
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1360 **Hearing Date:** June 28, 2017
Author: Bonta
Version: May 30, 2017
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Charter schools: pupil admissions, suspensions, and expulsions

SUMMARY

This bill expands the procedures that must be included in a charter school petition related to when pupils may be suspended, expelled, or otherwise removed from school, authorizes additional charter school admissions preferences, and requires charter schools to notify parents that parental involvement is not a requirement for acceptance or continued enrollment at the charter school.

BACKGROUND

Existing law:

- 1) Establishes the Charter Schools Act of 1992 which authorizes a school district, a county board of education or the state board of education (SBE) to approve or deny a petition for a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved student learning.
- 2) Requires a charter school to admit all pupils who wish to attend the school. Specifies that if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance must be determined by a public random drawing. Specifies that preference shall be extended to pupils currently attending the charter school and pupils who reside in the county. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.
- 3) Establishes equal rights and opportunities in the educational institutions of the state for all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is considered in the definition of hate crimes.
- 4) Requires a governing board of a school district to hold a public hearing on the provisions of the charter no later than 30 days after receiving a petition and either grant or deny the charter within 60 days of receipt of the petition. Specifies that the governing board of a school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings setting forth specific facts to support the findings, including the finding, among others,

that the petition does not contain reasonably comprehensive description of the procedures by which pupils can be suspended or expelled.

- 5) Specifies that a charter school shall comply with charter school laws but is otherwise exempt from the laws governing school districts, with exceptions.
- 6) Authorizes or requires a principal or a superintendent of schools to suspend or expel a student in a non-charter school committing any of a number of specified acts.
- 7) Specifies the number of days a suspension can occur, the procedures for notifying parents or guardians and the requirement to hold a conference.
- 8) Specifies the process for expulsion, the requirement for the governing board to recommend a plan of rehabilitation for the pupil at the time of the expulsion order, the process for readmission, the requirement for the governing board to establish rules and regulations for expulsions, the right of a pupil to have a hearing, the timeline for the hearing, and the process for appealing an expulsion.

ANALYSIS

This bill:

- 1) Specifies that a charter petition must contain a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed, disenrolled, dismissed, transferred, or terminated from the charter school for any reason. Requires that these procedures must, at a minimum, include an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements including all of the following:
 - a) For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity to present his or her side of the story.
 - b) For suspensions of 10 days or more and all expulsions for disciplinary reasons, ensure the provision of both of the following:
 - i) Timely, written notice of the charges against the pupil and an explanation of the pupil's basic rights.
 - ii) A hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.

- c) A clear statement that no pupil shall be involuntarily removed, disenrolled, dismissed, transferred, or terminated by the charter school for any reason unless the parent or guardian of the pupil, or educational rights holder in the case of a pupil who is a foster child or homeless, has been provided written notice of intent no less than five schooldays before the effective date of the action and requires:
 - i) The written notice must be in the native language of the pupil or the pupil's parent, guardian, or educational rights holder.
 - ii) The pupil must be informed of his or her right to request a hearing before the effective date of the action.
 - iii) If the pupil's parent, guardian, or educational rights holder initiates a request to hold a hearing, the pupil must remain enrolled until the charter school issues a final decision.
- 2) Authorizes charter schools to include additional preferences for enrollment where demand for enrollment exceeds the school's capacity, including, but not limited to, siblings of pupils admitted or attending the charter school and children of the charter school's teachers, staff, and founders. Priority order for any preference must be determined in the school's charter petition in accordance with all of the following:
 - a) Each type of preference shall be approved by the chartering authority at a public hearing.
 - b) Preferences shall be consistent with federal law, the California Constitution, and Education Code Section 200.
 - c) Preferences shall not result in limiting enrollment access for pupils with disabilities, academically low-achieving pupils, English learners, neglected or delinquent pupils, homeless pupils, or pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program, foster youth, or pupils based on nationality, race, ethnicity, or sexual orientation.
 - d) Enrollment preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.
- 3) Specifies that if a pupil is expelled or leaves a school district without graduating or completing the school year for any reason and enrolls in a charter school, the school district must, upon proof of enrollment, provide the charter school a copy of the pupil's cumulative record, including a transcript of grades or report card, and health information within 30 days.
- 4) Specifies that a charter school may encourage parental involvement, but must notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "charter schools are part of the statewide public school system and must have nondiscriminatory admission policies, as well as suspension and expulsion policies that guarantee all students appropriate due process rights. Any practices that serve to weed out certain children or families – whether intentional or unintentional – are not acceptable and must be eliminated. AB 1360 helps ensure that charter schools – as part of our system of public education – provide fair access to all students, regardless of zip code, family circumstances, where they were born, how they look, who they love, or the language they speak.

In order to guarantee student access at California's charter schools, we must require charter schools to serve high-need students, at the same level as neighborhood public schools. AB 1360 clarifies that a charter school's admissions policies must not limit access to groups such as low-income students or English learners. AB 1360 clarifies that charter school suspension and expulsion procedures must comply with federal and state constitutional due process requirements, including fair notice and an opportunity to be heard. All children in California should be entitled to equal access to all public education opportunities, including charter schools."

- 2) ***Federal Charter School Program guidance on admissions lotteries.*** Charter schools are required to admit all pupils who wish to attend. Current law also requires, if the number of pupils who wish to attend exceeds the capacity of the school, attendance must be determined by a public random drawing. Preference must be given to pupils currently attending the charter school and pupils who reside in the county.

Federal guidance provides that charter schools receiving federal Charter Schools Program (CSP) funds must use a lottery if more students apply for admission to the charter school than can be admitted. Weighted lotteries, which give preference to one set of students over another, are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the equal protection clause of the Constitution, or applicable State law.

In addition, a charter school may weigh its lottery in favor of students seeking to change schools under the public school choice provisions of title I, part A of the Elementary and Secondary Education Act for the limited purpose of providing greater choice to students covered by those provisions. For example, a charter school could provide each student seeking a transfer under title I with two or more chances to win the lottery, while all other students would have only one chance to win.

A charter school that is oversubscribed and, consequently, must use a lottery, generally must include in that lottery all eligible applicants for admission. A charter school may exempt from the lottery only those students who are deemed to have been admitted to the charter school already and, therefore, do not need

to reapply. Specifically, the following categories of applicants may be exempted from the lottery on this basis:

- a) Students who are enrolled in a public school at the time it is converted into a public charter school;
 - b) Students who are eligible to attend, and are living in the attendance area of, a public school at the time it is converted into a public charter school;
 - c) Siblings of students already admitted to or attending the same charter school;
 - d) Children of a charter school's founders, teachers, and staff (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment);
 - e) Children of employees in a work-site charter school, (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment).
- 3) ***Suspensions and expulsions.*** Under existing law, a principal or a superintendent may suspend or recommend expulsion of a pupil for committing any of a number of specified acts. For expulsions, current law specifies three categories: (1) acts committed by a pupil that result in immediate suspension and recommendation for expulsion; (2) acts committed by a pupil for which a principal or superintendent must recommend expulsion, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance; and (3) acts committed by a pupil for which a principal or superintendent have the discretion to determine expulsion.

Upon a recommendation of expulsion of a pupil, a school district governing board is required to hold a hearing and provide a student and his or her parents or legal guardians written notice that includes the charges upon which a proposed expulsion is based, within specified timelines. The governing board may meet in closed session, but the final action to expel a pupil must be made in a public session. A pupil who is expelled may file an appeal to the county board of education.

- 4) ***Arguments in support.*** Supporters of this bill argue that this bill helps to ensure that charter schools, as a part of the public education system, provide fair admission and fair discipline. The intent of school choice is to allow parents and families to choose which school their children will attend, not that public schools choose which students they will serve. No charter school should discriminate against a student because of race, language, color, national origin, religion, gender or gender identification, sexual orientation, disability, marital status, or economic status, and should not discriminate against any student because of educational need, academic performance, or any other form of preferential selection. Lastly, a charter school should not intimidate a student or parent when asking for voluntary contributions to the charter school and that parent

involvement and voluntary service should be encouraged, but cannot be a condition of enrollment.

- 5) ***Arguments in opposition.*** Opponents of the bill argue that it is unworkable and could expose school staff and students to unreasonable risk and burdensome restrictions. By requiring charter petitions to address admissions policies and procedures, the bill adds a level of minutiae and detail that is not appropriate for a charter document that is supposed to govern higher-level issues and would require charter schools to seek and obtain charter amendments as their admissions policies and procedures necessarily evolve during the five-year term of a charter. Further, the bill creates new, ill-defined classes of protected students and may prohibit charter schools from establishing their own admission requirements.
- 6) ***Technical amendments.*** As currently drafted, the provisions of this bill only apply to traditional charter schools—those authorized by a school district or, through the charter petition appeals process, a county office of education or the state. However, existing law also establishes countywide and statewide benefit charter schools. These types of charter schools operate at one or more sites: (1) within the geographic boundaries of the county that provides instructional services that are not provided by a county office of education, or (2) throughout the state. Further, it is unclear whether the bill’s five day written notice requirement before a student is “involuntarily removed” is intended to apply to student suspensions, as suspensions are addressed elsewhere in the bill. If it is the desire of the Committee to pass this measure, ***staff recommends*** that the bill be amended to (1) apply to countywide and statewide benefit charter schools, and (2) clarify that the requirements related to students being “involuntarily removed” do not apply to student suspensions.

SUPPORT

Alliance for Boys and Men of Color (co-sponsor)
 American Civil Liberties Union (co-sponsor)
 California Federation of Teachers (co-sponsor)
 California School Employees Association (co-sponsor)
 California Teachers Association (co-sponsor)
 Public Advocates (co-sponsor)
 Public Counsel (co-sponsor)
 Alliance of Californians for Community Empowerment
 Anaheim Secondary Teachers Association
 Association of California School Administrators
 California Charter Schools Association
 California Labor Federation
 California State PTA
 Los Angeles Alliance for a New Economy
 United Educators of San Francisco
 United Teachers of Richmond

OPPOSITION

Charter Schools Development Center

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