
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 2291 **Hearing Date:** June 6, 2018
Author: Chiu
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Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: School safety: bullying.

SUMMARY

This bill requires: (1) a local educational agency (LEA) to adopt procedures for preventing acts of bullying; (2) the California Department of Education (CDE) to post on its web site the online training module relating bullying and cyberbullying developed by CDE, as well as an annually updated list of other online training modules relating to bullying and cyberbullying; and (3) schools operated by a school districts or county office of educations and charter schools to annually make available the online training module developed by the CDE to specified employees.

BACKGROUND

Existing law:

- 1) Establishes the Safe Place to Learn Act, which:
 - a) Requires the CDE to monitor, as part of its compliance monitoring process, whether LEAs have:
 - i) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics defined as hate crimes, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy must include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.
 - ii) Adopted a process for receiving and investigating complaints relating to discrimination, harassment, intimidation, and bullying, including:
 - I. A requirement that school personnel who witness such acts take immediate steps to intervene when safe to do so.
 - II. A timeline for the investigation and resolution of complaints, and an appeal process.

- iii) Publicized antidiscrimination, anti-harassment, anti-intimidation, and anti-bullying policies, including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public.
 - iv) Provided certificated school employees in schools serving pupils in grades 7 to 12, information on existing schoolsite and community resources related to the support of lesbian, gay, bisexual, transgender, and questioning (LGBTQ) pupils, or related to the support of pupils who may face bias or bullying on the basis of religious affiliation, or perceived religious affiliation.
 - v) Posted the policy in all schools and offices, including staff lounges and pupil government meeting rooms.
 - vi) Maintained documentation of complaints and their resolution for a minimum of one review cycle.
 - vii) Ensured that complainants are protected from retaliation and that their identity remains confidential, as appropriate.
 - viii) Identified a responsible local educational agency (LEA) officer for ensuring compliance. (Education Code § 234.1)
- b) Requires the California Department of Education (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)
- c) 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)
- 2) Requires each school district or county office of education to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. The schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (EC § 32281)
- 3) Requires school safety plans to include, among other things, a discrimination and harassment policy consistent with the prohibition against discrimination identified the Safe Place to Learn Act. (EC § 32282)
- 4) Encourages all comprehensive school safety plans, as they are reviewed and updated, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying. (EC § 32282)

- 5) Requires the California Department of Education (CDE) to develop an online training module to assist all school staff, school administrators, parents, pupils, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. The training module developed by CDE is required to include, but not be limited to, identifying an act of bullying or cyberbullying, and implementing strategies to address bullying and cyberbullying. (EC § 32282.5)
- 6) Requires a charter school petition to include the procedures that the charter school will follow to ensure the safety of pupils and staff. (EC § 47605)
- 7) Prohibits the suspension of a pupil or an expulsion, unless it has been determined that the pupil has committed certain acts, including engaging in an act of bullying, including bullying by an electronic act. (EC § 48900)
- 8) Authorizes a school or district administrator to refer a victim of, witness to, other pupil affected by, an act of bullying, or a pupil who has engaged in an act of bullying to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate. (EC § 48900.9)

ANALYSIS

This bill requires: (1) a local educational agency (LEA) to adopt procedures for preventing acts of bullying; (2) the CDE to post on its web site the online training module relating bullying and cyberbullying developed by CDE, as well as an annually updated list of other online training modules relating to bullying and cyberbullying; and (3) schools operated by a school districts or county office of educations and charter schools to annually make available the online training module developed by the CDE to specified employees. Specifically, this bill:

- 1) Requires a LEA shall adopt, on or before December 31, 2019, procedures for preventing acts of bullying.
- 2) Requires CDE to post on its Internet Web site:
 - a) The online training module developed by CDE described above.
 - b) A list of available online training modules relating to bullying or bullying prevention, which CDE shall annually update.
- 3) Requires a school operated by a school district or county office of education and a charter school to annually make available the online training module developed by the CDE to certificated schoolsite employees and all other schoolsite employees who have regular interaction with pupils.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Divisive national political attitudes have inflamed a disturbing trend of scapegoating and fear mongering towards

vulnerable populations based on their ethnic heritage, sexual orientation, gender, and religion. Distressingly, this attitude filters down into our schools. Studies have shown that when a student is bullied or harassed, the most common motivation for that behavior is tied to the victim's race, national origin, religion, gender, and sexual orientation.

A student survey from 2016 by the Council of American-Islamic Relations found that Muslim students reported significantly higher rates of discrimination and bullying compared to others. Findings showed that 53 percent of respondents report that students at school are made fun of, verbally insulted, or abused for being Muslim, more than double the national average. These same students are hesitant to report incidents, based on fear of retaliation, and a belief that teachers do not have the training needed to intervene and prevent these incidents.

Children who suffer chronic and moderate levels of bullying at school have lower academic achievement and less confidence in their academic abilities as a result of their experiences. School districts lose out on an estimated \$276 million annually, due to student absenteeism caused by bullying. It is vital that educators and school staff have every tool available in order to prevent these experiences in our classrooms.”

2) ***Bullying in schools.*** As noted in the Assembly Education Committee's analysis, bullying continues to be an issue in our schools, particularly for some communities of students. For example, A 2015 report published by the California chapter of the Council on American-Islamic Relations, titled *Mislabeled: The Impact of School Bullying and Discrimination on California Muslim Students*, reported data from surveys of 500 Muslim students in California:

- 55 percent of students surveyed reported being subjected to some form of bullying based on their religious identity. This is twice as high as the national percentage of students who report being bullied at school;
- 29 percent of the female students who wear a hijab, the Islamic headscarf, reported being offensively touched by another student, and 27 percent reported being discriminated against by their teacher;
- 19 percent of students reported cyberbullying based on religion;
- 20 percent of students reported that school staff either made offensive comments about the students' religion;
- 20 percent of students who reported bullying were unhappy with the response from school administrators.

Another example, The Gay Lesbian Straight Education Network's 2013 National School Climate Survey found that:

- 91 percent of California lesbian, gay, bisexual, transgender, and questioning (LGBTQ) students report hearing anti-LGBTQ remarks;

- 7 in 10 reported being called names or threatened based on their sexual orientation;
- Nearly one-third report physical harassment or assault;
- 46 percent report cyberbullying;
- Lesbian, gay, bisexual, transgender, and questioning (LGBTQ) students who are harassed do not report these incidents to school staff, primarily because they believe school staff will not address these problems.

- 3) ***Procedures for cyberbullying?*** This bill requires local educational agencies to adopt procedures for preventing bullying. Additionally, the bill requires the California Department of Education (CDE) to post online training modules relating to both bullying and cyberbullying. Elsewhere in the Education Code, specifically in the suspension and expulsion area, the Education Code provides definitions for many terms relating to bullying, including “bullying” to include bullying by “an electronic act,” which is analogous to cyberbullying. That same section of the Education Code also provides a definition for “cyber sexual bullying” and “burn pages.” While it may be counterproductive to prescribe an all-encompassing definition for bullying for purposes of this bill, ***staff recommends that the bill be amended*** to use consistent references to bullying, cyberbullying, and local educational agencies (LEAs), as detailed below:

“(a) A local educational agency shall adopt, on or before December 31, 2019, procedures for preventing acts of bullying, *including cyberbullying.*

“(b) For purposes of this section, a “local educational agency” means a school district, county office of education, or charter school.”

- 4) ***Incorporated into school safety plans?*** As noted above, comprehensive school safety plans are required to include a discrimination and harassment policy consistent with the state prohibition against discrimination. Importantly though, school safety plans are only *encouraged* to include procedures for *preventing* bullying. Additionally, it does not appear that the policies required by the Safe Place to Learn Act regarding harassment, intimidation, and bullying require anything specific to procedures for *prevention*; instead the policy must only prohibit those acts and include a process for receiving and investigating complaints responding to instances of harassment, intimidation, and bullying. Moreover, the school safety plan checklist provided by the CDE indicates that discrimination and harassment policy required in school safety plans is specific to hate crimes, but it does note that: “While the Legislature encourages school safety plans to include bullying policies and procedures to the extent resources are available, other legislation requires that all schools have an anti-bullying policy the covers all types of bullying, including cyber-bullying. While it is not required to place these policies in the school safety plan, they may be placed here.”

A previous version of this bill required that the procedures for preventing bullying be required as part of the school safety plan. However, as noted in the Assembly Appropriations Committee analysis, “Current law also requires schools to have adopted policies to prohibit discrimination and bullying as part of their school safety plans. This bill’s requirement for schools to adopt procedures for the prevention of bullying likely would be added to these school safety plans. The California Department of Education CDE oversees school safety plans as part of regular compliance monitoring process.”

- 5) ***Previous legislation.*** AB 1318 (Chiu, 2017) would have required schools to provide staff members information about local resources available to support pupils subject to bias and discrimination based on certain actual or perceived characteristics; required annual trainings of school staff on addressing intergroup conflict; requires reporting of bullying incidents to the Superintendent of Public Instruction (SPI); and required (CDE) to provide specific information on its website related to bias and discrimination and intergroup conflict. AB 1318 was held in Assembly Appropriations in 2017.

AB 2845 (Williams, Chapter 621, Statutes of 2016) requires the CDE, as part of its existing compliance monitoring activities, 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 the 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 827 (O’Donnell, Chapter 562, Statutes of 2015) requires the 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 lesbian, gay, bisexual, transgender, and questioning (LGBTQ) students.

AB 1993 (Fox, Chapter 418, Statutes of 2014) requires the CDE to develop an online training module on bullying and cyberbullying referenced in this bill.

AB 514 (Bonta, Chapter 514, Statutes of 2013) expands the existing list of resources the SPI is required to post on the CDE website to include resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home and at school.

AB 9 (Ammiano), Chapter 723, Statutes of 2011) requires a school district to include specific information in its policies and procedures regarding discrimination, harassment, intimidation, and bullying, and requires the policies to include complaint procedures and alternative discipline policies for pupils who engage in this behavior.

AB 394 (Levine, Chapter 394, Statutes of 2007) requires the CDE to assess LEAs, as part of CDE’s existing monitoring process, for compliance with specific anti-discrimination and harassment policies and procedures, and display on their website specific bias-related and discrimination and harassment information.

SUPPORT

Advancement Project
American Academy of Pediatrics
American Civil Liberties Union of California
Asian American Drug Abuse Program (AADAP, Inc.)
Asian Americans Advancing Justice – California
Bay Area Student Activists
California Association of School Psychologists
California Immigrant Policy Center
California School Boards Association
California State PTA
Common Sense Kids Action
Council on American-Islamic Relations, California Chapter
County of Los Angeles
Disability Rights California
Equality California
Fresno Interdenominational Refugee Ministries
Hmong Innovating Politics
InnerCity Struggle
Junior Leagues of California State Public Affairs Committee
Khmer Girls in Action
Korean American Coalition
Koreatown Immigrant Workers Alliance
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
National Asian Pacific American Families Against Substance Abuse, Inc. (NAPAFASA)
South Asian Network
Southeast Asia Resource Action Center
State Council on Developmental Disabilities (SCDD)
Thai Health And Information Services
The Education Trust—West

OPPOSITION

None received

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