools to attempt to collect unpaid school meal fees from a parent or guardian, but prohibits the school from using a debt collector. (EC § 49557.5)

ANALYSIS

This bill prohibits public schools from billing a student or former student for a debt owed to the school. Specifically, this bill:

- 1) Prohibits a student or former student, unless emancipated at the time the debt is incurred, from owing or being billed for a debt owed to a public school or school district.
- 2) Prohibits a public school or school district from taking negative action against a student or former student because of a debt owed, including but not limited to all of the following:

- a) Denying or withholding grades or transcripts.
 - b) Denying or withholding a diploma.
 - c) Limiting or barring participation in an extracurricular activity, club, or sport.
 - d) Limiting or excluding from participation in an educational activity or field trip.
- 3) Requires a public school or school district to provide a receipt to the parent or guardian or former student for each payment made to the school or district for any amount owed by the parent or guardian on behalf of the student or former student.
 - 4) Prohibits a debt collector from reporting a debt owed by a parent or guardian to a credit reporting agency if the debt collector is contracted with a public school or school district for the purpose of pursuing the repayment of a debt owed by a parent or guardian.
 - 5) Exempts from these provisions a debt owed as a result of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to a student that the student fails to return or that are willfully, cut, defaced, or otherwise injured. This bill authorizes a school or district to request alternative, non-monetary forms of compensation to settle this type of debt.
 - 6) Prohibits the collection of debt described in # 5 from a student who is homeless.
 - 7) Prohibits a school or school district from selling debt owed by a parent or guardian.
 - 8) Provides that any waiver by a parent, guardian, student or former student of these provisions is contrary to public policy and is unenforceable and void.
 - 9) Provides the following definitions:
 - a) “Homeless child or youth” as defined by the federal McKinney-Vento Homeless Assistance Act.
 - b) “Public school” to include the state special schools, charter schools, school operated by a county office of education, and schools within a school district.
 - c) “School district” as a school district or county office of education.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author’s office, “Increasingly, families are expected to pay more and more in order for their children to participate in school. From bus rides to physical education clothes, parents who lack the resources to

keep up with bills from school have increasing opportunities to go into debt with the school district. When taking adverse action against a student for a school debt a parent owes, school districts are punishing students on an issue that they have little or no knowledge of, or control over. Furthermore, exclusions from co-curricular and ceremonial activities result in differential treatment amongst pupils that can affect an individual student's social well-being.”

- 2) ***Does not prohibit schools from collecting debt from parents.*** This bill prohibits schools from collecting debt from students and from taking negative actions against students for unpaid debt. This bill does *not* prohibit schools from collecting debt from parents, other than the bill's prohibition against reporting a debt owed by a parent or guardian to a credit reporting agency. Does the possibility of being reported to a credit reporting agency motivate parents to pay their debts to schools?
- 3) ***Still allows withholding grades, transcripts, and diplomas for willful damage.*** This bill exempts from its provisions a debt owed as a result of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to a student that the student fails to return or that are willfully, cut, defaced, or otherwise injured. A separate section of the Education Code specifically authorizes schools to withhold the grades, diploma, and transcripts of a student who is responsible for such damage (after affording the student due process rights and after notifying the parent in writing). This bill does not affect this authority. Does the possibility of having grades withheld for other types of debt motivate students to pay their debts to schools?
- 4) ***Exemption for students who are homeless.*** This bill prohibits the collection of debt from a student who is homeless that is owed as a result of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to a student that the student fails to return or that are willfully, cut, defaced, or otherwise injured. **Staff recommends an amendment** to also exempt a student who is a foster youth, and to clarify that this exemption applies to current or former homeless or foster youth (these students are unlikely to have the ability to pay debt owed even if their status changes and they are no longer homeless or in foster care).
- 5) ***Some fees are permissible.*** Existing law permits the assessment of fees for specific purposes such as certain materials and equipment, transportation, food, and field trips. However, there are restrictions against charging permissible fees to low-income families. For example, while schools may charge a fee for transportation, they must provide waivers based on financial need. Similarly, schools may charge a fee for field trips, but are prohibited from excluding from a field trip a pupil whose family cannot afford the fee. Schools may also charge a fee for the replacement cost for books, supplies, or property that were loaned to a pupil and not returned or that has been willfully damaged. In general, existing law attempts to strike a balance between the ability of a district to assess those fees that are not prohibited and the need to avoid imposing a financial burden on families that cannot afford them.

- 6) ***Other forms of compensation.*** This bill exempts from its provisions a debt owed as a result of vandalism or to cover the replacement cost of public school or school district books, supplies, or property loaned to a student that the student fails to return or that are willfully, cut, defaced, or otherwise injured. This bill authorizes a school or district to request alternative, non-monetary forms of compensation to settle this type of debt. Should this bill also authorize the request for alternative, non-monetary forms of compensation to settle all types of debt?
- 7) ***Unintended consequences?*** According to the Assembly Education Committee analysis of this bill, San Diego Unified School District sent \$704,459 of unpaid transportation fees to debt collections between 2010-11 and 2016-17. This figure does not include unpaid fees (if any) for other purposes that were not sent to collections. This bill applies to the collection of debt for all permissible fees. As is noted in Comment # 8, this bill imposes potentially significant costs on school districts. Could this bill result in school districts choosing to stop providing opportunities that rely upon permissible fees, such as field trips?
- 8) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill would impose:
- a) Unknown, ongoing Proposition 98 general fund (GF) cost pressures, potentially in the high hundreds of thousands of dollars to low millions of dollars annually, for school districts to absorb the costs of certain unpaid fee debt. Costs would vary by school district depending on the debt currently owed, the fees charged, and the extent to which this bill limits a school district's ability to retrieve debt. (The state has over 1,000 school districts. Were each district to absorb \$500 worth of fee debt annually, costs would be \$500,000.) The state would need to reimburse these costs to schools, if the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate.
 - b) Potential Proposition 98 GF, likely in the thousands of dollars annually, for schools to provide a recipient to parents when they make debt payments. The state would need to reimburse these costs to schools, if the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate.

SUPPORT

Western Center on Law & Poverty (sponsor)
Alliance for Boys and Men of Color
California Association of Food Banks
Coalition of California Welfare Rights Organizations
East Bay Community Law Center
Feeding San Diego
Food for People, the Food Bank for Humboldt County
National Center for Youth Law
PolicyLink
Women Organizing Resources, Knowledge and Services (WORKS)

OPPOSITION

None received

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