
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair

2015 - 2016 Regular

Bill No: AB 1012
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Subject: Pupil instruction: course periods without educational content

SUMMARY

This bill prohibits a school district serving any of grades 7-12 from assigning students to any course without educational content for more than one week in any semester, and prohibits the assignment of any student to a course that the student has previously completed and received a satisfactory grade, unless specified conditions are met.

BACKGROUND

Existing law:

- 1) Requires each school district serving any of grades 7-12 to offer to all otherwise qualified students a course of study fulfilling the requirements and prerequisites for admission to the California public institutions of postsecondary education and provide a timely opportunity to each student to enroll within a four-year period in each course necessary to fulfill those requirements and prerequisites prior to graduation from high school. Existing law also requires each school district to offer a course of study that provides an opportunity for students to attain entry-level employment skills in business or industry upon graduation from high school, and encourages districts to provide all students with a rigorous academic curriculum that integrates academic and career skills, incorporates applied learning in all disciplines, and prepares all students for high school graduation and career entry.
(Education Code § 51228)
- 2) Requires a student to pass both the English language arts and mathematics portions of the California High School Exit Exam and complete the following courses as a condition of graduating from high school:
 - a) Three years of English.
 - b) Two years of mathematics.
 - c) Two years of science, including biological and physical sciences.
 - d) Three years of social studies, including United States history and geography; world history, culture, and geography; one semester of American government and civics, and one semester of economics.

- e) One year of visual or performing arts, foreign language, or until July 1, 2017, career technical education.
 - f) Two years of physical education. (Education Code § 60851 and § 51225.3)
- 3) Requires one of the two years of mathematics to meet or exceed the rigor of the content standards for Algebra I. (EC § 51224.5)
 - 4) Authorizes school districts to impose additional coursework requirements as a condition of graduation from high school. (EC § 51225.3)
 - 5) Requires that only the attendance of students under the immediate supervision and control of a certificated employee is counted toward the computation of average daily attendance. (EC § 46300)
 - 6) Establishes the minimum day for high schools as 240 minutes. (EC § 46141)
 - 7) Through regulation, requires local education agencies to adopt uniform complaint procedures through which the public can register complaints regarding educational programs and rights. (California Code of Regulations, Title 5, Section 4600 et seq.)

The University of California and the California State University established minimum coursework requirements for freshman admission, known as the A-G requirements. <http://www.ucop.edu/agguide/a-g-requirements/>

ANALYSIS

This bill prohibits a school district serving any of grades 7-12 from assigning students to any course without educational content for more than one week in any semester, and prohibits the assignment of any student to a course that the student has previously completed and received a satisfactory grade, unless specified conditions are met. Specifically, this bill:

Courses without educational content

- 1) Prohibits, beginning in the 2016-17 school year, a school district maintaining any of grades 7-12 from assigning any student to any course period without educational content for more than one week in any semester, unless all of the following conditions are met:
 - a) For a student who *has not* fulfilled the prerequisites for admission to the University of California and California State University or the coursework requirements for high school graduation:
 - i) The principal or an assistant principal certifies in a document to be placed in the student's cumulative record that:
 - A) The student will benefit from the course, and provides an individualized explanation in the written certification for that conclusion. The certification

may include an individualized determination that the student will benefit from mentorship that will be provided by the certificated or certified employee supervising the student during the course period.

- B) Providing a course period with educational content is not likely to benefit the student to the same extent as providing the course period without educational content, and provides an explanation in the certification for that conclusion.
 - C) The student is not being assigned to the course because there are no other courses with curricular content for the student to take during the relevant period in the designated schoolday.
 - D) The students and the parent, legal guardian, or educational rights holder have consented to the student's enrollment in the course period without educational content and that the school has obtained a consent form, signed by the student and the parent, legal guardian or educational rights holder.
- ii) The student is assigned to no more than one course period without educational content during a single semester.
- b) For a student who *has* fulfilled both the prerequisites for admission to the University of California and California State University and the coursework requirements for high school graduation:
- i) The principal or an assistant principal certifies in a document to be placed in the student's cumulative record that:
 - A) The student will benefit from the course, and provides an individualized explanation in the written certification for that conclusion. The certification may include an individualized determination that the student will benefit from mentorship that will be provided by the certificated or certified employee supervising the student during the course period, or identification of the educational or employment opportunity that assigning the course period will allow the student to pursue and reason for concluding the student will, in fact, pursue that opportunity.
 - B) The student is not being assigned to the course because there are no other courses with curricular content for the student to take during the relevant period in the designated schoolday.
 - C) The students and the parent, legal guardian, or educational rights holder have consented to the student's enrollment in the course period without educational content and that the school has obtained a consent form, signed by the student and the parent, legal guardian or educational rights holder.
- 2) Defines "course period without educational content" as one course period during which any of the following occurs:

- a) The student is sent home or released from campus before the conclusion of the designated schoolday.
- b) The student is assigned to service, instructional work experience, or to a course that has a different name, but involves the student providing assistance to a certificated employee in a situation in which the ratio of student to employee exceed one-to-one.
- c) The student is not assigned to any course for the relevant course period.

Assignment to previously completed courses

Prohibits a school district maintaining any of grades 7-12 from assigning any student to a course that the student has previously completed and received a grade determined by the district to be sufficient to satisfy the requirements and prerequisites for admission to the University of California and California State University and the coursework requirements for high school graduation, unless the student is assigned to improve a lesser grade or because the course has been designed to be taken more than once, or unless the principal or an assistant principal certifies in a document to be placed in the student's cumulative record that:

- 1) The course is designed to be repeated because students are exposed to a new curriculum year-to-year and are therefore expected to derive educational value from taking the course again.
- 2) The student is not being assigned to the course because there are no other courses with curricular content for the student to take during the relevant period in the designated schoolday.
- 3) The student has consented to the student's enrollment in the course.

Complaints

- 1) Authorizes a complaint of non-compliance with the prohibition on assigning students to course periods without educational content or to courses that the student has previously completed and received a satisfactory grade to be filed with the local educational agency (LEA) under the Uniform Complaint Procedures (UCP).
- 2) Authorizes a complainant who is not satisfied with the decisions of a LEA to appeal the decision to the California Department of Education (CDE) through the existing UCP appeal process, and requires that the complainant receive a decision regarding the appeal within 60 days of the CDE's receipt of the appeal.
- 3) Requires the LEA to provide a remedy to the affected student if the LEA or the Superintendent of Public Instruction (SPI) finds merit in a complaint.

- 4) Requires the SPI to prepare an annual report detailing actions taken regarding related complaints, and requires the SPI, by January 1 of each fiscal year, to submit the report to the appropriate fiscal and policy committees of the Legislature.
- 5) Specifies that the SPI has all power and authority necessary to effectuate the requirements regarding complaints.

Miscellaneous

- 1) Prohibits, under any circumstances, a school district from assigning any student to a course period without educational content, or to a course that the student has previously completed and received a satisfactory grade, because there are not sufficient curricular course offerings for the student to take during that period of the schoolday.
- 2) Provides that this bill does not limit or otherwise affect the authority of a school district to establish evening high school classes, independent study, courses of work-based learning or work experience, distance learning, military science, community service classes, driver's training and similar courses or instruction if the program otherwise meets all of the requirements of law governing that program.
- 3) Exempts from this bill students who are enrolled in an alternative school, a community day school, a continuation high school or an opportunity school.
- 4) Requires the Superintendent of Public Instruction (SPI) to adopt regulations to establish procedures required by this bill, including the form for the certifications regarding the assignment to course periods without educational content and assignment to previously completed courses.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Thousands of high school students across California are tracked into so-called 'classes,' where they are given meaningless 'credits' for sitting at home, doing nothing while sitting in the office, or taking a course they've already passed. School districts have given these courses different names ('home,' 'service,' or 'work experience'), but they all have a common trait: they rob students of learning time and the opportunity for a real education. And many of the affected students need real, academic classes to fulfill graduation or college access requirements. The schools where this occurs serve almost exclusively low-income students of color. Although this is not the norm across California, it is all-too common in communities where students can least afford to lose learning time."
- 2) ***Author's amendments.*** The author wishes to amend this bill to significantly streamline the process that schools must follow:
 - a) Delete references to meeting the A-G or high school graduation requirements, making individualized determinations, and including written certification in each

student's cumulative file, and instead prohibits the assignment of a student to a course period without educational content unless all of the following conditions are met:

- i) The student, or if the student is a minor, the parent, legal guardian or educational rights holder has consented to assignment to a course period without educational content.
 - ii) A school official has determined that the student will benefit from being assigned to a course period without educational content.
 - iii) The principal or an assistant principal has stated in a written document to be maintained at the school that, for the relevant academic year, no students are assigned to course periods without educational content unless the school has met the conditions described above.
- b) Delete the distinction between students who have or have not met A-G or high school graduation requirements relative to the processes that schoolsite administrators must follow, thereby establishing only one process for the assignment of students to courses without educational content.
 - c) Limit the scope of the bill to grades 9-12.
 - d) Modify the definition of "course period without educational content" to include that the student is not expected to complete curricular assignments.
 - e) Clarify the process for meeting criteria for the assignment of a student to a course that the student previously completed with a satisfactory grade.
- 3) **Related lawsuit.** This bill is related to *Cruz v. State of California*, a class action lawsuit filed May 29th, 2014, in Alameda County Superior Court against the State on behalf of students in seven schools.

The plaintiffs allege that the state has violated the rights of the plaintiffs provided by the Equal Protection clauses of the state constitution "by failing to provide them with basic educational opportunities equal to those that other students elsewhere in the State receive" with regard to meaningful learning time. The complaint requests that the court address the state's monitoring system and its intervention to prevent and remedy the causes of lost learning time. The plaintiffs allege that this lack of instructional time is due to several factors, including:

- a) Assignment of students to administrative tasks or free periods instead of assignment to classroom periods of instruction because of insufficient curricular offerings and a lack of available qualified teachers.
- b) Violence or security disruptions, which result in cessation of instruction and traumatic after-effects, and insufficient access to mental health professionals to assist students and faculty in coping with these disruptions.

- c) Late changes to the master course schedule requiring course and teacher changes well into the semester.
- d) Unstable, transient teaching faculties and administrative teams (including principals, assistant principals, and counselors), resulting from under-resourced and stressful campuses not conducive to professional development and growth.
- e) Unaddressed student absenteeism, resulting in whole or part from campus conditions. <http://www.publiccounsel.org/tools/assets/files/0511.pdf>

On February 5, 2015, the plaintiffs filed a motion for a preliminary injunction. On April 24, 2015, the court denied this motion, stating that, "If, at this stage, Plaintiffs cannot supply reliable evidence regarding the actual practices of most California high schools with regard to the use of contentless classes and the timely implementation of appropriate master schedules, the court lacks a fair standard against which to measure the performance of Plaintiff's own high schools and cannot determine, even preliminarily, whether Plaintiffs have some possibility of prevailing on their claims."

- 4) **Course periods without educational content.** This bill, as proposed to be amended, defines "course period without educational content" to include "a service, instructional work experience, or otherwise named course where the pupil is assigned to assist a certificated employee but not expected to complete curricular assignments in a course the certificated employee is teaching that period, and where the ratio of certificated employees to students so assigned is less than one to one." This definition appears to many, but not all, to allow for the assignment to courses such as AVID, ROTC, study hall, student government, student journalism, and similar courses. Is this definition sufficient to clearly allow for the assignment to such courses?
- 5) **Technical amendments.** Staff recommends amendments as follows:
 - a) This bill requires the Superintendent of Public Instruction (SPI) to prepare an annual report detailing actions taken regarding related complaints, and requires the SPI, by January 1 of each fiscal year, to submit the report to the appropriate fiscal and policy committees of the Legislature. Staff recommends deleting reference to fiscal year (strike "fiscal").
 - b) This bill requires the SPI to adopt regulations to establish procedures required by this bill, including the form for the certifications regarding the assignment to course periods without educational content and assignment to previously completed courses. Staff recommends to instead require the SPI to develop, and the State Board of Education to adopt, the regulations.
 - c) The author's proposed amendments prohibit the assignment of a student to a course period without educational content unless, among other things, the student or parent (if the student is a minor) has consented to the assignment. Staff recommends that amendments specify consent is to be in writing.

- 6) **Fiscal impact.** According to the Assembly Appropriations Committee, unknown, likely minor, Proposition 98/General Fund state mandated costs related to the expansion of the Uniform Complaint Procedures (UCP), and unknown administrative costs to the California Department of Education to process UCP appeals, likely not to exceed \$300,000.
- 7) **Related legislation.** AB 379 (Gordon, 2015) expands the UCP to include complaints of non-compliance with certain rights and responsibilities regarding the education of students who are in foster care or who are homeless, including school placement decisions, responsibilities of foster youth liaisons, provisions regarding school transfers, exemption from locally-imposed graduation requirements, and the awarding of partial credit for completed coursework. AB 379 is pending in the Senate Appropriations Committee.

AB 1391 (Gomez, 2015) an urgency measure, expands the Uniform Complaint Procedures (UCP) to include complaints of non-compliance with the required minimum instructional minutes for physical education. AB 1391 is pending in the Senate Appropriations Committee.

AB 412 (Chavez, 2015) authorizes complaints of non-compliance with the required minimum instructional minutes for physical education to be filed with a local complaint process or through the UCP. AB 412 was never heard.

AB 302 (Cristina Garcia, 2015) requires local educational agencies to provide reasonable accommodations to a lactating pupil on a school campus to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding, and expands the UCP to include complaints of non-compliance with this requirement. AB 302 is scheduled to be heard by this Committee on July 8.

SB 81 (Committee on Budget and Fiscal Review, Ch. 22, 2015) among other things, expands the UCP to include complaints regarding an alleged violation by a local agency of federal or state law or regulations governing adult education programs or regional occupational centers and programs.

SB 425 (Hernandez, 2015) among other things, expands the UCP to include complaints regarding an alleged violation by a local agency of federal or state law or regulations governing adult education programs or regional occupational centers and programs, including allegations of unlawful discrimination, harassment, intimidation, or bullying. SB 425 is pending in the Assembly Higher Education Committee.

AB 907 (Burke, 2015) is nearly identical to SB 425. AB 907 is pending in this Committee.

SUPPORT

American Civil Liberties Union
Californians for Justice

California State Conference of the National Association of the Advancement of Colored
People
Education Trust-West
EdVoice
Families in Schools
Public Advocates
Public Counsel

OPPOSITION

California School Boards Association

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